



## AGENDA

### MILWAUKIE PLANNING COMMISSION Tuesday June 28, 2011, 6:30 PM

MILWAUKIE CITY HALL  
10722 SE MAIN STREET

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
  - 2.1 April 26, 2011
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Joint Session Items**
  - 5.1 City Council Study Session
    - Summary: Residential Development Standards Project
    - Staff Person: Katie Mangle
- 6.0 Worksession Items**
  - 6.1 Summary: Draft Electronic Sign Code Amendments
    - Staff Person: Ryan Marquardt
- 7.0 Planning Department Other Business/Updates**
- 8.0 Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 Forecast for Future Meetings:**
  - July 12, 2011
    - 1. TBD
  - July 26, 2011
    - 1. Public Hearing: Electronic Sign Code Amendment *tentative*
    - 2. Public Hearing: CSU-11-05 Royalton Place *tentative*

### Milwaukie Planning Commission Statement

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

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email [planning@ci.milwaukie.or.us](mailto:planning@ci.milwaukie.or.us). Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

#### **Public Hearing Procedure**

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

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

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.*

#### **Milwaukie Planning Commission:**

Lisa Batey, Chair  
Nick Harris, Vice Chair  
Scott Churchill  
Chris Wilson  
Mark Gamba  
Russ Stoll

#### **Planning Department Staff:**

Katie Mangle, Planning Director  
Susan Shanks, Senior Planner  
Brett Kelter, Associate Planner  
Ryan Marquardt, Associate Planner  
Li Alligood, Assistant Planner  
Alicia Stoutenburg, Administrative Specialist II  
Paula Pinyerd, Hearings Reporter

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, April 26, 2011  
6:30 PM**

**COMMISSIONERS PRESENT**

Lisa Batey, Chair  
Chris Wilson  
Mark Gamba  
Russ Stoll  
Nick Harris, Vice Chair  
*Arrived during the worksession)*

**STAFF PRESENT**

Katie Mangle, Planning Director  
Kenny Asher, Community Development and  
Public Works Director  
Brett Kelper, Associate Planner  
Ryan Marquardt, Associate Planner  
Jason Rice, Associate Engineer  
Damien Hall, City Attorney

**COMMISSIONERS ABSENT**

Scott Churchill

**1.0 Call to Order – Procedural Matters**

Chair Batey called the meeting to order at 6:36 p.m. and read the conduct of meeting format into the record.

**2.0 Planning Commission Minutes**

2.1 February 8, 2011

2.2 February 22, 2011

**Chair Batey** postponed approval of the Planning Commission meeting minutes.

**3.0 Information Items**

**Katie Mangle, Planning Director**, announced that Vice Chair Harris would be arriving shortly.

**4.0 Audience Participation** –This is an opportunity for the public to comment on any item not on the agenda. There was none.

**5.0 Worksession Items**

5.1 Summary: Wastewater Master Plan (20 minutes)

Staff Person: Ryan Marquardt, Jason Rice

**Ryan Marquardt, Associate Planner**, stated that the Planning Commission and City Council would eventually be asked to adopt the Wastewater Master Plan (Master Plan) into the City's Comprehensive Plan as an ancillary document, providing more specific detail about the

42 wastewater services. He explained the relationship between the Comprehensive Plan and  
43 adopted master plans.

44

45 **Jason Rice, Associate Engineer**, presented the staff report via PowerPoint. He provided the  
46 background of the existing Master Plan and explained the need for the update. Key points of the  
47 project involved identifying and documenting the existing utility system as well as projects the  
48 City must do to remain current. These projects would then be built into the budget, which was a  
49 key aspect in having an adopted master plan. He reviewed the existing wastewater system and  
50 key projects needed for updating the system. He described the process involved for replacing  
51 existing clay pipes found throughout the city. No dramatic expansions were planned. The area  
52 between Milwaukie and I-205 would be sewerred following the Northeast Sewer Extension so no  
53 additional capacity was needed if the City chose to annex further out into that area.

54

55 **Mr. Marquardt** stated that staff hoped to return before the Commission on May 24<sup>th</sup> for a  
56 hearing to adopt the Master Plan and to ask the Commission for a recommendation to adopt the  
57 Master Plan into the Comprehensive Plan. The Master Plan would go onto the Council for the  
58 second meeting in June. The purpose of this worksession was to give the Commission a chance  
59 to ask questions and become comfortable with the document before staff returned in May.  
60 Adopting the Master Plan would enable the Engineering and Public Works Departments to  
61 budget and plan for capital improvements for maintaining the City's sewer system.

62

63 **Mr. Marquardt** and **Mr. Rice** responded to comments and questions from the Commission as  
64 follows:

- 65 • System Development Charges (SDCs) are generally associated with expansion. Milwaukie's  
66 expansion is limited, but the other component of SDCs regards expansions on the existing  
67 system. For example, if a lot was subdivided so that 2 homes were now on the system  
68 originally installed for one home. The new home would have somewhat of a buy in to the  
69 existing system, but also a component that buys additional capacity. These 2 components  
70 are calculated so when development occurred, the City would know how much to charge.  
71 The City plans for expansion in certain areas of town; however, at this point only one project  
72 really added capacity for which an SDC cost was calculated.
- 73 • The Harrison St project would replace the 24-in pipe with another 24-in pipe. The project to  
74 expand capacity was on Filbert St; that pipe was taking a lot of the sewerage from the

75 Brookside basin, and the main was becoming undersized. The project would extend the  
76 force main from 42<sup>nd</sup> Ave to 32<sup>nd</sup> Ave where capacity exists.

77 • The sewer pipe siphon under Johnson Creek was made of ductile iron with a concrete lining  
78 on the inside. If this needed replacing in the future, it could not be replaced with same the  
79 bursting method proposed on McLoughlin Ave. Consideration was being given to adding a  
80 lift station by the ODS Building and pumping it, and maybe attaching a pipe to the 17<sup>th</sup> Ave  
81 bridge to remove that pipe from the park. At this point, the pipe was only 35 years old and  
82 did not need to be replaced, but that option was being explored to remove the pipe from  
83 underneath the creek.

84

85 **Chair Batey** commented that having this matter come before the Commission was odd,  
86 because the Citizen's Utility Advisory Board (CUAB) and Council were already involved.  
87 Because of the policy questions to address, she asked that the CUAB minutes and minutes  
88 from the Council briefing regarding the Master Plan be provided in the hearing packet as well as  
89 any web links to the video of the relevant Council meetings.

90

91 **Mr. Marquardt** responded that while the Master Plan was more technical and without many  
92 policy issues, that was not always the case for all master plan documents. It was appropriate  
93 that the Commission review all master plans as the body that looked at long-range growth and  
94 planning within the city.

95

## 96 **6.0 Public Hearings**

97 6.1 Summary: Johnson Creek Confluence Restoration Project

98 Applicant: Johnson Creek Watershed Council (JCWC)/City of Milwaukie

99 Address: Johnson Creek and 17<sup>th</sup> Ave to mouth of Willamette River

100 File: WQR-11-01

101 Staff Person: Ryan Marquardt

102

103 **Chair Batey** called the hearing to order and read the conduct of minor quasi-judicial hearing  
104 format into the record.

105

106 **Mr. Marquardt** cited the applicable approval criteria of the Milwaukie Municipal Code as found  
107 in 6.1 Page 6 of the packet, which was entered into the record.

108

109 **Chair Batey** asked if any Commissioners had visited the site prior to the hearing.  
110 Commissioners Stoll, Wilson, and Gamba had visited the site. None had spoken to anyone at  
111 the site, nor had they noted anything different than what was indicated in the staff report for the  
112 application.

113  
114 **Commissioner Stoll** read a statement into the record as follows, "I am a dedicated volunteer  
115 with the Johnson Creek Watershed Council. In fact, this year, I have been nominated for a RFL  
116 Award, but I have no financial relationship to the Johnson Creek Watershed Council and  
117 therefore have no conflict of interest that would prevent me from participating in this decision.  
118 As much as I support the Council and other watershed restoration efforts, my first responsibility  
119 here is to the City of Milwaukie and its citizens and what is best for our riverfront. Accordingly, I  
120 am not biased, and I am able to make an impartial decision based solely on application of the  
121 facts in the record to the applicable criteria."

122  
123 No other Commissioners declared any conflict of interest or ex parte contact and no members of  
124 the audience challenged any Commissioners' participation.

125  
126 **Mr. Marquardt** presented the staff report via PowerPoint. The application regarded a habitat  
127 restoration plan for the confluence area where Johnson Creek met the Willamette River. Staff  
128 recommended adoption of the plan with the recommended findings and conditions provided in  
129 the Commission's packet. No correspondence had been received nor objections noted. He  
130 noted the letter from ESA Adolphson dated February 28, 2011, was distributed to the Commission  
131 and was supposed to be part of Attachment 4. The letter regarded that firm's full review of the  
132 project. He clarified that the access plan to build a gravel road from 17<sup>th</sup> Ave for the equipment  
133 had been dropped, but deferred to the Applicant for further details.

134  
135 **Chair Batey** called for the Applicant's presentation.

136  
137 **Robin Jenkinson, Restoration Coordinator, Johnson Creek Watershed Council (JCWC),**  
138 **Project Manager, Johnson Creek Confluence Habitat Enhancement,** gave the applicant's  
139 presentation displaying several historical photos and maps of the site via PowerPoint, noting  
140 features that had changed over time. She reviewed the proposed project with these key  
141 comments:

- 142 • The placement of large wood structures or engineered logjams would provide cover and  
143 shelter for the threatened salmon species that used the confluence area. Such areas are  
144 very ecologically diverse and complex given the variety of creatures using it during different  
145 times of the year.
- 146 • Conceptual designs shown were at about 60%; the exact locations of the logjams would  
147 be determined once the structures went through final design after running the hydraulic  
148 models.
- 149 • The project would enhance the habitat for all the fish using the Willamette River. She  
150 described the different habitat features that would be created from the enhancements  
151 and the benefits provided specifically by Johnson Creek.
- 152 • A design build contract was signed with the engineering firm Inter-Fluve, Inc., who had  
153 subcontracted with Aquatic Contracting, LLC, a river restoration construction firm. Both firms  
154 specialize only in river restoration design and construction.
- 155 • She reviewed several pictures depicting before/after examples of habitat enhancement  
156 projects, including some done by Inter-Fluve. Key habitat features were described, including  
157 those created by the engineered log jams.
- 158 • The estimated construction cost, based on the 60% design, was about \$270,000. So far,  
159 secured funding came to about \$250,000 to \$260,000, and the pending funding looked very  
160 likely, so the project would be fully funded.
- 161 • The timeline involved primarily fundraising and doing pre-project monitoring. Samples were  
162 collected, high school classes helped with hydraulic complexity modeling, and aquatic  
163 surveys were conducted to be able to compare the before and after effects of the project.
- 164 • All funding may or may not be secured by May. The final design would be available in June,  
165 and an email modification would be made to the Army Corps permit for any final design  
166 changes from the 60%. The in-water work window was mid-July to the end of August. All  
167 construction should be completed by September. Revegetation would be carried out  
168 November through April with volunteer groups and the site would be included as part of the  
169 event held the first weekend in March, where revegetation is done throughout the watershed  
170 every year. Post project monitoring and reporting would document changes
- 171 • She confirmed that JCWC agreed with the City's findings and conditions and could provide  
172 final designs. A mitigation plan would be provided, though she was uncertain how extensive  
173 it would be.

- 174 • She clarified that JCWC decided that the access road option would not be a good idea. A  
175 shallow sewer pipe ran under Riverway Ln and Ronelle Sears, Stormwater Supervisor,  
176 suggested that placing big steel plates over that area to protect the pipe should be fine.  
177 • She added that a natural riffle would be constructed over the top of a City sewer pipe that  
178 stuck up out of the water, which was identified as a waterfall on the Riverfront Park Plan. If  
179 erosion continued, this could become a fish passage barrier. Large rocks and gravel would  
180 be placed over and around the pipe, integrating it into the project, while also helping to  
181 protect it. Hydraulic models would be used to size the rock and gravel to resist a minimum  
182 25-year event. The pipe carried more than 40% of the City's sewerage.

183

184 **Chair Batey:**

- 185 • Asked if replanting would be done where the access was taken from Riverway Ln once the  
186 equipment was gone.
- 187 • **Ms. Jenkinson** responded that the access was an existing access road for the PGE  
188 power lines and so would not need replanting.
- 189 • Inquired about the removal of the concrete and wood structure along the riverside.
- 190 • **Ms. Jenkinson** responded that JCWC did not have plans to move the traction line  
191 abutments unless a logjam was put there. Much of the stream bank was bedrock  
192 already, so removing the concrete would not really change the character of the stream  
193 bank nor improve the habitat that much. Although aesthetically, it would be nice to clear  
194 it out.
- 195 • Asked how mussels were salvaged.
- 196 • **Ms. Jenkinson** described how aquascopes were used to locate and salvage mussels.  
197 Those in the confluence area might be moved upstream, or relocated to their original  
198 location after the project was completed. JCWC had just received a large grant to do  
199 mussel monitoring throughout the basin.
- 200 • She announced that JCWC also received the Metro Capital Grant in which they had  
201 partnered with the City to propose an interpretive overlook in Phase 1 of the Riverfront  
202 Park. Council believed this was essential to sharing the project with the public and  
203 encouraging interest in Johnson Creek.

204

205 **Chair Batey** called for public testimony in favor of, opposed, and neutral to the application.

206



207 **Gary Klein, Riverway Ln**, stated he was strongly in favor of the project. He provided a brief  
208 history of roads in the project area, noting the proposed access would be from a road on the  
209 ODS property and that PGE was also involved in helping with the project. It was great that the  
210 City was partnering on the project, which would be a starting point for the Riverfront Park. Metro  
211 would help with the north end of the park, which had to stay a natural habitat, and would go right  
212 along with what was being done in Johnson Creek.

213  
214 **Chair Batey** confirmed there was no further public testimony, comments from staff, or questions  
215 from the Commission.

216  
217 **Commissioner Gamba moved to adopt WQR-11-01 with the recommended findings and**  
218 **conditions. Vice Chair Harris seconded the motion, which passed unanimously.**

219  
220 **Chair Batey** read the rules of appeal into the record.

221  
222 The Planning Commission took a brief recess and reconvened at 8:08 p.m.

223  
224 6.2 Summary: Natural Resource Regulations Amendments *cont'd from 4/12/11*  
225 Applicant: City of Milwaukie  
226 File: ZA-11-01, CPA-11-01  
227 Staff Person: Brett Kolver

228  
229 **Chair Batey** stated that the Commission had been requested to reopen the public hearing on  
230 Code amendments discussed at hearings on March 22, and April 12, 2011. She called the  
231 hearing to order and provided each Commissioner the opportunity to state their intent to  
232 participate in, or abstain from, the hearing.

233  
234 **Commissioner Gamba** declared a potential conflict of interest. He owned property in the city,  
235 specifically 1.2 acres currently zoned residential and in the WQR. The Natural Resource  
236 Regulations Code and Map amendments under consideration could result in some increase or  
237 decrease in the value of his property; however, because any impact, if any, to the value of his  
238 property might not be significant, he did not have an actual conflict of interest and was not  
239 disqualified from participation in the proceedings.

240

241 **Vice Chair Harris** stated he was not present at the last meeting; however, he had reviewed the  
242 materials and was prepared to participate.

243

244 **Ms. Mangle** noted that **Commissioner Churchill** did feel he had a potential conflict of interest  
245 and chose not to participate in the hearing.

246

247 **Chair Batey** declared she had approximately 2/3 of an acre in the city that was not covered by  
248 natural resource protections but a significant portion was within the 100-ft buffer area. There  
249 was a potential impact to her property, but the impact, if any, would be very insignificant, and  
250 she did not feel it created a bias or an actual conflict of interest.

251

252 **Ms. Mangle** stated that no formal staff presentation would be provided, but staff would provide  
253 information during the Commission's deliberation of the issues in response to questions.

254

255 **Brett Kelder, Associate Planner**, noted the following 4 items had been received since the last  
256 meeting that were not included in the packet. Copies were distributed to the Commission and  
257 made available to the audience:

258 Exhibit 12: Handwritten note from Jean Baker received by staff on April 12, 2011, after the  
259 public testimony portion of the hearing was closed.

260 Exhibit 13: Email received from Christopher Burkett dated April 21, 2011.

261 Exhibit 14: Handwritten letter from Jean Baker dated April 25, 2011.

262 Exhibit 15: Email from Tonia Burns, Natural Resources Coordinator, North Clackamas Parks  
263 and Recreation District (NCPRD), dated April 26, 2011.

264

265 **Chair Batey** called for public testimony.

266

267 **Jean Baker, 2607 Monroe St, Milwaukie**, stated she opposed the section in the proposed  
268 ordinance that exempted for transportation, which meant light rail, roads, etc. It was not a good  
269 idea to hold the property owner to such a tight restraint on what they could do, while those who  
270 would be the biggest disrupters by building roads and bridges would not be held to the same  
271 engineering studies that the citizen would be; only a construction management plan (CMP)  
272 would be required. Why would a government entity be exempt from any thing to which a private  
273 citizen would be held?

- 274 • **Mr. Kelper** noted the reference was in Milwaukie Municipal Code (MMC) Section  
 275 19.402.4.B.1(f), 5.1 Page 17 of the April 12<sup>th</sup> public meeting packet. A limited exemption  
 276 exists for activities and improvements in existing public rights-of-way because a CMP  
 277 would be required if there was more than 150 sq ft of disturbance. He did not believe  
 278 there was a direct reference to transportation. The exemption meant that road projects  
 279 or construction in the public right-of-way would not be subject to the rules, except for  
 280 providing a CMP.
- 281 • In general, the entire zoning Code only applied to private property; those same zone  
 282 standards did not apply to any public right-of-way.
- 283 • **Ms. Mangle** explained the difference was whether the activity occurred on privately  
 284 owned tax lots, or within the right-of-way. Tax lots owned by public entities would be  
 285 subject to the rules.
- 286 • **Mr. Kelper** noted that the Trolley Trail project was on privately owned tax lots, which  
 287 was why the application from the NCPRD came to the Commission for consideration.  
 288 Even though they were a public agency, they were operating on privately owned  
 289 property.
- 290 • She remembered when an Environmental Impact Study was required for everything, and  
 291 she did not think they were anymore. This seemed like a time for public rights-of-way to be  
 292 subject to the same standard as private property.
- 293 • **Damien Hall, City Attorney**, explained that the City had the authority to regulate their  
 294 own rights-of-way. It was typical that a city would provide a lot less regulation in a right-  
 295 of-way. These facilities and roads were needed to access most every property in the  
 296 city. The options to do that were either to carve out some sort of zone that only allowed  
 297 roads and have that run throughout the city, or to require the dedication of right-of-way to  
 298 limit where people could build and pave roads as a permitted use. It was a policy  
 299 decision to be made.
- 300 • She noted that the one that could do the most damage had the least oversight and the least  
 301 restriction, which was not what the community was looking for to protect the waterways and  
 302 habitats. Big projects should be subject to oversight also. Allowing government to operate  
 303 carte blanche was not the intent of the ordinance and she hoped that it would be changed.  
 304
- 305 **Jason Howard, Land Use and Board Chair, JCWC**, stated he was on the Natural Resource  
 306 Overlay Project Stakeholder Group and had been tracking Title 13 compliance among the  
 307 jurisdictions within Johnson Creek. He made the following comments:

- 308 • He noted previous discussions about lowering the 150 sq ft threshold for boundary  
309 verification, but 150 sq ft was a very conservative measure that was protective of the  
310 resources. It was a good starting point and would be conducive in most scenarios.
- 311 • Regarding the 150 sq ft maximum allowed disturbance and the discussion for increasing  
312 that, he noted that the work, compromise, and rationale that had gone into the Title 13  
313 program accounted for development and resource values. The City's consideration of  
314 modifications, including merging of low and moderate HCAs, would definitely allow more  
315 disturbance. Compromising to allow more disturbance would move away from the intent of  
316 Metro's Title 13 program.
- 317 • As far as fees and permits, it was a good idea to incentivize or disincentivize by having a  
318 structured program away from the resources. Rather than entirely waiving the fees, he  
319 suggested that the Code/Plan be structured toward habitat-friendly or low impact  
320 development.

321

322 There being no further public comment, **Chair Batey** closed the public testimony portion of the  
323 hearing and called for Commission discussion.

324

325 **Commissioner Gamba:**

- 326 • Noting Ms. Baker's concern, he asked if there was an example of a WQR or HCA that was  
327 in the right-of-way.
- 328 • **Mr. Kelper** stated the Johnson Creek Watershed Council's (JCWC) confluence project  
329 was one example. The WQR area involved a protective buffer 50-ft from the edge of the  
330 water resource. There were places where the buffer area spilled out, perhaps where the  
331 stream crossed under or was close to a road, and technically covered the right-of-way.
- 332 • **Chair Batey** noted also that on the Gary Michael/Carolyn Tomei property, the edge of  
333 the street pavement was at least 25 ft, maybe 30 ft, from the edge of the right-of-way, so  
334 that 25 or 30 ft closest to the street was still in the HCA, which spilled into the public  
335 right-of-way.
- 336 • Stated this was an excellent example for Ms. Baker's argument, and suggested adding the  
337 issue, "Applicability to ROW" to the list.

338

339 **Chair Batey** agreed.

340

341 **Mr. Kelper** understood that the entire zoning Code was set up to apply to private property. He  
342 did not know the legalities of making a specific change in this one particular Code section to say  
343 that the rules applied to the right-of-way while the rules did not apply to the right-of-way  
344 anywhere else in the Zoning Code. The concern had been addressed somewhat by stating the  
345 activities were exempt, except for requiring a CMP. The idea was to keep with the spirit of the  
346 overall Zoning Code. If a project potentially had an impact, it would not necessarily need to go  
347 through a land use review, but would need to provide a plan stating how the resource would be  
348 protected, which the City would likely do as a matter of course anyway.

349  
350 **Ms. Mangle** suggested using “fee title property” versus “right-of-way”, rather than private  
351 property. The issue did not involve whether or not it was private property but whether or not it  
352 was a lot, which was where the zoning code was applied. Many other rules do apply to the right-  
353 of-way in terms of the public works and stormwater standards. The City only regulated trees  
354 currently in the right-of-way.

355  
356 **Chair Batey** explained that the Commission would discuss the issues listed by staff, add any  
357 others that were of concern, and get a sense, perhaps through a straw poll, about where the  
358 Commissioners stood on the issues and what additional information might be needed from staff  
359 to make a final determination.

360  
361 The following discussion items, identified by the Commission and listed on 6.2 Page 2 and 3 of  
362 the packet, were listed on a white board; added items shown in italics (included as Attachment  
363 1).

364  
365 **Ms. Mangle** noted that staff sought direction about how to modify the proposal with regard to  
366 these listed issues.

- 367  
368 1. 150 sq ft threshold *for minor encroachments*  
369 2. Limit division of high percentage resource properties  
370 3. Language = “possible” versus “feasible” versus “practicable”  
371 4. Home exemptions from HCA rules  
372 5. Tree removal  
373 6. Fee reductions for WQR/HCA applications  
374 7. Prohibitions

375 8. WQR categories

376 9. *Applicability to ROW*

377 10. *150 sq ft threshold for CMP requirements*

378 11. *Some oversight, but not too much regulation, of everyday gardening/landscaping/trees*

379 12. *Burden on property owners and property value*

380

381 Staff provided additional information regarding each item and the Commission discussed the  
382 issues as follows with key comments and concerns as noted:

383 [Note: Discussion is captured here as discussed during the meeting.]

384

385 **1. 150 sq ft threshold for minor encroachments**

386 **Mr. Kelder** distributed a comparison table, Exhibit 16, showing some “distance” triggers and  
387 “allowed disturbance” triggers that have been established in several other jurisdictions, as well  
388 the Metro Title 13 and Title 3 model codes along with a list that Milwaukie was doing. He  
389 explained that it was not an apples-to-apples comparison. He clarified they had discussed  
390 changing the 120 sq ft allowed disturbance for minor encroachments to 150 sq ft for uniformity;  
391 120 sq ft was similar to other jurisdictions and was in Metro’s model code. The exemption for  
392 minor encroachments was specific to HCAs only.

393

394 A brief discussion identified three separate issues regarding the 150 sq ft threshold, and the  
395 Commission agreed to address the threshold regarding when a CMP was required. All three  
396 triggers, which concerned CMPs, allowed disturbance and minor encroachments, involved  
397 different policy issues although the threshold number might be the same. “*150 sq ft threshold for*  
398 *CMP*” was added to the list.

399

400 **10. 150 sq ft threshold for CMP requirements**

- 401 • As drafted, a CMP would be required if a 15 ft by 15 ft portion of lawn within a WQR or HCA  
402 was tilled up for a garden.
- 403 • Most other jurisdictions were not allowing any de minimus earth disturbance, though their  
404 definition of nonexempt activities was unknown.
- 405 • 150 sq ft was not a bad measurement because a 10 ft by 10 ft shed could be built in the city  
406 without having to go through a permitting process.
- 407 • One main issue was Item 4, home exemptions. If homeowners’ existing landscapes were  
408 exempt from the regulations, a 15 ft by 15 ft garden could be done without a CMP. For most

- 409 property owners, the home exemption was really where it began, and would be the place to  
410 start.
- 411 • **Mr. Kelver** noted the suggestion, along with the CMP, was to not charge a fee for reviewing  
412 it and address it as a Type I review to make it as easy as possible. In trying to protect the  
413 resource areas, the idea was to get people to show what they were doing to protect that  
414 area, and the 150 sq ft was a gross tool to keep the Code from becoming more complicated  
415 by addressing slope and other features.
  - 416 • That concept solved a lot of the issues. The concern about a complete exemption for  
417 homeowners was that someone who did not care could come into their back yard with a D9  
418 tractor and turn what was a slope into the creek into a new swimming pool.
    - 419 • People in Island Station living along the Willamette River have denuded their property,  
420 sprayed and killed everything. A homeowner's exemption for landscaped lawns was just  
421 something that gutted the whole rule.
  - 422 • **Mr. Kelver** stated the spirit of the exemption was to allow exemptions for existing  
423 residences up to the point where other permits would be required. Once 500 sq ft was  
424 disturbed, an erosion control permit would be required. The exemption did not extend to  
425 other areas the City would regulate.
  - 426 • The working group had not discussed an exemption for landscaping.
    - 427 • **Ms. Mangle** noted that was likely because such an exemption was not included in staff's  
428 earlier drafts. It would apply to an estimated 160 properties. An issue was how to track  
429 this over time and how the 10% of allowed reduction would be tracked, etc. It would be  
430 difficult to implement on the City's side and could create inequities among neighbors.
  - 431 • **Mr. Kelver** stated tree removal would be included in the exemption as presented in model  
432 code. Vegetation could be disturbed, including trees up to 10% of the HCA or a maximum of  
433 20,000 sq ft, whichever was less. The 10% disturbance was allowed for the life of the  
434 property, and not 10% per year. This was referenced in Section 3 B and in Section 3 E.5 of  
435 the model code Title 13.
    - 436 • Staff could adjust the model code if the Commission liked the idea, but not the provided  
437 limits.
  - 438 • It came down to the attitude of the people doing this, which could not be regulated; some  
439 people were good caretakers of their properties and others tried to use every loophole to do  
440 things that no one wanted to see happen.
  - 441 • The fee exemption was a far better idea than a home exemption or a fee waiver for minor  
442 modifications and moving it down to a Type I review.

- 443 • Currently, if handled as a regular Type I application, there would be a fee. In adopting the  
444 amendments, the proposal was that no fees would be required for the CMP review and the  
445 Type I Natural Resource Management Plan to provide an incentive and make it easier to do.  
446 • There would be bad landowners, but 500 to 700 parcels would be affected and they should  
447 have certain rights that should not be infringed on because of bad people.  
448

449

#### 4. Home exemptions and 6. Fee reductions

- 450 • **Chair Batey, Vice Chair Harris, and Commissioner Gamba** concurred that it was better to  
451 make it easy with no fee, but still have some review; and not create a home exemption.  
452 Make small type uses easy with as quick a review as possible and without a fee.  
453 • **Commissioner Stoll** agreed with the fee reductions, but still wanted a home exemption. He  
454 could see working a little bit with the home exemptions to maybe restrict it slightly to prevent  
455 really bad behavior.  
456 • **Commissioner Wilson** wanted both home exemptions and fee reductions.  
457 • **Ms. Mangle** stated that in the proposal being presented to Council, no fees were proposed  
458 for the boundary verifications and the CMPs as an incentive and acknowledgment of the  
459 burden being added onto the property owners. Staff could not reduce or waive all the fees  
460 for Type II and Type III. According to policy, the City was not required to cover all its costs,  
461 but staff was asked not to shift all that cost onto the General Fund and the taxpayers.  
462 • Type I tree removal, for example, needed to be specific, because different fiscal policies  
463 might apply the bigger fee. It did not mean it was less of a concern for the property  
464 owner, but Council would actually have to fund it at some point.  
465

466

#### 10. 150 sq ft threshold for CMP requirements

- 467 • If a CMP was all that was needed, it was proposed to not require a fee and to have a quick  
468 staff turnaround. The question was if 150 sq ft was the right trigger for those parameters.  
469 • **Mr. Kelper** verified that a CMP was all that was required if someone wanted to put in a  
470 garden or a similar minor disturbance in a resource area.  
471 • If tilling the soil to raise food was the issue, should that be addressed through an exemption  
472 as opposed to changing the 150 sq ft threshold?  
473 • **Ms. Mangle** verified Subsection 19.402 4(b) 0:50:54.6, Limited Exemptions, of the proposed  
474 Code (5.1 Page 16 of the April 12, 2011 packet) only listed the types of activities that only  
475 triggered the CMP that otherwise would be exempt. Many other projects that also required  
476 Type II and Type III would also require a CMP. These were the kinds of projects that would



477 be exempt but for the need to do a CMP. If there was something on the list that the  
478 Commission did not think should require a CMP, it could be moved to the outright  
479 exemptions list. However, that would mean that the City would not be able to address it at  
480 all.

481  
482 **Ms. Mangle** added Item 11 to the list and advised the Commission to clarify their key objectives  
483 so staff could return with Code language.

484  
485 **11. Some oversight, but not too much regulation, of everyday gardening/landscaping/  
486 trees and 5. Tree removal**

- 487 • Citizens in the watershed were being asked to do more, which was a goal everyone agreed  
488 on; di minimus for the existing homeowners would be great.
- 489 • Tree removal should be treated differently than earth disturbance, because the whole point  
490 was the canopy protection. Ripping up the lawn was less of concern than someone  
491 removing trees. Removing a tree and replacing it with a tree was the goal and the spirit of  
492 the concept to maintain the canopy.
- 493 • **Mr. Kever** stated when something was truly exempt, the City could not require anything  
494 else. If tree removal became exempt, it was up to the owner's discretion as to whether or  
495 not they planted a tree. The exempt tree removal in the proposed Code had no replanting  
496 requirement; however, if it fell into a Type I, there was some oversight as well as the  
497 accompanying requirement.
- 498 • Putting the tree removal in the same category as the 150 ft CMP threshold so no fees were  
499 required and the review was quick still provided oversight where replanting a tree could be  
500 required.
- 501 • The current tree removal part was pretty good; the measures about exemptions, what was  
502 Type I, all made sense.
- 503 • **Mr. Kever** clarified that trees under a 6-in diameter did not qualify as a tree per the  
504 definition; the current draft stated 4 in, but changing it to 6 in had been discussed.
- 505 • Even 4 in was a big exemption and would allow time to consider the feng shui of the  
506 landscape before the tree got too mature.
- 507 • One purpose for maintaining the canopy, especially in the riparian area right along the  
508 watershed in the WQR, was mostly to shade the creek and keep the temperature down for  
509 the fish.

- 510 • That was addressed in the WQR. This project went beyond that; it was more about a tree  
511 canopy and bird habitat and other things, so it was not directly about shading the creek,  
512 which was covered.

513

514 The Commissioners all agreed Item 11 was a concern, though not all agreed on a solution. The  
515 Commission had mixed opinions about trees being included in some kind of exemption.

- 516 • The current exemption did allow 3 removals of trees per year from the nuisance species list;  
517 however, not all trees were on that list, like fruit trees.
- 518 • The Natural Resource Management Plan would work for a lot of properties, but it did  
519 presume that restoration was a goal, which would not be true for everybody.

520

## 521 **2. Limit division of high percentage resource properties**

- 522 • The chart on 5.1 Page 28 of the April 12 packet was a good concept if a small portion of  
523 HCA was on a property. The issue, which affected less than 30% of HCA properties, arose  
524 when a property was 90% HCA, for example, and large enough to be subdivided.
- 525 • For example, a 50,000 sq ft property could be subdivided 5 times, and since each lot  
526 would be covered with 100% of HCA, 50% of each lot could be disturbed. The result was  
527 that a decent piece of habitat could be turned into no habitat at all, because it was  
528 checker boarded and half of it was wiped out. To keep this from happening, restricting  
529 how much it could be subdivided when a property was predominately HCA was  
530 suggested.
- 531 • This change would not affect the chart, which worked for the rest of the city.
- 532 • The key point was contiguity. The concept of island biodiversity stated the smaller an  
533 area was, the smaller the chain of diversity of species, and this takes place at a very  
534 small level. So the larger the area that could be created, the bigger the diversity of  
535 species. As that area is divided up, they could no longer exist in that area.
- 536 • Originally, the concern was not to prevent developers from chopping up the area, but to  
537 address how the HCA was divided, so the 50% HCA across the 5 lots would have to be  
538 grouped together.
- 539 • There were many ways to address the issue; the point was to keep from turning a nice  
540 habitat into nonhabitat.
- 541 • The draft language for consideration, distributed by staff at the prior hearing, was good and  
542 addressed the point; however, it came with lots of caveats and would need further  
543 consideration and adjustments.

- 544 • Staff was not asked to research whether other cities had a similar code. One caveat with  
 545 that draft language regarded whether prohibiting division of property with a very high  
 546 percent of HCA was legal. Other consequences might need to be considered as better  
 547 options might be available to address the concern, such as cluster development or  
 548 addressing the contiguity issue.
- 549 • **Mr. Hall** stated Council had raised the issue of a potential taking, which was very site  
 550 specific. A 90% threshold with 10% allowed to be developed was not a taking.
- 551 • General prohibition was a pretty blunt instrument policy-wise. There were concerns that  
 552 too much HCA would be developed upon as a percentage, and a checkerboard of HCA  
 553 would result from a subdivision. Policy-wise, this language did not seem to directly  
 554 address either issue. It basically said that certain properties could not be subdivided. It  
 555 did not incentivize a property owner to pursue clustering nor address the problem of a  
 556 property being 89% HCA.
- 557 • Policy could be written so it was not such a blunt instrument. The Commission needed to  
 558 define parameters they were comfortable with as far as when to apply the formula; what  
 559 percentage to use as a trigger, such as for when a subdivision must address HCA  
 560 contiguity area so a certain percentage remained in a protected tract, etc.
- 561 • Land division that created a resource tract would be ideal.

562

563 The Commission unanimously agreed keeping the contiguity of larger HCA parcels was a good  
 564 idea.

565

### 566 3. Language = “possible” versus “feasible” versus “practicable”

- 567 • **Mr. Hall** explained there were 2 different issues. The model code used the term  
 568 “practicable” but also defined the term; staff’s draft Code used the word “practicable” without  
 569 defining it.
- 570 • Most people writing Code assume “practicable” is a synonym for “practical.” The  
 571 dictionary defines “practicable” as “feasible”, which is a different standard than  
 572 “practical.” He suggested replacing the word “practicable” with either “feasible” or  
 573 “practical.”
- 574 • “Possible,” “feasible,” and “practicable” essentially meant, “could it be done”; “practical”  
 575 is less restrictive, and basically meant, “would it be done”, such as if something would be  
 576 really expensive; there was also a lower threshold or other considerations.

- 577 • **Chair Batey** understood “practicable” to be closer to “practical” but more of a threshold than  
578 “feasible” or “possible.”
- 579 • Metro’s definition of “practicable” in the Title 13 model code stated, “‘Practicable’ means  
580 available and capable of being done after taking into consideration cost, existing technology,  
581 and logistics in light of overall project purpose and probable impact on ecological functions.  
582 The practicability of a development option shall include consideration of the type of HCA that  
583 will be affected by the proposed development. For example, high HCAs have been so  
584 designated because they are areas that have been identified as having lower urban  
585 development value and higher valued habitat, so it should be more difficult to show that  
586 alternative development options that avoid the habitat are not practicable.” On the other  
587 hand, it talked about low HCAs, and it would be easier to show things are practicable if they  
588 have impacts on low HCAs.
- 589 • Retain “practicable” and include Metro’s definition in the proposed Code, but modify it to  
590 remove the distinctions between high and low HCAs. The type or character of an HCA could  
591 be discussed/referenced.
- 592 • **Ms. Mangle** expressed concern about the definition applying elsewhere in the Zoning Code.  
593 Staff tried to avoid having specific definitions in each chapter. If the definition was in the  
594 Natural Resource Areas chapter and not defined elsewhere in the Code, it would not impact  
595 the rest of the Code.
- 596 • Having a definition for “practicable” was a good idea, but it should serve a purpose  
597 broader than just this chapter.
- 598 • Metro’s definition of “practicable” was synonymous with “practical,” though more specific.  
599

600 The Commission consented to use “practicable” as intended in the original model code and add  
601 a similar definition in the chapter.

602

603 **Chair Batey** added she did not care which word was used, but a definition and more  
604 consistency was needed. **Vice Chair Harris** agreed, adding he wanted it defined for the  
605 context. **Commissioner Stoll** concurred.

606

## 607 7. Prohibitions

- 608 • The issue was the underlying philosophy of the regulation calling out what could be done  
609 and then listing what is exempt, what has limited regulation, and what has more regulation;

- 610 whatever is not listed is prohibited. The other option was to list what could not be done, and  
611 if the proposal is not listed, then it would be allowed.
- 612 • Everything not expressly prohibited should be allowed; if someone did damage in some  
613 unconceivable manner, then that would be added to the prohibited regulations.
  - 614 • That was probably a good legal philosophy, but the proposed Code was not drafted in  
615 that way; drafting that list could take additional months of work.
  - 616 • The underlying philosophy of the development code did not list prohibited activities, but  
617 rather permitted uses, conditionally permitted uses, and then everything was pretty much  
618 prohibited. How the draft Code was proposed was pretty standard.
  - 619 • The Code was not drafted with the idea of enumerating all the bad things that people should  
620 not do; that would be a big rewrite.
  - 621 • Pesticide use was not a disturbance, for example, and pesticide was not defined in the draft  
622 Code. It would be impossible to create such a list, which was as limitless as the imagination.
  - 623 • **Mr. Kelper** noted Metro's Title 13 model code did not include this language; however,  
624 current WQR rules did include the same phrasing. Part of the intent with that language was  
625 to make it clearer that it could not be done, rather than simply assuming an activity was  
626 allowed if not found on the list. For example, if a use was not listed as an outright or  
627 conditional use in R -7, then it was prohibited; that was how the Code was set up. The intent  
628 was to capture and delineate the list of exemptions and identify the level of review.
    - 629 • For instance, the language "or other activity" included tree removal, and if the tree  
630 removal description was not listed as an outright exempted or Type I review, then it  
631 could not be done. This did not make sense in light of the current Code. The property  
632 owner should at least be able to go to the Commission to make their case. The current  
633 Code version stated that Type III review included any tree removal that was not exempt  
634 or Type I, so that activity could be addressed.
  - 635 • A similar provision was in the WQR Code, which had been in effect for 8 or 9 years and  
636 seemed to show not many people had been stopped from doing a lot of things they had  
637 wanted within that time; otherwise more people than Mr. Burkett would be objecting to the  
638 proposal.
  - 639 • Should other exemptions or Type I review items be identified that people are concerned  
640 about? Although a philosophical difference existed, the Commission was actually affecting  
641 things in the area already due to the lack a decision; rewriting the Code would only increase  
642 those impacts.

- 643 • The logical people to ask about whether more specific exemptions should be included were  
644 those in the working group and those who appeared at the hearings.
- 645 • Most property owners would probably say they would like as many exemptions as  
646 possible.
- 647 • Staff wanted input from them about where the draft Code was too restrictive.
- 648 • It was dependant on intent, which could not be regulated.
- 649 • **Commissioner Stoll** could not really list any additional exemptions at the moment, because  
650 the home exemption would cover a lot of it, but he would give it some thought.
- 651 • **Chair Batey** had not read the model code against Milwaukie's Code to know if there were  
652 other things that should be exempt.

653

654 **Chair Batey** suggested that each Commissioner contact Mr. Kelter with suggestions on  
655 exemptions. Only Commissioner Stoll wanted to reframe the Code language to reflect that what  
656 was not prohibited was allowed.

657

## 658 **8. WQR Categories**

- 659 • **Mr. Kelter** understood there were two components to this issue: one was the actual  
660 wording used and if the categories should be relabeled; the other was the possible creation  
661 of a new category or two to distinguish between properties not being cared for in addition to  
662 well cared for properties, even if they did not meet the highest ecological value.
- 663 • Properties that were well maintained, landscaped, and kept in good condition should be  
664 considered "good" as opposed to degraded. An "ideal" category should be established, for  
665 those using native plantings and actively doing restoration. The opposite end needed to  
666 categorize those actively doing damage, and where enforcement would apply.
- 667 • The purpose of Table 19.402.11.C, found on 5.1 Page 27 of the April 12 packet, was solely  
668 for classifying and evaluating the property in the context of an application.
- 669 • When a project would result in some disturbance, specifically of the WQR area, the table  
670 was intended as a guide to show what mitigation is needed.
- 671 • While the wording was unfortunate, the intent was to provide a more technical evaluation  
672 of a property's status and the requirements should there be a disturbance. The fact that  
673 a property was well cared for did not change the mitigation requirements. This Code  
674 would only be used if an applicant proposed impacts on a section of the property within a  
675 WQR.

- 676 • **Commissioner Stoll** noted it was important to administer the regulation in such a way that  
677 those who were good stewards would support the City. A lot of people did object to that. He  
678 clarified that he would like to see both the approach and language changed. Mr. Burkett's  
679 property had been described as "degraded," which was not true. It was well maintained and  
680 the habitat was being improved. Comments were made about the language being  
681 demeaning.
- 682 • Only the "degraded" category in the chart had a specification about nonnative species. Why  
683 did "good" and "marginal" properties not have that threshold as well?
- 684 • **Mr. Kelper** responded that the idea was that any portion of a WQR area with at least  
685 10% nonnative species would fall into the "degraded" category, which was essentially  
686 having a lawn under the canopy. The categorizations came from the Metro Title 3 model  
687 code. Staff should check with Metro about changing or creating a different category to  
688 avoid falling out of Title 3 compliance.
- 689 • The ideas and values being put forward were what conditions represented a more ideal,  
690 self-sustaining WQR area. The intent was to have properties look more like the ODS  
691 property and less like Mr. Burkett's property, thus reducing lawns in WQRs for  
692 applications requiring a Type II or higher review. The intent was not to require restoration  
693 without some development. It would not apply to the ongoing maintenance of existing  
694 landscaping.

695

696 Commissioner Wilson left the meeting at approximately 9:40 p.m.

697

- 698 • Having staff take a hard look at the whole table, how it was set up, and the language, would  
699 be a lot of work and would require additional help. This would be different than just trying to  
700 find kinder language.
- 701 • **Vice Chair Harris** noted one thing not listed was the second half of Item 6. Metro's  
702 intentions were great; however, a property was appraised and taxes assessed with a well  
703 manicured and landscaped garden, and no process existed to reduce the assessment or  
704 taxes when a property was returned to riparian land that could never be used. The inability  
705 to divide or develop a property could result in a significant reduction in property value.
- 706 • Because taxes were not in the purview of the Commission, there might not be a way to  
707 address the concern. This was a huge oversight on the State's part and on the parts of  
708 Metro and Clackamas County. The HCAs and WQRs in general create this situation. He  
709 would not likely vote against habitat restoration, but it was very concerning.

- 710 • Item 12 “Burden on property owners and property value” was added to the list.
- 711 • Table 19.402.11.C was exactly what it should be for the intent of the Code.
- 712 • The language stating, “more than 10% surface covers by any nonnative species” could be
- 713 going too far. Removing invasive species was good, but if it was not an invasive species or
- 714 native, but an ornamental species, for example, which fostered habitats should be allowed.
- 715 Native vegetation, which promoted water conservation, should be in the “ideal” category.
- 716 • **Mr. Hall** stated that native species were required to be planted when replanting bare and
- 717 disturbed areas from development. He suggested the Commission could require that
- 718 some percentage had to be native. Another requirement was that seeds be planted to
- 719 provide 100% surface coverage, which could also be adjusted.
- 720 • People on the advisory group were much more qualified to talk about such details. Staff
- 721 could possibly reassemble the group with Mart Hughes and Zack Perry and others who
- 722 were more qualified.
- 723 • These were essentially the same standards the City had used for the past 8 years or so
- 724 and was the model code. The language could be adjusted further, but it was really just
- 725 continuing the existing policies.
- 726

727 **Chair Batey, Vice Chair Harris, and Commissioner Gamba** agreed to retain the WQR

728 categories as presented; **Commissioner Stoll** wanted the categories changed.

729

730 After considering the hour in light of the Commission charter, the Commission consented to

731 continue the meeting past 10:00 p.m.

732

### 733 **1. 150 sq ft threshold for minor encroachments**

734 **Mr. Kelper** clarified that the comparison table, Exhibit 16, was intended to pull out some specific

735 square footage numbers in the existing Code to see what they looked like internally. There were

736 minor encroachments that only affect the HCA that were listed as exempt on 5.1 Page 17 of the

737 April 12 packet. These were special exemptions within HCAs. The current proposal had minor

738 encroachments up to 120 sq ft just in HCAs as exempt.

- 739 • Examples were provided of minor encroachments of an impervious surface such as
- 740 accessory buildings, patios, walkways, retaining walls, and other similar features. 150 sq
- 741 ft came up as the trigger for a CMP; 120 sq ft for an HCA minor encroachment; and 150
- 742 sq ft for a Type II WQR disturbance, which regarded Ms. Baker’s bay window example.



- 743 • These thresholds were new; currently any disturbance had to go to the Commission. The  
744 idea was to be able to do a Type II for small impacts, even those within the WQR area,  
745 because that had been far too restrictive.
- 746 • The 150 sq ft threshold was also used for the temporary disturbance allowed in HCAs.  
747 The model code had 200 sq ft, but because staff was working with 150 sq ft for  
748 everything else, it had been dropped to be more consistent. Other thresholds for allowed  
749 disturbance went up to 500 sq ft for alterations of existing structures that impact only  
750 HCAs, which was reflected in the table.
- 751 • The table showed 150 sq ft or 500 sq ft as the thresholds, except for the 120 sq ft which  
752 they had talked about changing.
- 753 • Eliminating the 120 sq ft metric made sense. Using 150 sq ft or another number for  
754 everything would avoid confusion.
- 755 • The larger question was whether 150 sq ft was the right number for either sometimes  
756 requiring a CMP, or in other cases, if the standards for WQR disturbance could not be met,  
757 bumping the application from Type II to Type III.
- 758 • Some who commented suggested this was a little low.
- 759 • According to the chart, most of the area was taken from the model code and using 120 sq ft,  
760 but going to 200 sq ft for temporary disturbances.
- 761 • Staff created several levels of exemption. Many other jurisdictions were not requiring a  
762 CMP for an activity on the exempt list.

763  
764 All Commissioners agreed 150 sq ft should be the threshold for minor encroachments in HCAs.  
765

766 **Chair Batey** and **Vice Chair Harris** wanted to further consider the 150 sq ft threshold between  
767 a Type II to Type III review for WQR disturbance, while **Commissioners Gamba and Stoll**  
768 supported the 150 sq ft trigger.

- 769 • This particular Type II allowance was 150 sq ft maximum and going no closer to the  
770 protected water feature, which could be difficult if the entire property was covered.
- 771 • Staff would return with a clear explanation about what constitutes Type II and Type III  
772 reviews, as well an alternative for the next hearing.
- 773 • **Commissioner Stoll** requested a sample CMP or a sample Natural Resource Management  
774 Plan that would be done by a typical citizen to understand what the citizens would be asked  
775 to do.

776

777 **10. 150 sq ft threshold for CMP requirements**

778 The Commission agreed to a 150 sq ft threshold for CMP as long as it was subject to Item 11.  
779 Some oversight, but not too much regulation, of everyday gardening/landscaping/trees.

780

781 **9. Applicability to ROW**

782 • **Vice Chair Harris** was not concerned about applicability to ROW, which was not considered  
783 in the rest of the Code. Engineering adhered to erosion standards already without these  
784 regulations.

785 • **Chair Batey** was concerned about undeveloped ROW. In most places, it would be a non-  
786 issue because the street improvements for an application triggering this ordinance would  
787 dictate what happened in the ROW anyway.

788 • One example was the proposed widening of the Harmony Rd section in the Three Creeks  
789 Area, which would kill a bunch of 200-year old oaks to speed up traffic by 30 seconds. Such  
790 proposals should come up for review if in Milwaukie.

791 • **Mr. Hall** explained that Engineering staff wants the flexibility to build a road where needed in  
792 order to access property. Standards exist to address natural resources, but it was really a  
793 policy decision of the City. Legally, the Commission could make a regulation on ROW.  
794 Generally, cities allow themselves more leeway regarding what they can do in the ROW due  
795 to the necessity of access.

796 • The exemption was specific to the physical public ROW, not who was acting in it. Those  
797 acting within the ROW were subject to many other regulations and staff would return  
798 with an explanation of those rules so the Commission could compare them with the  
799 proposal. Undeveloped ROW was a bit different.

800 • Someone from the Engineering Department could provide a sample scenario of what  
801 happened when someone wanted to work in the ROW.

802

803 **Chair Batey** and **Commissioners Stoll** and **Gamba** wanted more information so they could  
804 further consider applying the regulations to ROW. Vice Chair Harris opposed having the Natural  
805 Resource regulations apply to the ROW.

806

807 **Mr. Kelper** noted that as written, the ordinance discussed existing ROW, but not ROW resulting  
808 when a new road is created from a new partition or subdivision. Once the road is established,  
809 existing ROW would result and would be exempt, but the process of doing the subdivision would  
810 need to address any impacts.

811

812 **12. Burden on property owners and property value**

- 813 •
- Vice Chair Harris**
- requested that staff get more information from the tax assessor.

814

815 **Chair Batey** asked that the packets be sent to the Commission 2 weeks prior to the hearing  
816 because it would be a lot of reading.

817

818 **Commissioner Gamba** moved to continue ZA-11-01 and CPA-11-01 to date certain of  
819 **June 14, 2011. Vice Chair Harris** seconded the motion, which passed unanimously.

820

821 **Attachments**822 Attachment 1: Natural Resource Regulations Questions Chart, April 26, 2011 Planning  
823 Commission

824

825 **7.0 Planning Department Other Business/Updates**

826 7.1 Kellogg Bridge – Responses to questions from 3/17 meeting

827 **Ms. Mangle** noted the material in the packet was in response to some questions asked at the  
828 joint meeting with the DLC regarding the proposed light rail Kellogg Bridge. Another joint  
829 meeting was proposed to address other comments and questions, and enable the designers to  
830 show their progress and how they were responding to the more substantive comments. She  
831 would email the Commissioners about the proposed May 25 or June 1 date and they could  
832 respond with the date that worked best. The material was also provided to the DLC for their  
833 meeting being held tomorrow.

834

835 **8.0 Planning Commission Discussion Items**

836 There were none.

837

838 **9.0 Forecast for Future Meetings:**839 May 10, 2011 1. Other Business/Updates: Team-building Training  
840 2. Other Business/Updates: Residential Standards Project Update  
841 May 24, 2011 1. Public Hearing: North Clackamas Park North Side Master Plan  
842 cont'd – *tentative*  
843 2. Public Hearing: Wastewater Master Plan

844

- 845 **Ms. Mangle** reviewed the forecast for future meetings with these additional comments:
- 846 • Mr. Hall would be doing training on hearings at the next meeting. She had spoken with
- 847 several Commissioners about having time to discuss how to work together and run meetings
- 848 because it was a new group with a new chair.
- 849 • The North Clackamas Park North Side Master Plan would not be heard May 24 as a lot of
- 850 work was still going on; it would probably be June before it returned before the Commission.
- 851 • In addition to the Wastewater Master Plan public hearing on May 24, a worksession was
- 852 planned on a segment of the Residential Development Standards Project, essentially the
- 853 baseline work of reorganizing the Code.

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855 Meeting adjourned at 10:28 p.m.

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Respectfully submitted,

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

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869 Lisa Batey, Chair

ATTACHMENT 1

NATURAL RESOURCE REGULATIONS QUESTIONS PLANNING COMMISSION APRIL 26, 2011			LISA BATEY		NICK HARRIS		RUSS STOLL		MARK GAMBA		CHRIS WILSON		Notes
BURDEN ON PROPERTY OWNERS AND PROPERTY VALUE													
1	150 SF THRESHOLD FOR HCA MINOR ENCROACHMENT	150 SF TYPE 2 WQR	150	?	150	?	150	Y	150	Y	-	-	MORE INFO ON TYPE 2 WQR
2	LIMIT DIVISION OF HIGH % RESOURCE PROPERTIES		Y		Y		Y		Y		Y		- NOT A TAKING - ALLOW RESOURCE TRACTS
3	LANGUAGE:	FEASIBLE= PRACTICABLE= PRACTICAL USE "PRATICABLE" & ADD DEF.	NEEDS DEFINITION & CONSISTENCY		NEEDS DEFINITION & CONSISTENCY		NEEDS DEFINITION & CONSISTENCY		Y		Y		
4	HOME EXEMPTIONS – ADD?		N		N		Y		N		Y		
5	TREE REMOVAL		OK										
6	FEE REDUCTIONS B.V., CMP, TYPE I TREE REMOVAL		AS MUCH AS POSSIBLE		Y		Y		QUICK & CHEAP		Y		
7	PROHIBITIONS: WHAT IS NOT PROHIBITED IS ALLOWED		N		N		Y		N		N		MAYBE MORE EXEMPTIONS
8	WQR CATEGORIES: CHANGE LABELS		N		N		Y		N		-		
9	APPLICABILITY TO ROW: CONSIDER APPLYING TO ROW		Y		N		Y		Y		-		MORE INFO ON REQS THAT <u>DO</u> APPLY TO ROW
10	150 SF THRESHOLD FOR CMP		Y		Y		Y		Y		-		SAMPLE CMP & NRP
11	SOME OVERSIGHT, BUT NOT <u>TOO MUCH</u> REG. OF EVERYDAY GARDENING & LANDSCAPING		Y		Y		Y, TREES TOO		Y		Y		



**To:** Mayor and City Council  
Planning Commission

**Through:** Bill Monahan, City Manager

**From:** Katie Mangle, Planning Director

**Date:** June 17, 2011

**Subject:** Joint Discussion of Residential Development Standards Project

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### **ACTION REQUESTED**

None. This item is for discussion only.

### **HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

**May 2011:** Planning Commission received a progress report on the project and public involvement activities to date.

**February 8, 2011:** During a joint meeting to discuss the Planning Commission work plan, City Council requested that the two groups meet more frequently to discuss major initiatives. During its discussion of Council Goals for the coming fiscal year, the Council identified the Residential Development Standards project as one which should be discussed with the Commission long before the final proposal enters the public hearing process.

**January 2011:** The Planning Commission reviewed and provided guidance on the updated public involvement plan and web-based survey.

**October 2010:** Staff provided the Planning Commission with a project setup summary including the scope of work and project schedule, and discussed the formation of a Commission subcommittee to guide the project.

**March 2010:** Staff provided the Planning Commission with a copy of the Intergovernmental Agreement between the City and the State of Oregon that the Council approved in March 2010.

**March 2010:** City Council approved an Intergovernmental Agreement between the City and the State of Oregon that commits the state to funding \$50,000 in consultant time and the City to providing staff time, to prepare draft code amendments based on priorities that were identified in the 2009 *Smart Growth Code Assessment Final Report*. The first phase of the project resulted in the Land Use and Development Review Tune Up amendments (which Council adopted in

March 2011). The second phase is the Residential Development Standards project, which will result in a package of proposed amendments to be considered in late 2011.

**October 2009:** Staff presented the 2009 *Smart Growth Code Assessment Final Report* to Council. Council concurred with the code amendment priorities identified in the report and requested that staff move forward with the next phase of the project.

**August 2009:** Planning Commission reviewed and provided concurrence on the Action Plan presented in the 2009 *Smart Growth Code Assessment Final Report*.

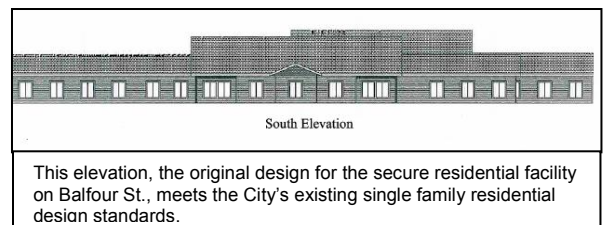
**July - August 2009:** Planning Commission held two worksessions to discuss the consultant's code assessment findings prepared during Phase I of the Smart Growth Code Assistance project.

## BACKGROUND

Following Council and Planning Commission direction, Planning staff is orchestrating the Residential Development Standards project, a long-range planning project whose objective is to establish a coherent set of zoning code policies to guide residential development in Milwaukie.

Milwaukie has seven established neighborhoods that are mostly built-out. However, many of these neighborhoods contain large lots and older homes, so there is room for both new "infill" development and expansion of existing homes. For years, many in the community have called for more attention to the design and development standards that govern infill residential development and home additions. Over time the City has added some additional regulations (i.e., increased setback requirements for flag lot development), but has yet to add some needed standards (i.e., design standards for multifamily housing). A 2009 code audit outlined the following specific problems with Milwaukie's housing development policies:

- Milwaukie has basic standards for single-family home design that are less restrictive than those of most other cities in the region. We don't have specific standards for garage location or size, and the standards we do have do not apply to significant expansions of existing homes.
- Milwaukie has standards governing minimum lot size, building setbacks, building height, and lot coverage. However, the lot coverage standards are relatively restrictive, so builders are incentivized to build up if they can't build out. This contributes to the perception of new development feeling out of scale with existing development.
- Milwaukie has limited tools to ensure that new development "fits" into the existing neighborhood fabric. Many tools are available to address compatibility issues, such as variable lot coverage standards tied to lot size, building step-back requirements tied to building height, and larger side yard setbacks tied to the size of the building's side facade.



- Milwaukie’s existing policies discourage a variety of housing types by establishing confusing standards and excessive process for Accessory Dwelling Units (ADUs) and duplexes, and prohibiting creative solutions such as cottage clusters. And yet the Planning department consistently fields calls from Milwaukie residents who want to pursue these types of development, often for their own family.
- Milwaukie has no design standards for multifamily residential development (only height and setback standards). Milwaukie, therefore, may have the lowest requirements in the region for how multifamily development looks and relates to its surroundings.
- In summary, the zoning code reflects an incoherent and incomplete policy approach to providing needed housing investments in Milwaukie to serve the needs of Milwaukie and its residents.

This project is being led by staff, assisted by grant-funded land use and design consultants, and overseen by a citizen advisory committee that includes Planning Commissioners, Design and Landmarks Committee members, NDA representatives, and a City Councilor. It is the first time since 1968 that the City has conducted a comprehensive review of its residential development and design policies. The goal of this project is two-fold: (1) to update Milwaukie’s site development and building design standards for single-family and multifamily housing outside of downtown, and (2) to develop policies that reflect the community’s changing housing needs and preferences. The project scope does not include rezoning or density changes anywhere in the city.

Key project questions for the community are as follows:

- How can we ensure that every new residential building is a good neighbor?
- What types of housing are needed and/or desired by Milwaukie’s current and future residents?
- How can we encourage, or at least not preclude, more sustainable development?

Staff developed a “Pie Chart” to help articulate the range of issues being tackled by this project. It is included as Attachment 1.

## COMMUNITY INVOLVEMENT

Since this project will likely have a large impact on the look and form of residential development throughout Milwaukie, it has been important to engage the community in this discussion. To that end, Planning and Community Services staff have developed, and are in the process of implementing, a comprehensive outreach strategy to inform and gauge public opinion on the various issues and questions being raised by this project.

Past Community Involvement Efforts:

- Online survey (83 participants)
- Housing Choices workshop (31 participants)

Ongoing Community Involvement Efforts:

- Stakeholder focus group meetings (3 completed)
- One-on-one interviews (20 completed)
- Steering Committee meetings (4 completed)



- NDA and NDA leadership updates

Future Community Involvement Efforts:

- Project Open House

A summary of the community feedback received to date is included as Attachment 2. It includes four components, namely a survey report, workshop summary, interview summary, and stakeholder focus group summaries.

## **PRELIMINARY FINDINGS**

The project is touching on three aspects of residential development that are currently regulated by the zoning code.

1. Building design standards. These standards regulate what a building looks like from the street, e.g. door location, window size, and human-scaled architectural details.
2. Building and site development standards. These standards regulate building height, mass, and location on the site.
3. Building type regulations. In combination with zoning, these regulations dictate what form housing can take in various locations around the city, e.g. single-family, duplex, cottage cluster, accessory dwelling units, etc.

Staff has begun to formulate some recommendations on how the City's policies could change based on the community feedback we have heard to date. The following are our preliminary recommendations.

### Design Standards

- Develop design standards for multifamily housing developments.
- Do not allow garages to dominate the front façade of the house.
- Apply design standards to large house additions.
- Ensure design standards are style-neutral so that property owners are free to apply their own sense of design to their home.
- Respect the scale and design of existing development. It may not be reasonable or desirable to require new development to match existing development, so it's better to strive for compatibility.
- Maintain affordability but don't settle for "cheap."

### Development Standards

- Add standards to address compatibility issues related to building height, mass, and placement.
- Maintain or increase setback requirements. Protecting the space between homes allows for privacy, "breathing room," and solar access.

### Housing Types

- Allow detached accessory dwelling units. The City currently only allows these kinds of dwelling units when they are attached to or a part of the main house.
- Allow a broader range of multifamily building types, e.g. rowhouses and cottage clusters, to meet the diverse needs of Milwaukie families, encourage home ownership, and facilitate development that more closely resembles the scale of Milwaukie’s single-family neighborhoods.

## **CONCURRENCE**

There is no action with which to concur. Community Services is playing a major role in the public involvement and communication aspects of this project. Community Development supports this project as an important way for the City to best prepare the neighborhoods for anticipated development activity that could be attracted by the light rail project.

## **FISCAL IMPACT**

The Planning Department budget for fiscal year 2012 includes \$10,000 for project expenses, if needed to address Commission or Council needs prior to the public hearings.

## **WORK LOAD IMPACTS**

This project is a significant aspect of the Planning Department work load, and will continue to be until proposed amendments are adopted.

## **ALTERNATIVES**

None.

## **ATTACHMENTS**

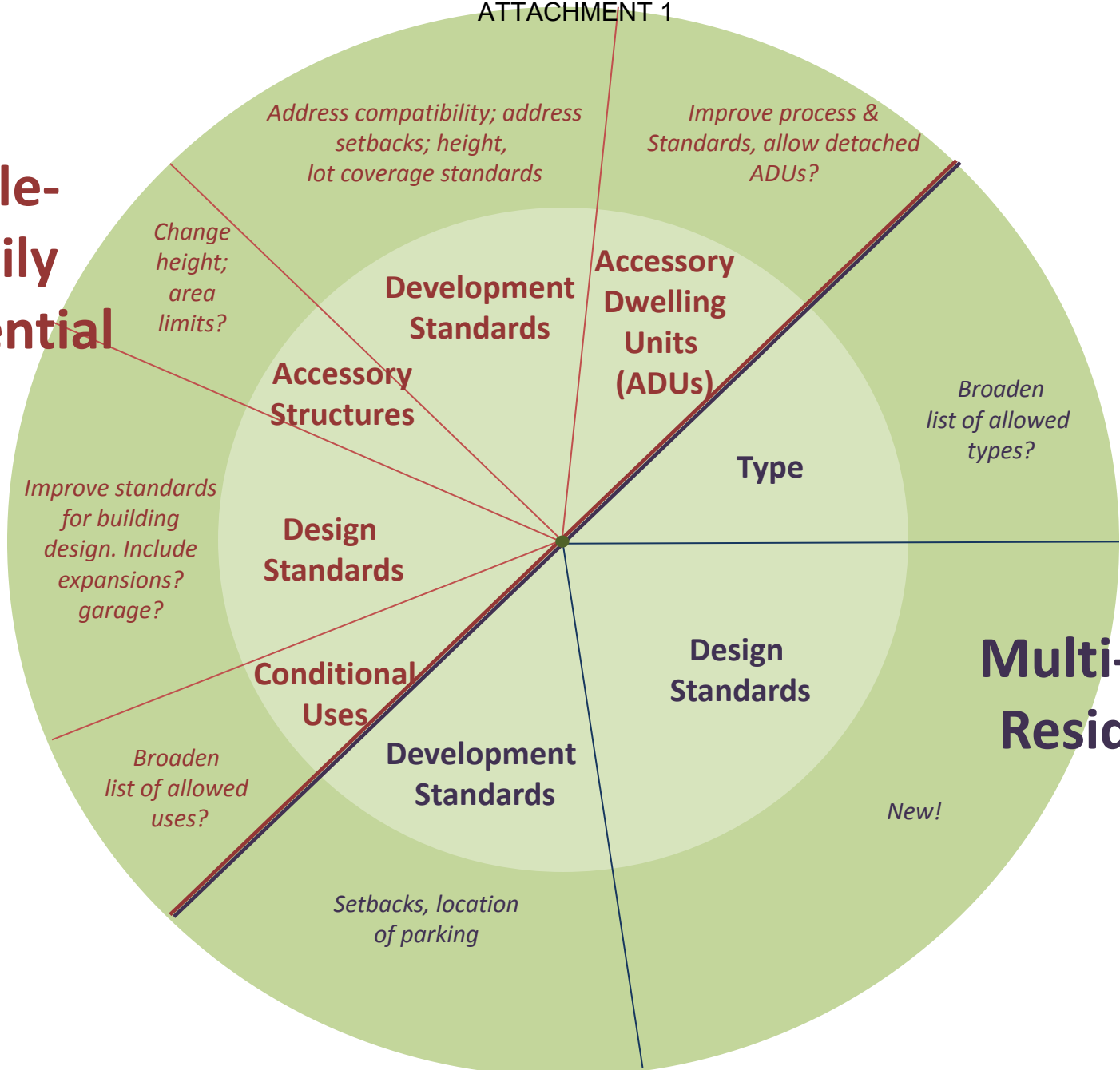
1. Project “Pie Chart” of Issues
2. Community Feedback from Surveys, Workshop, Interviews, and Stakeholder Focus Groups
  - A. Survey Report
  - B. Housing Choices Workshop notes, April 25, 2011
  - C. Interviews Summary
  - D. Stakeholder Focus Group meeting notes

# Residential Development Standards Project: Core issues to be addressed & related questions

ATTACHMENT 1

**Single-Family Residential**

**Multi-Family Residential**



# Residential Development Standards Survey Report

March 2011



In January and February of 2011, City staff distributed a survey to gauge community opinion on the look of single-family and multifamily housing and to learn more about the community's housing needs and preferences. This document summarizes all survey responses received.

This survey is part of a comprehensive public outreach strategy that is intended to inform the policies being evaluated by the Residential Development Standards Project. This project is being led by staff, assisted by grant-funded land use and design consultants, and overseen by a citizen advisory committee. It is the first time since 1968 that the City has conducted a comprehensive review of its residential development and design policies.

The goal of this project is to update Milwaukie's site development and building design standards for single-family and multifamily housing outside of downtown.

## **Key Project Questions:**

- How can we ensure that every new residential building is a good neighbor?
- What types of housing are needed and/or desired by Milwaukie's current and future residents?
- How can we encourage, or at least not preclude, more sustainable development?

## **Survey Outreach:**

This survey was posted on the home page of the City's website and distributed at Neighborhood District Association (NDA) meetings and to the December 2010 NDA leadership meeting. Links to the survey were posted on the City's Facebook and Twitter accounts, and the Oregonian ran an article about it. This survey does not claim to be scientific.

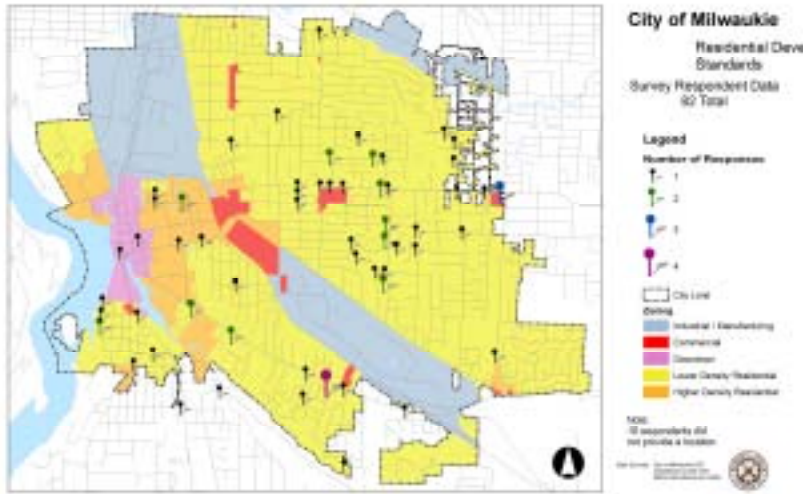
- 83 surveys were completed.
- 75% of respondents were single-family home owners.
- Average age of respondents was 51.

## **Appendices:**

- Appendix A contains a copy of the survey.
- Appendix B contains respondents' complete responses to all open-ended survey questions.

### 1-2. Respondent Locations:

Eighty of the respondents had a 97222 zip code and two had 97267 zip code. Respondents identified the nearest intersection from their property:



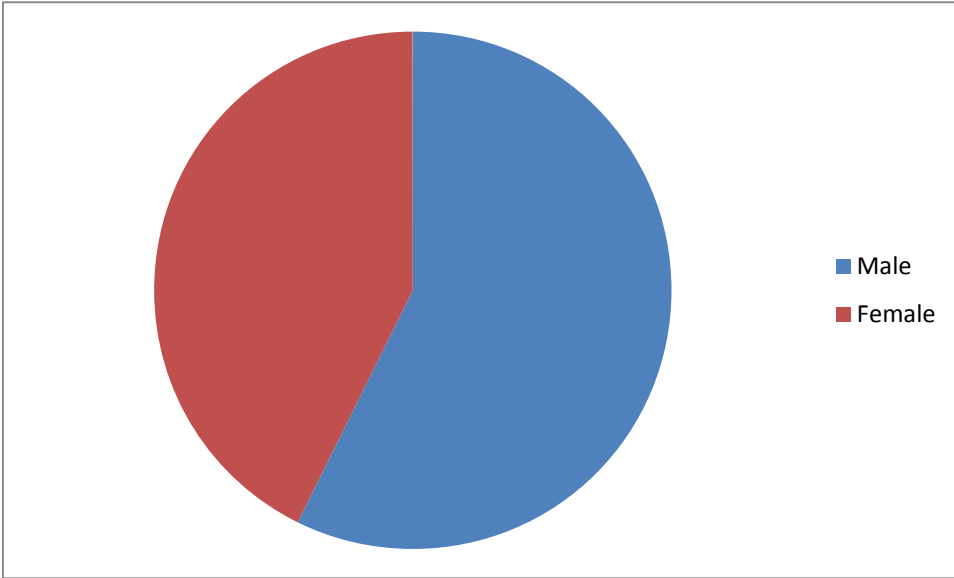
### 3. Respondent Ages:

Seventy-three people answered this question.

- 20-30: 4
- 31-40: 9
- 41-50: 17
- 51-50: 27
- 61-70: 11
- 71+: 5

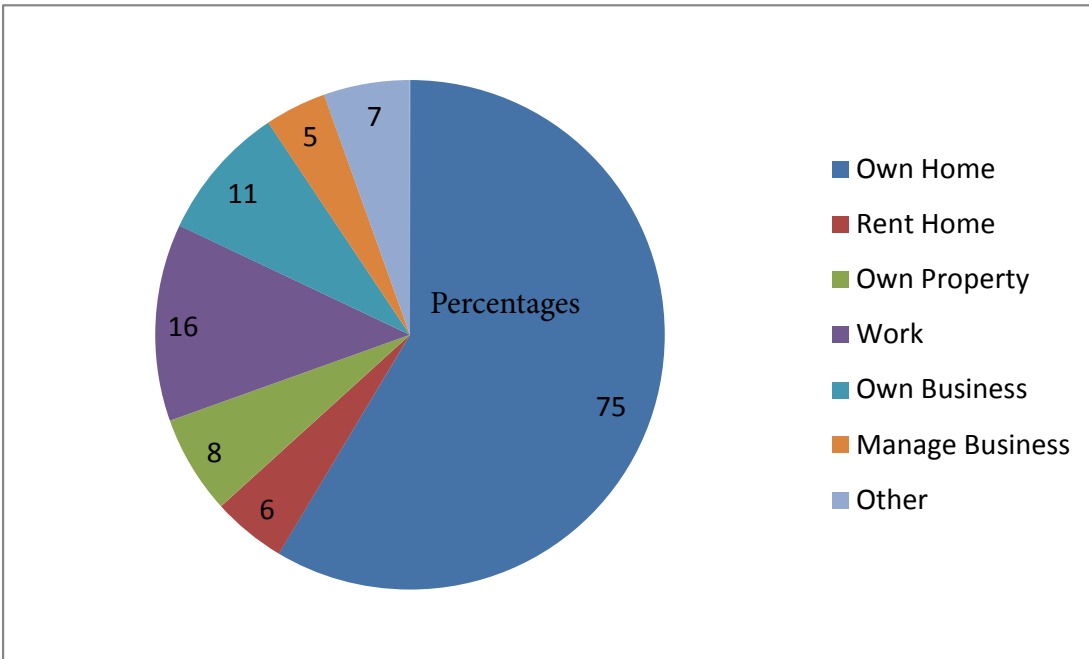
Average age=51

#### 4. Respondent Gender:

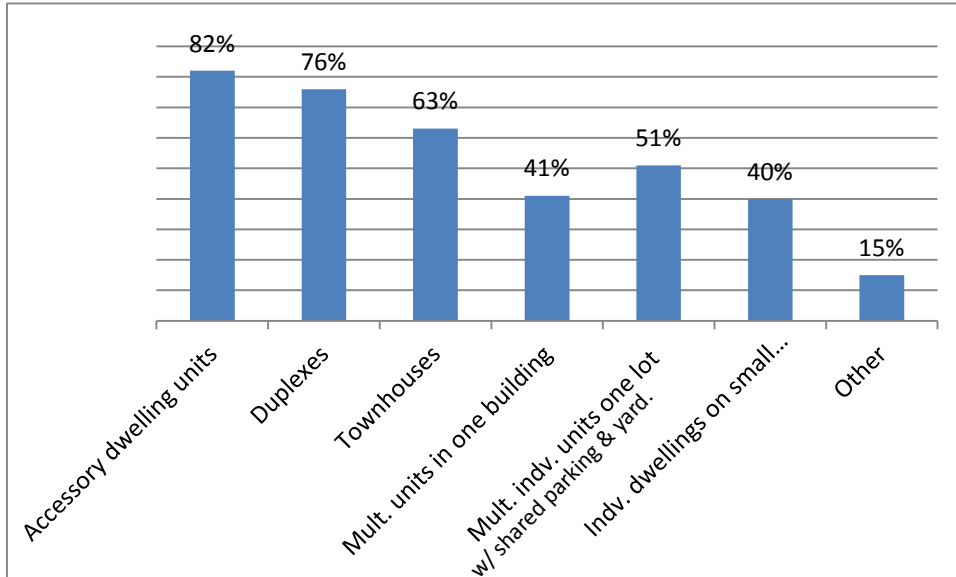


#### 5. "Tell us about yourself: Do you \_\_\_\_ in Milwaukie?"

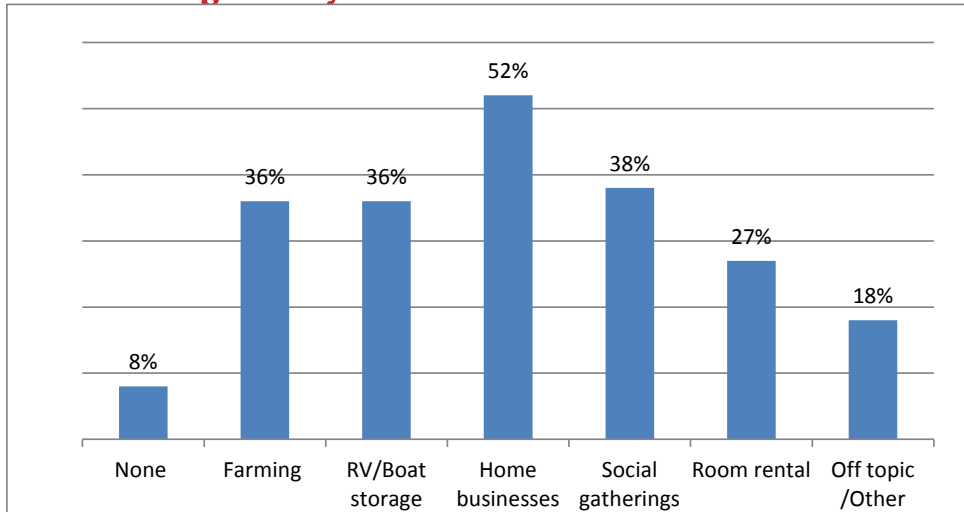
Seventy-five people answered this question.



**6. “What types of residential buildings do you think are appropriate in multifamily residential zones outside of downtown?”:**

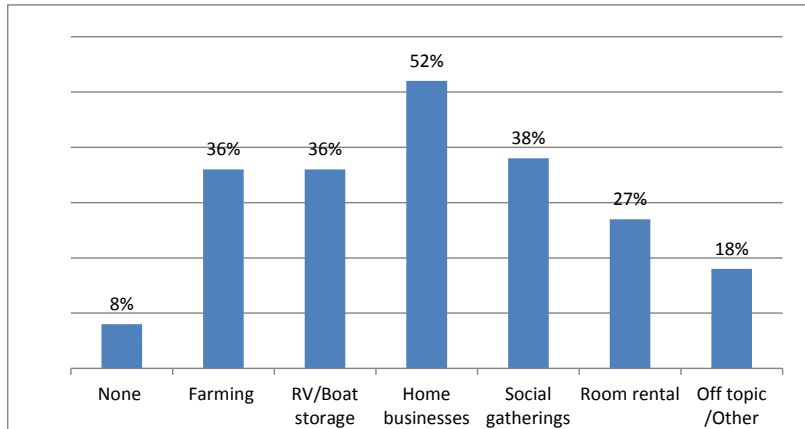


**7A: “In addition to being someone’s home, properties in residential zones may also allow other uses such as home-based businesses, regular social gatherings, farming activities, RV or boat storage, and/or garage or room rental by others. Thinking about the uses described above, or any other uses, describe what kinds of uses you think should be allowed in **single-family** residential zones?”:**

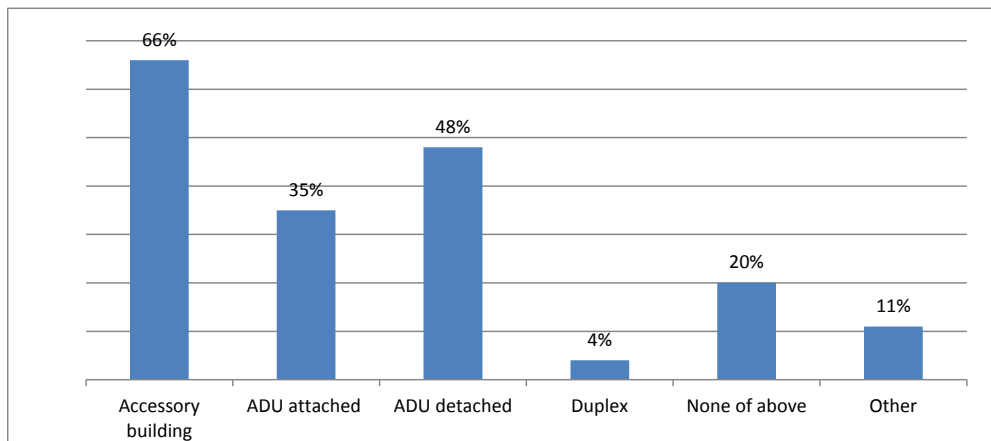


Thirteen percent of respondents indicated that all uses should be allowed. These responses were added to the other categories for the purpose of the graph and better visual understanding. Many respondents did not comment on all the given use categories. Most comments in favor of farming in residential zones were qualified with ‘as long as the farming did not create odor or spray on adjacent properties.’ Most comments in favor of home businesses and room rentals were qualified with ‘as long as low traffic impacts and adequate parking on site.’ Most comments in favor of RV and boat storage were qualified with ‘as long as they are stored on private property not on the street’. See appendix for full comments.

**7B: “In addition to being someone's home, properties in residential zones may also allow other uses such as home-based businesses, regular social gatherings, farming activities, RV or boat storage, and/or garage or room rental by others. Thinking about the uses described above, or any other uses, describe what kinds of uses you think should be allowed in **multifamily** residential zones”:**



**8. If you own residential property, have you ever thought about using your property in the following ways?**



**9. If you chose “other”, please specify:**

The following eight comments were received:

“Adding an artist studio attached to a new garage structure.”

“Allow granny flats and artist studios and chicken coops and gardens.”

“Would love to have a small business.”

“Remove dilapidated house(s), doing a lot consolidation and rezoning to multifamily to construct 3-4 attached units consistent with properties adjacent and nearby.”

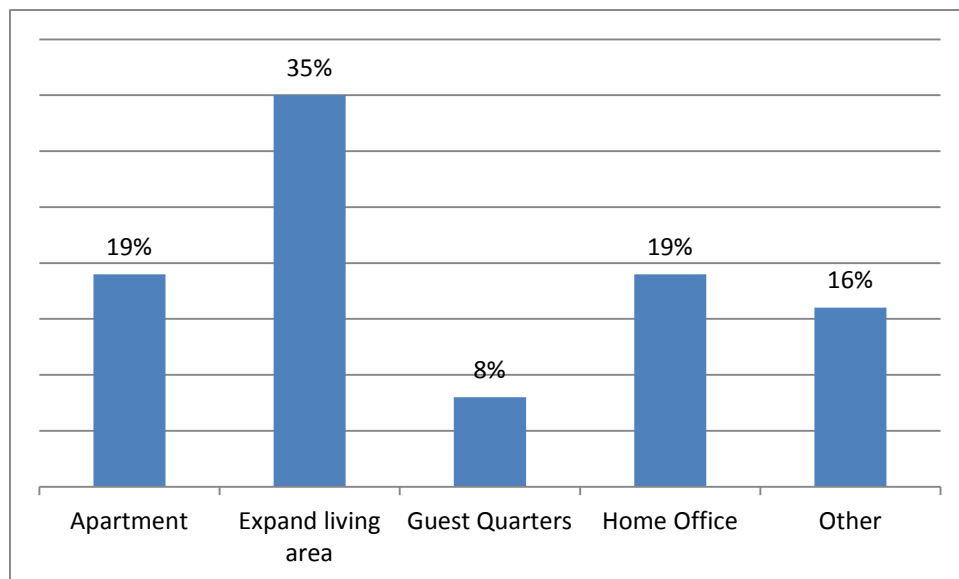
“More than one detached dwelling unit.”

“Creating a part time floral / repair / internet occupation.”

“If a detached garage already exists and needs replacement or upgrading that should be allowed.”



**9B. If you answered “None of the above” to Question #8, might there be conditions or life changes in the future that would cause you to change your answer? If “Yes,” for what use?**



Fifty percent--or five of the ten people who responded “None of the above” indicated this might change in the future.

**If chose “other” please specify:**

The following six comments were received:

“I have considered converting the space above the garage into living area for additional living and storage space.”

“For expansion of existing living area, a home office or as an auxillary living space.”

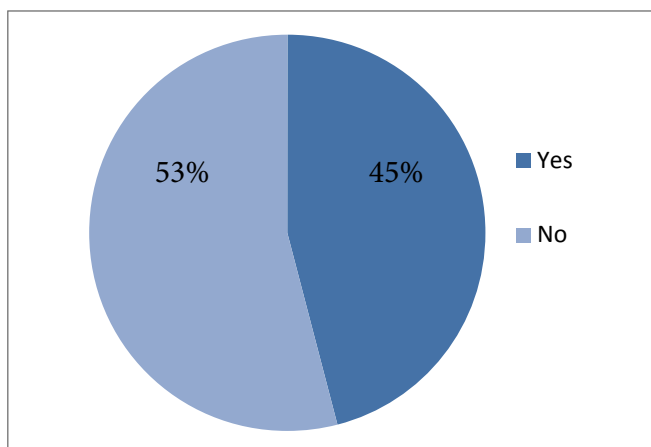
“I'd keep it as a garage, but put a pool table in it instead of my car.”

“Exercise area / Play area.”

“We built it for actual use as garage.”

“Home office/living space combined.”

**10. If you own residential property with a garage, have you ever thought about converting your garage into living area?**



**11. If you answered “No” to Question #10, might there be conditions or life changes in the future that would cause you to answer “Yes”?**

Twelve respondents--or fifteen percent--indicated “Yes” there might be conditions under which they would want to convert their garage into living space in the future.

**11B: If “Yes” please explain:**

Comments indicated that respondents might want to add living space for family members , for guest quarters or to add a home office. Twelve comments were received. See appendix B for all twelve comments. The three comments below are examples:

“If I became unemployed I could work at home.”

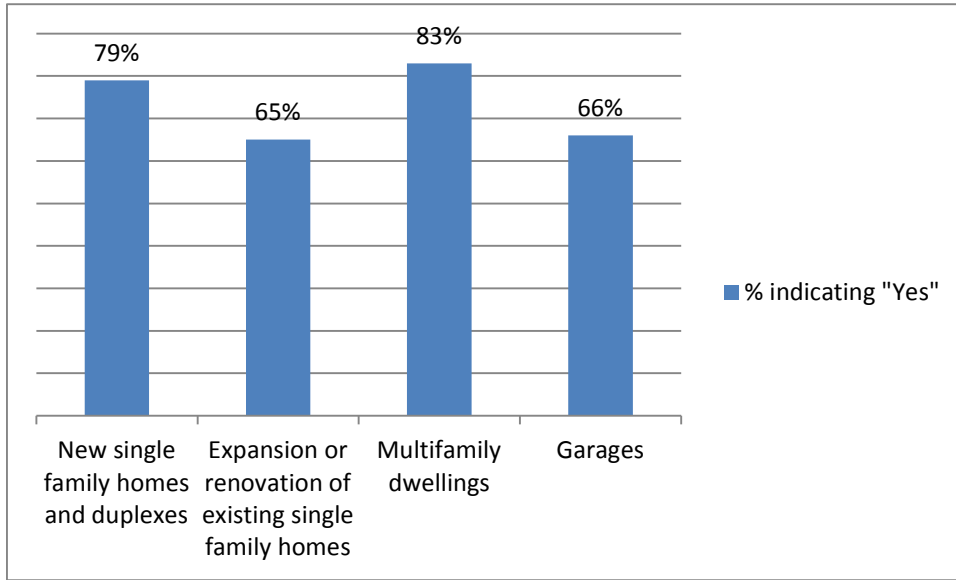
“My garage...may become useful to convert it into a home office at some point.”

“If need additional bedrooms/living space.”

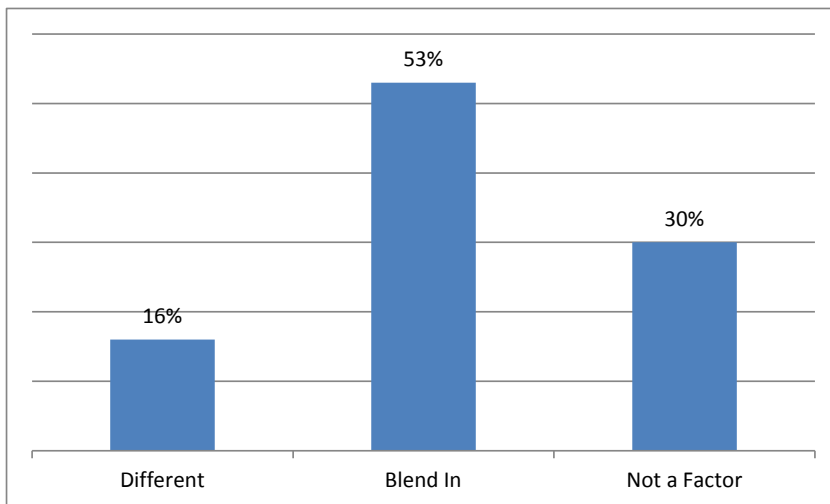
**12. Do you think the City should have design standards for:**

- A. New single-family homes and duplexes?
- B. Expansion or renovation of existing single-family homes?
- C. Multifamily dwellings?
- D. Garages?

**Percentage indicating “Yes” there should be design standards:**



**13. “Think about successful new residential development you have seen in Milwaukie or elsewhere. In your opinion, are they successful because they blend in with existing structures, or because they are different?”**



**14. If they “blend in”, in what ways are they the same as what is already there? (Check all that apply):**

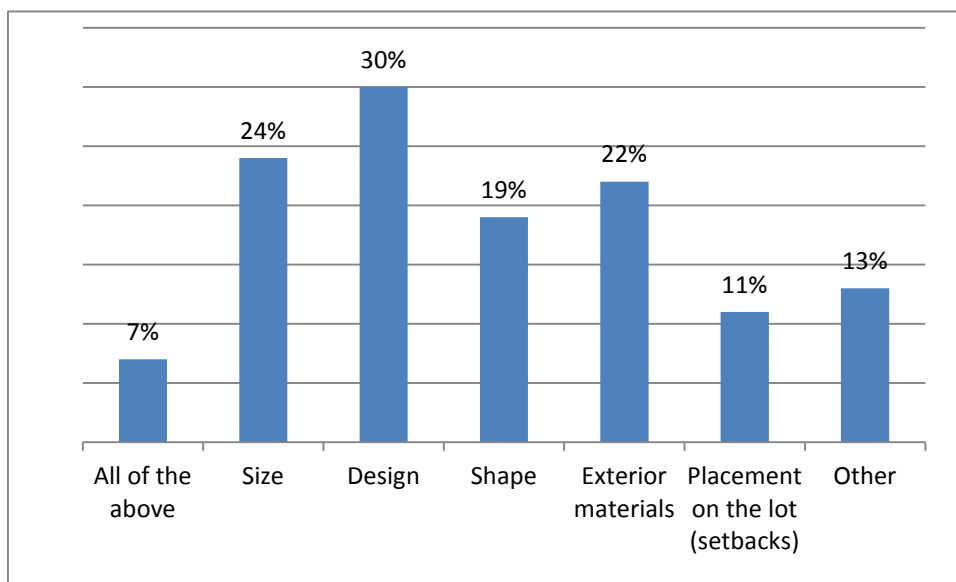
Due to an error in the survey, respondents could not check more than one box. As such, none of the respondents checked any of the boxes and rather chose to leave comments instead. See appendix B for all comments. Sixteen comments were received. The following are examples:

“They are compatible in architectural style and building scale to adjacent buildings—this includes exterior materials and setbacks.”

“I think in a well established well designed neighborhood, 2-3 similar attributes are attractive and cohesive. But I don’t like cookie cutter neighborhoods where all or most of the homes are identical with only minimal changes (ie: mirror images, colors, different shaped eyebrow or porch, etc).”

“Using the same amount of land space for house.”

**15. If they are “different”, in what ways are they different from what is already there?**

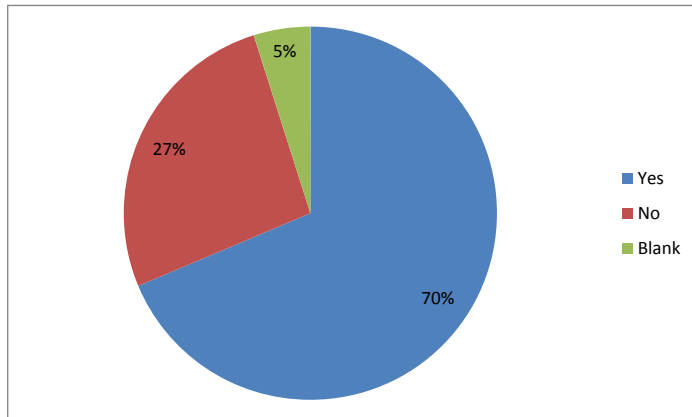


Additional comments elaborated on how infill in Milwaukie is different. See appendix B for all comments. A few examples:

“Variety gives a neighbor personality, outlandish design is out of place.”

“Consistency in design and shape isn't necessary. I feel that unique styles enhance a neighborhood providing that the size and placement are consistent with the surrounding homes. For instance a modern design like {gives specific house} doesn't match the hodgepodge of design mixed through the neighborhood but it is a beautiful house that is consistent with the size of their neighbors, setback is similar to the other homes on the street and the style adds value to the surrounding environment.”

**16. Milwaukie's neighborhoods have developed incrementally over the past 100 years. Do you think residential areas in Milwaukie have a special character worth preserving?**



**If "Yes", please describe what qualities you think are most important to keep or protect:**

Of the forty-seven comments received, themes included keeping mature trees and green spaces/parks; keeping large lot sizes; preserving historic homes; and maintaining setbacks and similar scale to surrounding houses. Several people commented on a need for more sidewalks. There were also several comments asserting that there is a lack of architectural character in Milwaukie and that many areas are eclectic and/or unattractive.

“Mature trees in a neighborhood can make up for a lot of architectural mediocrity.”

“I think some neighborhoods have character worth preserving and others may not. I would hate to see Milwaukie lose its character of having a mix of large lots among more intensively developed areas - and would not like to see restrictions on larger lots that might apply to smaller lots, such as ability to keep animals - chickens come to mind - based on “design standards”. Generally I am in favor of allowing variety in the development of housing options as long as safety standards are met, and the new houses do not overpower the existing built space by a combination of size and density - although I suppose I would be open to allowing more density along transportation corridors in order to preserve space in other areas.”

“Yes but only in a few neighborhoods. Most of the neighborhoods in Milwaukie would best be leveled and start over. The ones worth preserving are the historical homes, most of the homes in Milwaukie are bad ranch style homes with no redeeming qualities.”

“Small town feel and LARGE lots; in most areas neighbors have breathing room.”

“The homes are mostly different in construction and they are spaced apart leaving room for green spaces, however the flag lots and mix of mobile homes installed on a single-family lot should be a thing of the past and not carried forward.”

“Old single-family homes older than 1960 and lack of sidewalks.”

“Small homes in a bungalow style with green spaces.”

“Milwaukie is no Ladd's Addition. Milwaukie is eclectic and that's that. We happen to live in a 1928 Craftsman style bungalow on Lake Road but our neighbors on 27th live in a beautiful mid-century ranch. Please, no cookie cutter neighborhoods. Embrace our architectural diversity--even if it looks a little funky.”

## **17. What should the City's highest priorities be for this project?**

Of the sixty-nine comments received, themes included efficient use of land; sustainability; keeping homes affordable; limiting taxes and fees; consistency and clarity in standards; standards that encourage new development to fit with style and scale of surrounding buildings; and truly seeking and listening to the desires of the community. See appendix B for full comments. A few examples follow:

“Encourage efficient use of existing housing and new development sites.”

"Set quality standards for design/materials which are not too cost prohibitive for middle-middle class residents. The City needs to be "friendly" in its regulations to set out a ""welcome mat"" to people who want to improve their properties..."

“Protecting further intrusion by companies building properties intended for assisted living facilities within a residential neighborhood. Those buildings are massively out of scale to other residences. The city should consider both the rights of a property owner to expand their building size, add sheds or garages or operate a home-based business, balanced against the right of other property owners to have a peaceful, aesthetically pleasing neighborhood.”

“Write a code that will maintain housing values while also providing flexibility to develop new housing that provides a variety of housing types and is energy and transportation efficient.”

“Communication of what they would be through web site for proper evaluation.”

“Make sure that people building new homes consider the privacy factor of their neighbors. For example, don't build a tri-level home next to a one story ranch on a small lot.”

“New infill should be similar in size, shape and setback as neighbor's house.”

“To maintain the existing neighborhood's personality and character.”

“Facilitate affordable housing.”

“Affordable, energy efficient, flexible standards that permit reasonable development.”

“Try increasing the requirements for green or sustainable development.”

“To minimize costs and regulations so builders will want to do business in Milwaukie.”

“Community outreach: This is asking our citizens to do more for a better place. They will respond. If they don't it won't make any difference.”

“Public involvement and inclusion of citizen input.”

“Livability, stainability, safety, community.”

“Do not allow skinny houses on small lots or manufactured homes; add badly needed sidewalks; switching to underground utilities when replacements are needed will eventually save money, power outages, and create more beautiful neighborhoods. New housing developments should install sidewalks and underground utilities. When allowing infill or new home construction, please, ensure that their design and placement on the lot respects adjoining existing homes.”

“Preserving the rights of individual property owners and let us live our lives in peace. Enough with the "Nanny Government" already!”

“Creating a means to thrive on much less energy (transport, heating, sewage processing) water (capture rainwater) recycling.”

**Residential Development Standards Update Project  
Steering Committee Meeting / Housing Choices Workshop  
April 25, 2011, 6:00 – 8:00 p.m.  
Milwaukie Public Safety Building**

**Steering Committee Members attending:**

David Aschenbrenner  
Jean Baker  
Mark Gamba  
Frank Hemer

Arlene Miller  
Jim Perrault  
Dion Shepard  
Terry Whistler

**Staff attending:**City of Milwaukie

Katie Mangle, Planning Director  
Susan Shanks, Senior Planner  
Ryan Marquardt, Associate Planner  
Li Alligood, Assistant Planner  
Beth Ragel, Program Specialist

Consultants

Marcy McInnelly, Principal, Urbsworks

**Introductions**

*Planning Director Katie Mangle* welcomed the group to the meeting. She explained that the workshop was part of the Residential Development Standards update project, and the scheduled April meeting of the project steering committee was being conducted as workshop so the committee and staff could hear from community residents.

- The purpose of the workshop was for community residents to review different dwelling typologies and discuss which types should be allowed in the city. It was not a discussion about density, but what types of single-family and multifamily housing should be allowed in the areas where those types are allowed. No decisions would be made during the workshop.
- Introduced three questions for consideration during the workshop:
  1. Should detached accessory dwelling units (ADUs) be allowed in lower-density residential zones?
  2. Should duplexes be allowed wherever single-family homes are allowed?
  3. Should additional housing types be allowed in the higher-density residential zones?
- Provided an overview of the Residential Development Standards project via PowerPoint, including issues with the current standards.



*Marcy McInelly*, Principal, Urbsworks, reviewed a presentation about housing choices in Milwaukie via PowerPoint, including a review of demographic trends and housing needs.

### **Small group discussion**

Katie and Marcy facilitated a brief question and answer session. Each of the 31 people present was assigned to a small group at one of six tables in the room to discuss the focus questions. Each table was facilitated by City staff and a note-taker took notes of the discussion.

Areas of general agreement included:

#### Question #1: Should detached ADUs be allowed in lower-density residential zones?

- Support for efficient use of space and additional housing opportunities
- Consider whether the size & number of detached ADUs could be proportionate to lot size
- Consider issues of privacy– height, placement on lot, setbacks
- Consider issues of compatibility– size, materials, design, relationship to primary dwelling unit
- Concerns about increased traffic, infrastructure impacts, and parking needs
- Concerns about additional rental units in low-density residential areas

#### Question #2: Should duplexes be allowed wherever single-family homes are allowed?

- Support for duplexes on corner lots
- Preference for duplexes that look like a single-family house
- Consider issues of compatibility – lot size, design, appearance
- Consider/minimize impacts on neighbors and neighborhoods
- Concerns about additional rental units in low-density residential areas
- Disagreement amount whether the process should be easier or if Planning Commission review should be required.

#### Question #3: Should more housing types be allowed in higher-density residential areas?

- Individual housing types discussed included row houses, cottage clusters, “skinny” houses, 2 single family houses on 1 lot, and detached ADUs.
- Support for design standards for multifamily residential development
- Support for row houses as a housing type, but concerns about location, size, design, and number
- Support for cottage clusters as a housing type, but concerns about privacy / height
- Support for housing types or projects that incorporate green space
- Consider issues of compatibility– bulk, massing, transition between higher-density and lower-density areas
- Concerns about privacy for adjacent properties
- Lack of support for “skinny houses” and 2 houses on 1 lot

## Group reporting

Following the small group discussions, Katie and Marcy asked attendees to raise their hands in response to the three discussion questions. Facilitators at each table recorded their table's votes. The results were as follows:

### Question #1: Should detached ADUs be allowed in lower-density residential zones?

- Yes: 15/31 (45%)
- No: 0/31 (0%)
- Depends: 16/31 (52%)

### Question #2: Should duplexes be allowed wherever single-family homes are allowed?

- Yes: 14/31 (45%)
- No: 3/31 (10%)
- Depends: 14/31 (45%)

### Question #3: Should more housing types be allowed in higher-density residential areas?

- Yes: 25/31 (81%)
- No: 0/31 (0%)
- Depends: 6/31 (19%)

## Comment Cards

Although there were 31 attendees present during the small group discussion, one person arrived late so staff received 32 comment cards. Attendees were asked to respond to several questions before they left the workshop. The questions and individual responses are below.

### Question #1: Should detached ADUs be allowed in lower-density residential zones?

- Yes: 19 (59%)
- No: 0 (0%)
- Depends: 12 (38%)
- No Answer: 1 (3%)

### Question #2: Should duplexes be allowed wherever single-family homes are allowed?

- Yes: 11 (34%)
- No: 5 (16%)
- Depends: 16 (50%)

### Question #3: Should more housing types be allowed in higher-density residential areas?

- Yes: 26 (81%)
- No: 0 (0%)
- Depends: 6 (19%)

How would you rate this workshop?

- Very Useful: 17 (53%)
- Somewhat Useful: 4 (13%)
- Not Very Useful: 0 (0%)
- No Answer: 11 (34%)

Did this workshop change your mind about anything?

- Yes: 10 (31%)
- No: 10 (31%)
- No Answer: 11 (28%)

If yes, what?

- The value of cluster housing for nursing homes and other institutional uses; doesn't have to look institutional.
- Broader cross-section of opinion/concern to guide next steps.
- My concerns
- Value of having a broad housing base
- Housing needs and demands in our community
- Was shocked and disappointed by the huge prejudice and bias in the discussion. The word "rent" was synonymous with "slum", "crime", and "minority." I am disappointed and shocked - amazing that this exists in such a degree in 2011. Wow...
- Please continue with more meetings!
- Variety of ideas
- Allowing / encouraging cottage cluster development and setting stringent design standards.
- Would like to be able to build ADU

Other Comments or Questions?

- Do duplexes have to be 2 garage doors and split in the middle? Can they be stacked? True thoughts of infrastructure, water runoff, traffic flow, and loss of green space with accessory dwelling.
- Redouble our efforts to provide more parks and open space as we infill. Can't depend on schools. Add a layer of approval required for these types of projects. To make sure they fit in, are designed nicely, and of good quality. Thank you!
- Duplexes can provide more units on the same parcel, but can also break up the continuity of a neighborhood. New construction rarely ends up blighting an area, but common sense must still prevail.
- Square footage of lot should be larger for duplexes but not necessarily doubled. Row houses should be limited.
- Would be OK if lot size is adequate.
- I like cottages.

- I would like maximum flexibility to build detached or attached ADUs, perhaps more than one, on a single property. It's no one's business whether I do this for my own family members or if I choose to rent it out a non-family member (sorry to see bigotry is alive and well in America).
- In considering the housing format in Milwaukie, you need to take into advisement that from 1970-mid 90s the housing stock was decimated by taking down the majority of the housings close in Milwaukie and replaced with a vast amount of apartments, Section 8, etc. This brought down the demographics in Milwaukie. Milwaukie has become the preferred location for agencies for those individuals with challenges. Why - because the land is cheaper here. How are we going to change this trend?
- 1. Permit one level ADUs with current setbacks. 3. As long as there is parking for 2 cars per unit.
- Good design standards and reviews. Cottage clusters should be allowed in lower density and higher density zones.
- No more apt buildings!
- Thanks for bringing us together and revising the codes!
- I believe flexibility to alternate housing is important but it should be with design review and compatibility to promote a livable aesthetic. Also detached accessory dwellings should be evaluated on individual basis.
- Design review or standards are key. How it fits in neighborhood.
- Infrastructure capacity, design standards, parking requirements, lot size - maybe not "wherever" single family homes are allowed.
- Keep Marcy involved!
- Yes - but we need to create design standards and development standards for ADUs and other housing types.
- I am in favor of a lot of options with quality design standards and adequate green space.
- My concern with making it easier to develop duplex units is further increasing the percentage of rental vs. owned properties.
- Yes on all as long as there are healthy guidelines and boundaries. Q1. Yes - with guidelines. Q2. Yes - with guidelines. Q3. Yes - with guidelines.
- I do not support multi-unit dwellings. I feel we have too many rental units already. Not opposed to row houses or cottage clusters, as long as owner-occupied. Support allowing ADUs as long as they do not look out of place in neighborhood and do not interfere with the livability of neighbors. Prefer housing that provides off street parking. Duplexes might be acceptable if they are owner-occupied, or shared mortgage owned and occupied. Row houses would be acceptable if NOT rental units.
- What is difference between attached ADU vs. duplex?

## Wrap-up

Katie thanked everyone for coming, and invited attendees to chat with staff after the workshop. She noted that the presentations and notes from the workshop as well as background information on the project would be available on the project web site at <http://www.ci.milwaukie.or.us/planning/residential-development-standards-update-project>.



## **INTERVIEW SUMMARY – KEY POINTS**

Residential Development Standards Update Project  
April 22, 2011

### **GENERAL NOTES**

- Interview responses have been combined by theme and edited for clarity as needed. Where appropriate, individual responses have been listed.
- Comments about issues outside of the scope of this project (building codes, parking requirements, sidewalks, flag lot standards, measurements, re-zoning, increased residential density, home occupation standards, etc.) were not included in this summary, but have been recorded for future projects.

### **BACKGROUND**

- Staff interviewed 20 volunteers during the period of February 15 – March 31, 2011. Volunteers were identified through the January – February online project survey.
- Most, but not all, interviewees were Milwaukie residents, with an average residency of 15 years and a range from 7 years to 50+ years. All interviewees were single-family dwelling homeowners.

### **INTERVIEWEE RESPONSES**

*Question: What type of dwelling do you live in, and in what neighborhood?*

Individual responses included:

- Owns a small house in the Hector Campbell neighborhood.
- Longtime resident. Lives in traditional home in the Historic Milwaukie neighborhood. Not against change or development, but feels that several recent projects have degraded the quality of the neighborhood.
- Owns a home and a rental house in the Historic Milwaukie neighborhood.
- Lives in a house near North Clackamas Park, outside of Milwaukie.
- Longtime homeowner of a large lot in the Hector Campbell neighborhood.
- Owns a home in Milwaukie.
- Moved to Milwaukie 8 years ago to buy in a house in the Historic Milwaukie neighborhood.

- Longtime homeowner in the Historic Milwaukie neighborhood. Bought large lot with idea of partitioning at some point; now interested in accessory dwelling unit (ADU) as second best option.
- Lifelong resident. Owns a house in the front portion of a flag lot in the Linwood neighborhood. Concerned about poor quality homes and design in the city.
- Longtime resident. Has lived in the Llewellyn neighborhood for about 7 years.
- Owns a property in the Lake Road neighborhood that includes a home, a home occupation, a rental home, and a large shop/garage.
- Longtime resident. Owns a house in the Island Station neighborhood. Recently divided large lot to build a duplex.
- Longtime resident. Owns a small house in the Lewelling neighborhood.
- Longtime resident. Lives in a house with a detached garage in the Lake Road neighborhood. Works out of a home office in daylight basement.
- Longtime resident. Had house on Fieldcrest but yard too small for agricultural and /gardening needs. Kept it as a rental and moved to large lot in the Ardenwald neighborhood.
- Lives in a house in Happy Valley. Has built many houses in Milwaukie and Metro area.
- Lives in single-story ranch house in Milwaukie.
- Lifelong resident. Lives in a house on a large corner lot in the Lake Road neighborhood.

***Question: Why do you care about this project?***

Individual responses included:

- Interested in improving quality of development and growing the quality of the community.
- Interested in sustainable development.
- Interested in dividing lot in the future.
- Wants Milwaukie to maintain small town character while moving forward.
- Interested in improving value of property.
- Concerned about poor quality homes and design in the city.
- Interested in sustainability, accessory structure standards, and financial-social-environmental issues.
- Has seen the neighborhoods decline over the years.

***Question: Are your housing needs being met now? What about your friends and family members? Are you worried about them being met in the future?***

Generally, people felt that their current housing needs were being met and were not particularly concerned about their future housing needs or those of their families. The most common responses included:

- May want an ADU in the future to house a caretaker or family member.
- City should allow a large variety of housing types to accommodate all stages of life.
- May need to build a front door ramp to age in place.

***Question: What would you like to see as an outcome of this project?***

There were many areas of general agreement, including the following:

- The project should:
  - Make the community members feel they have been heard.
  - Consider environmental impact of development.
  - Minimize “red tape.”
- Development standards should:
  - Allow additional housing types in multifamily residential zones, including detached ADUs.
  - Encourage housing variety and options for people at all stages of life.
  - Consider issues of solar access, etc.
  - Protect the small town feel of the community.
  - Be clear and user-friendly.
  - Encourage sustainable and environmentally sensitive development, or, at the very least, not preclude it.
  - Protect setbacks. They are important for privacy and space.
- Design standards should:
  - Be user-friendly and easy to communicate and understand.
  - Apply to new single-family houses, additions, and garages.
  - Guide new projects to be compatible with existing development.
  - Not prohibit or deter alternative or creative development.
  - Not require a certain type of style or period design.
  - Encourage environmentally sensitive design.
  - Require the orientation of houses to the street (for “neighborliness”).

Areas of disagreement included:

- Whether design and compatibility or considerations of environmental impact should be the primary goal of the project.
- Which, if any, housing types besides detached ADUs should be allowed in multifamily zones.
- Whether setbacks should be fixed or flexible.
- Whether more or fewer accessory structures should be permitted on a lot.

# **City of Milwaukie - Code Assistance Phase 2 Stakeholder Meeting #1 Summary**

**March 14, 2011**

**City of Milwaukie Planning Department**

## **Overview**

The purpose of this meeting was to explore the city's existing standards for single-family residential (SFR) development and gather feedback from stakeholders. The discussion focused on case studies of residential lots in Milwaukie that were used to illustrate how the existing standards work and the type/size of development they currently allow. Because Milwaukie is mostly built out, much of new residential development is infill rather than new subdivisions. As such, compatibility with the existing neighborhood is especially important. Stakeholders were asked to consider the question "How can the city ensure that new single-family residential developments are good neighbors?"

## **Attendees**

The following PMT members attended the meeting.

- Katie Mangle, City of Milwaukie Planning Director
- Marcy McInelly, Urbsworks President
- Ryan Marquardt, City of Milwaukie Planner
- Serah Breakstone, Angelo Planning Group

The following stakeholders attended the meeting:

- Gary Michaels, Island Station NDA
- Bryan Dorr, Ardenwald-Johnson Creek NDA
- Linda Hedges, Hector Campbell NDA
- Mary Weaver, Hector Campbell NDA
- Mary King, Ardenwald-Johnson Creek NDA
- Jim Mishler, Island Station NDA
- Pepi Anderson, Lewelling NDA

## **Summary**

- Katie provided an overview of the project and the core issues that the city is hoping to address.





- Ryan provided a quick summary of the city’s current review and permitting process for new SFR development.
- One stakeholder asked how this project might impact flag lot development. This project will not change the regulations for creating a flag lot. Development standards for SFR on a flag lot will be the same as other SFR development (meaning any changes to SFR development standards will also apply to SFR on flag lots). Flag lots currently have more stringent setback standards than other SFR development.
- One stakeholder asked if this project is coordinating with the city’s Walk Safe Program and noted that “eyes on the street”, traffic calming, and safety/security should all be considered as part of the new residential development standards. It was suggested that safety factors should be outlined first, and then new standards should be developed around those factors.
- Marcy then began to walk through the case studies of three vacant lots in the R-7 and R-10 zones. Each case study presented an aerial photo of the lot, summary of lot characteristics, and applicable development standards. Each case study also included a prototype illustration to depict allowable building area and envelope based on existing standards.
- One stakeholder noted that a 5-foot side yard setback is too narrow for privacy and also raises fire safety concerns. Another participant stated that minimum standards for separation between buildings are based on fire safety codes. Serah noted that 5 feet for a side yard is a fairly typical setback requirement in other cities.
- A stakeholder asked if there is a minimum house size standard in Milwaukie’s code and whether or not an exception might be needed to develop a small house. The building code has some basic standards for housing size but the development code does not specify a minimum requirement for houses. Small lot sizes are likely to be more of an issue because the city does have minimum lot size requirements that could restrict development on a site.
- Ryan reviewed the lot coverage requirement, noting that lot coverage includes primary and accessory buildings and some decks, but not pavement. Lot coverage also does not take into account non-buildable areas like steep slopes; it is solely based on the total lot area. Katie noted that the city’s lot coverage standards are somewhat lower than other comparable cities.
- There was a lot of discussion about whether or not a large (relative to the homes around it) new infill home that is well-designed and well-built can be compatible with adjacent homes that are smaller and older. Many stakeholders agree that it’s difficult for a newer home (even with good design) to relate to existing houses that were built in a different era. However, there was also general consensus that variety in housing type and style is desirable, and infill homes should not be required to be carbon copies of their neighbors. One stakeholder also pointed out that a home that seems out of place in the current surroundings may become more compatible over time as other infill development occurs around it. The character of a neighborhood may change slowly over time and that’s not something the city should necessarily try to control. It was noted that a balance should be struck between regulatory oversight and a property owner’s right to express personal taste in building design.
- The group discussed the issue of remodels and expansions in terms of when design standards should apply. Currently, single-family remodels and expansions do not have to comply with design standards (they would have to comply with basic development standards such as setbacks, etc.). Several stakeholders felt that expansions should have to comply with design standards, and that perhaps a size threshold is needed to determine when standards apply.
- Several stakeholders mentioned privacy concerns particularly when homes are close together (narrow setbacks) and their windows are facing each other. The question was raised: how much

should the city try to regulate this issue? One stakeholder noted that privacy issues can be addressed through sensitive design and appropriate building scale.

- One stakeholder stated that the city should attempt to find a balance between providing quality housing stock and keeping prices affordable. The city should not be so regulatory that it discourages new development.
- One stakeholder noted that the existing fence height limit (six feet in side yards) is not always sufficient to provide privacy and that an 8-foot limit should be considered. Another stakeholder pointed out that the 6-foot limit is due, in part, to structural limitations – a fence over 6 feet in height would need additional structural elements to protect against wind damage.
- It was suggested that the city could provide a booklet of favorable design options for new infill development to encourage quality design, but not require it. Incentives such as a reduced permit review fee could also be used to encourage better development.
- Katie closed the meeting with a brief wrap-up and discussion of next steps. She highlighted upcoming opportunities for public involvement and encouraged stakeholders to attend.



# **City of Milwaukie - Code Assistance Phase 2**

## **Stakeholder Meeting #2**

### **Summary**

**April 5, 2011**

**City of Milwaukie Planning Department**

#### **Overview**

The purpose of this meeting was to explore the city's existing standards for single-family residential (SFR) development and gather feedback from developers and real estate professionals in the Milwaukie area. The discussion focused on case studies of residential lots in Milwaukie that were used to illustrate how the existing standards work and the type/size of development they currently allow. Because Milwaukie is mostly built out, much of new residential development is infill rather than new subdivisions. As such, compatibility with the existing neighborhood is especially important. Stakeholders were asked to consider the question: How can Milwaukie achieve the community's goals for compatibility without dissuading new development?

#### **Attendees**

The following PMT members attended the meeting.

- Susan Shanks, City of Milwaukie Senior Planner
- Marcy McNelly, Urbsworks President
- Serah Breakstone, Angelo Planning Group

The following stakeholders attended the meeting:

- Dale Smelser, DB3 Construction Company
- Steve Smelser, Smelser Homes
- Ernie Platt, Home Builders of America
- Mark Meek, Markram Properties, LLC
- Daryl Winand, Portland Metro Association of Realtors

#### **Summary**

- Susan provided an overview of the Residential Development Standards project and explained the meeting's focus on single-family development and design standards
- Marcy gave an overview of national trends in household size, and the impacts on the housing market of the current recession, the baby boomer generation, and immigrants and their families.
- Marcy also provided a quick explanation of the prototypes for single family development in Milwaukie. She explained that the focus of this discussion is on infill development and



compatibility solutions such as requiring transitions, limiting scale, using gradients, or a combination of all these elements.

The following are stakeholder comments and questions, along with any response from the project team:

- Does the city allow deviations or adjustments to dimensional standards without a variance? The answer is no, but the city has recently revised its variance language with the intent of making the variance process simpler.
- ADU development is a significant issue since it has the potential to impact density without being accounted for (ADUs are not included in density calculations).
- ADUs should have a size limit but the current limits (600 or 800 sf) are too restrictive and don't allow for quality ADU development.
- It's important to note that feedback from citizens is different depending on how you approach the issue – most people want regulations to apply to others, but not to them.
- It's likely that good design standards can help to alleviate concerns about density increases and associated compatibility issues.
- When land values are high enough, it becomes feasible to tear down existing development and rebuild larger homes that may not be consistent with surrounding homes.
- Why shouldn't a land owner be able to build a large "McMansion" if they want to? It has the potential to have negative impacts on surrounding development, and can be perceived as incompatible and unattractive. It also has the potential to create privacy concerns for neighbors.
- Building a house totally out of character with its surroundings does not make good business sense because buyers will not be interested. However, not all projects are done by developers and the city has many examples of "undesirable" development.
- How significant is the incompatibility issue? The answer is that incompatibility issues have been raised on several occasions and tend to generate a large, negative response from citizens. In addition, it creates concerns about what could happen in the future as infill development continues.
- Detached ADUs are generating concerns in Portland regarding privacy because they are built above a garage and have windows that overlook neighboring yards and homes.
- To address compatibility/privacy issues in Portland, side yard setbacks are sometimes based on the square footage of the façade facing the neighboring yard. As the square footage of the façade increases, so does the setback. This is something Milwaukie could consider in its code amendment project.
- The menu approach for design standards makes sense and could be extended to the development standards as well. For example, a developer could meet 3 out of 5 of the development standards (and not have to go through a variance for the 2 it does not meet). This approach would provide flexibility without using the variance process.
- ADUs are important for mother-in-law apartments and should be accessible. The city should consider limiting detached ADUs to one floor in height. This would address both accessibility and some privacy concerns.
- Off-street parking requirements in Milwaukie are currently two per single family dwelling and one per ADU. The city may want to consider revising the ADU requirement down to zero in order to encourage more ADU development.

- ADUs should not require conditional use approval – the process serves as a disincentive to ADU development. In addition, the occupant of the ADU should not be required to be related to the property owner or be owner-occupied.
- Could the city consider some kind of compatibility assessment for infill development that considers surrounding development and adjusts the standards accordingly?
- Do setbacks help mitigate incompatibility concerns? Yes, setbacks can be useful for compatibility. However, setbacks also effectively decrease buildable land on a site so setback requirements must be balanced with the need to have adequate building area.
- The city needs standards to regulate the size, location and design of garages. Garages should be setback from the front of the house to avoid “snout house” development.
- “Snout house” development often occurs because it is an economical design – they are simpler and less expensive to build and provide affordable homes.
- The city could consider using incentives to discourage snout house development. For example, the front yard setback could be decreased for the house (without needing a variance), but not the garage.
- The current list of design elements on the design menu is reasonable. However, the 12% window façade requirement is difficult to meet, especially on narrow infill homes. The city could consider including doors, porches, balconies, etc in the window calculation to make it easier to meet.
- Instead of roofline off-sets, the city could require articulation along the house façade. This would automatically create roofline off-sets.
- Eaves should not be included in the lot coverage calculation because it discourages the use of eaves.



# **City of Milwaukie - Code Assistance Phase 2**

## **Stakeholder Meeting #3**

### **Summary**

**May 3, 2011**

**City of Milwaukie Planning Department**

#### **Overview**

The purpose of this meeting was to explore options for new multi-family development and design standards and gather feedback from developers and designers in the Milwaukie area.

#### **Attendees**

The following PMT members attended the meeting.

- Susan Shanks, City of Milwaukie Senior Planner
- Marcy McInelly, Urbsworks President
- Serah Breakstone, Angelo Planning Group
- Attendees: Brett Schulz (architect), David Burdick (developer), Sara Garrett (Motive Space director), Paul Klein (architect), Stephen McMurtry (Northwest Housing Alternatives), Gene Dieringer (developer), Pat Dieringer (developer), Mary Bradshaw (Housing Authority of Clackamas County).

#### **Summary**

- Susan provided an overview of the Residential Development Standards project and explained the meeting's focus on multi-family development and design standards.
- Marcy gave an overview of national trends in household size, and impacts on the housing market of the current recession, the baby boomer generation, and immigrants and their families.
- Marcy also provided a quick explanation of the prototypes for multi-family development in Milwaukie. She explained that the focus of this discussion was on infill development and compatibility solutions such as requiring transitions, limiting scale, using gradients, or a combination of all these elements.
- The stakeholders were asked to consider the question: How can Milwaukie achieve the city's goals for compatibility without dissuading development of multi-family housing? They were asked to share what kinds of standards help them build good projects and what kinds of standards prevent or make it difficult for them to build good projects based on their experience developing multi-family housing.

The following is a summary of stakeholder responses to the above question.





- Design standards should not be too prescriptive and should allow flexibility. It is better to include goal or intent statements so the developer understands what the city is trying to achieve. Overly prescriptive standards tend to filter out both bad and good design (especially more modern design) and result in development that is mediocre.
- The city should have an avenue for a developer to demonstrate better design that is not technically in compliance with standards, without having to go through a variance or other cumbersome process.
- The code should not preclude development of sustainable structures at higher densities. For example, setbacks and parking requirements consume land that could be used for high-quality, dense design. Some street-facing façade requirements preclude the development of buildings that are designed with a south-facing solar access orientation and/or with an inward-facing courtyard.
- Lot size will be an important factor to consider if the city wants to encourage a greater variety of multifamily development. The city is evaluating revisions to existing lot size standards as part of this project. The city is not amending the density standards.
- The master planning process is useful for multifamily development because it allows flexibility and incorporates more public involvement.
- The city should be aware of other programs and certifications (LEED, LEED ND, etc) when writing new code so that conflicts are not created that might preclude these types of green certifications, as they are often required by the funders of affordable housing projects.
- Clark County code allows the option of meeting their design standards or meeting the LEED Living Building Challenge instead. The city could consider this approach for the new code.
- Some level of design standards is necessary. Clear and objective standards are desirable. Allow flexibility through an alternative design review process.
- Has the city considered allowing more flexibility between standards to achieve compatibility? For example, allowing more height in exchange for less lot coverage or allowing more lot coverage in exchange for less height.
- The code should create incentives for good multifamily design and minimize disincentives. The zoning code should not create conflicts with the building code.
- Higher density does not necessarily equate to unlivable communities, which is sometimes the perception. A city can achieve both with good design standards. It's also helpful when the community can visualize the design standards at higher densities - the city should consider using illustrations and graphics to help people understand the intent of the standards.
- “Cookie cutter” developments should be avoided. The challenge is that some repetition makes housing affordable and too much makes it monotonous. Over time, uniform development becomes less uniform as homeowners personalize their houses. However, this transformation takes a long time.
- Lot consolidation and density averaging can be useful for larger multifamily developments. Lot division standards should allow for lots to front on a common green or courtyard, not just on a public street.
- Access to staff and their involvement is very helpful, especially when going through an alternative design process. Staff discretion is also important. Common sense should take precedence over specific code language.
- Coordination between the planning department and other departments (transportation, building, fire safety) is important to ensure the permitting process is smooth and efficient for the developer.
- The code should encourage re-use of existing housing stock whenever possible. Allowing ADU development can help achieve that goal.



**To:** Planning Commission  
**Through:** Katie Mangle, Planning Director  
**From:** Ryan Marquardt, Associate Planner  
**Date:** June 21, 2011, for June 28, 2011, Worksession  
**Subject:** Sign Code Amendments – Electronic Display Signs

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### **ACTION REQUESTED**

None. This is a briefing for discussion only. Staff is seeking the Planning Commission's feedback on the draft amendments.

### **BACKGROUND INFORMATION**

The issue of how our current regulations deal with electronic display signs has been identified by the Planning Commission as a code amendment project. The issue first arose in October 2010 when the Planning Commission heard an appeal of a Planning Director's Interpretation that exposed LED bulbs are not allowed on signs in downtown zones. The installation in 2011 of a large LED billboard in the north industrial area along McLoughlin Blvd has provided further impetus for amendments to the sign code.

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

- **April 2011:** The Planning Director gave a brief update regarding the status of the sign code update project.
- **March 2011:** City Council and Planning Commission discussed topic of sign code amendments at the annual joint worksession.
- **February 2011:** Planning Commission discussed sign code amendments related to AP-10-01 (below) and large LED signs.
- **October 2010:** Planning Commission hears appeal (AP-10-01) on whether MMC Title 14 Sign Ordinance allows electronic readerboard signs downtown.

## **DRAFT CODE AMENDMENTS**

Staff has prepared draft amendments to the sign code for the Planning Commission's review – See Attachment 1 – Draft Amendment to Title 14, Signs. The objectives of the amendments are to make a reasonable allowance for electronic display signs in the downtown zones and to regulate the size, brightness, and manner of display for electronic display signs outside of downtown. The following topics are addressed in the draft code amendments in an attempt to achieve these objectives.

### **A. General Regulations for Electronic Display Signs**

The amendments described in this section would apply to all electronic display signs, whether they are located downtown or elsewhere in the city.

#### **1. Electronic Display Sign**

A new definition added to the code. Any sign that uses blubs, LEDs, LCDs or other similar electronic means to display graphics or text would be included in this definition.

#### **2. Static Display**

A new definition and corresponding section of code for prohibited signs. Electronic display signs would be required to display their contents as a static display, which would not allow scrolling, flashing, video, or other types of apparent movement of the message. The display would not be allowed to change more than once every 10-15 seconds.

#### **3. Illumination Standards**

New standards and a new definition related to the brightness of an electronic display sign. The standards set maximum daytime display brightness and maximum nighttime display brightness. An automatic control to switch between these two levels would also be required. The brightness is expressed in “nits”, which is a unit of brightness commonly used for regulating electronic displays. The proposed illumination limits in this draft are consistent with the limitations found in other jurisdictions that have adopted recent regulations for electronic display signs. A new definition for “nit” is also proposed.

#### **4. Nonconforming Signs**

The code section for non-conforming signs would contain a new allowance that an electronic display could be added within the display area of an existing non-conforming sign, so long as it does not cause the sign to go further out of conformance.

### **B. Downtown Electronic Display Signs**

The amendments described in this section are specific to electronic display signs in the downtown area. The set of proposed regulations cover the location, size, illumination, and manner of display for electronic display signs. Staff believes that these standards cover the important aspects of electronic display signs and that further review would go too far into the minutiae of the sign's design and operation. The proposal is for these electronic display signs to be reviewed administratively, not through a discretionary review by the Planning Commission or Design and Landmarks Committee.

1. Location

Electronic display signs would be allowed only on properties with frontage on McLoughlin Blvd, and the electronic display sign would have to be oriented toward McLoughlin and not a separate side street.

2. Size

The sign size would be limited to the lesser of 25% of the sign area that contains the electronic display sign or 20 square feet. An electronic display sign that is separate from any other sign could have a maximum area of 6-8 square feet.

**C. Electronic Display Signs outside of Downtown**

The amendments described in this section are specific to electronic display signs outside of the downtown area.

1. Location

Electronic display signs would be allowed in the Commercial Zone (C-G, C-L, and C-CS) and the Manufacturing Zone (M, BI).

2. Size

The sign size would be limited to the lesser of 25% of the sign area that contains the electronic display sign or 50 square feet.

**D. Coordination with ODOT**

The Oregon Department of Transportation (ODOT) regulates signs that are visible from state highways. Their permit program for “outdoor advertising signs” is a separate permit process from any permits required by the City. A new provision is proposed that allows the Planning Director to require applicants for signs visible from state highways to document whether an ODOT permit is required and to submit a preliminary assessment from ODOT of the sign’s approvability. The Planning Director may withhold issuance of the permit until the documentation is submitted. The intent of this provision is to avoid allowing signs to be installed that would be in violation of ODOT’s regulations.

**TOPICS NOT ADDRESSED IN DRAFT CODE AMENDMENTS**

Some topics discussed at previous meetings on this subject have not been included in the proposed draft. A brief explanation of these topics and why they are not covered is provided below.

- Limiting overall size of signs. Freestanding signs in the Commercial and Manufacturing zone have some caps (250 per face, 1,000 for the site overall). A loophole exists in that there is not a similar limit on wall signs and roof signs. This may be a fair topic to address at a future date. However, staff believes that more outreach should be done to properties that would be affected by a new size cap, and this is counter to the objective of moving forward quickly with this phase of sign code amendments.
- Conversion of nonconforming signs to LED. Staff did not address the idea of adding an exemption for the outright allowance for any sign to change its existing illumination to LED illumination. Staff feels that this exemption, while well-intended with regard to

sustainability goals, would effectively create a large loophole and remove the City's ability to control how nonconforming signs are allowed to change over time. The risk is that existing large freestanding signs could be converted to LED without further review.

### **NEXT STEPS AND TIMELINE**

The draft project schedule (see Attachment 2) illustrates the steps and length of time that it would take staff to finalize the proposal, facilitate the adoption process, and for the amendments to become effective. If the Planning Commission supports the draft proposal as outlined in Attachment 1, staff will incorporate any comments into a final proposal and begin the adoption process over the next few weeks. There is time for proposing adjustments and edits to the proposal before the amendments would come back to the Planning Commission at a hearing.

The Commission and staff established a shared goal to limit the scope of this project and expedite adoption of these amendments. Moving ahead with the adoption process is important so that the amendments can be completed to free up staff resources for other projects. It is also timely to have the code amendments in effect by the time Mr. Kanso has his next court date in Fall 2011.

### **ATTACHMENTS**

1. Commentary and Draft Amendment to Title 14, Signs
2. Adoption Schedule for Amendments

## Sign Code Updates for Electronic Display Signs

THIS DRAFT INCLUDES ONLY CHAPTERS AND SECTIONS OF CODE WITH PROPOSED AMENDMENTS AND SOME SURROUNDING SECTIONS FOR CONTEXT. CODE SECTIONS NOT INCLUDED IN THIS DRAFT WOULD NOT BE AMENDED.

### 14.04.020 Purpose

K. Include inter-jurisdictional coordination to the purpose section.

### 14.04.030 DEFINITIONS

"Nit" - new definition, unit of luminance, copied from Salem's code

Sign, Changing (Automatic). -revision of existing definition. Removes wording covering electric signs since this is now covered under 'electronic display sign.

Sign, Electronic Display. - new definition, intended to cover broad array of electronic signs, LEDs readerboards etc.

"State highway" - new definition added for coordination with the ODOT outdoor advertising sign rule. Definition is lifted from ORS 337.

"Static display" - new definition, used as a basis for limiting how electronic display signs can display copy. Regulations are based heavily on Salem's code.

### 14.08.100 Signs Visible from State Highways

New section of code in the administrative provisions, and applies to all signs - not just LED signs. It allows the Planning Director to have the applicant submit preliminary approval from ODOT for any sign visible from a state highway. If staff isn't sure that a sign could be approved, we could have the applicant submit a letter from ODOT stating that it is or isn't. It also allows the Planning Director to withhold issuance of a sign permit unless ODOT says it is OK.

### 14.12.020 PROHIBITED SIGNS

- A. Moving signs ... amendments to existing prohibition, but limits this subsection to signs that physically move. Portions dealing with electronic changing is covered in the new prohibition in "R".
- R. Prohibition that says electronic display signs have to maintain a static display and have relatively quick transitions between static displays. This would be a blanket rule for signs downtown and in other parts of the city.

### 14.16.060 DOWNTOWN ZONES

Opted not to include review by DLC or Planning Commission. The location, size, illumination, and display regulations in the proposed code are thorough and objective enough that Planning Commission review should not be necessary. In other words, if the proposed

## Proposed Code Amendment with Commentary

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amendments area adopted, then the Planning Commission has established the time, place and manner of display that they feel is appropriate for electronic display signs downtown. This would make further review superfluous.

### H. Illumination

6. Allows electronic display sign for property with frontage on either side of McLoughlin.
  - a. Size limitations suggested by Jim Crawford and PC at 2/8/11 meeting (25% of sign face or 20 square feet)
  - b. Allowance for small stand-alone electronic display sign.
  - c. Requires electronic display sign to be on the McLoughlin side, not on a side street.
  - d. Refers to new illumination standards in separate section of the code.

### 14.24.020 SIGN LIGHTING

- F. Helps to clarify that other lighting technology not specifically mentioned in the code (i.e., other than incandescent, fluorescent, and neon) can be used for interior or exterior sign lighting, so long as the other regulations of the chapter are met.
- G. Allows electronic display signs are allowed in the Commercial and Manufacturing sign districts, with a reference that they are allowed in downtown as specified in that section of code.
  1. Illumination levels - limits day time max, night time max, and requires automatic dimmer. The 5000/500 limits seem to be the most commonly used. Salem has different standards based on sign color, which seems too complex for our purposes.
  2. Size - 25% of the size of the sign face that contains the electronic display sign or abuts the electronic display sign OR 50 square feet. This is a starting point for discussion purposes.

### 14.28.020 NONCONFORMING SIGN

3. Revisions to this section of code. Same basic policy as the current code, with the additional exemption that an electronic display sign can be added if it does not cause the sign to go further out of conformance.
4. Added sign illumination standards as standards that all signs need to comply with, regardless of whether they are/were non-conforming.

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THIS DRAFT INCLUDES ONLY CHAPTERS AND SECTIONS OF CODE WITH PROPOSED AMENDMENTS AND SOME SURROUNDING SECTIONS FOR CONTEXT. CODE SECTIONS NOT INCLUDED IN THIS DRAFT WOULD NOT BE AMENDED.

## TITLE 14 SIGNS

### CHAPTER 14.04 GENERAL PROVISIONS

#### 14.04.010 TITLE

This chapter shall be known and may be cited as the “Sign Ordinance of the City of Milwaukie, Oregon.”

#### 14.04.020 PURPOSE

The Council of the City of Milwaukie, Oregon, finds and declares that it is necessary to regulate the design, quality of materials, construction, installation, maintenance, electrification, illumination, type, size, number, and location of all signs visible from a right-of-way or lot under other ownership in order to:

- A. Protect the health, safety, property and welfare of the public;
- B. Promote the neat, clean, orderly and attractive appearance of the community;
- C. Provide for the safe installation and maintenance of signs;
- D. (Repealed by Ord. 1965);
- E. Preserve and enhance the unique scenic beauty of Milwaukie;
- F. Accommodate the need of sign installers while avoiding nuisances to nearby properties;
- G. Ensure safe construction, location, installation, and maintenance of signs;
- H. Prevent proliferation of sign clutter;
- I. Minimize distractions for motorists on public highways and streets; ~~and,~~
- J. Regulate solely on the basis of time, place, and manner of a sign, not on its content; ~~and,~~
- K. Coordinate review of where multiple agencies have review authority for a sign permit.

#### 14.04.030 DEFINITIONS

The following words and phrases where used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

“Nit” means a measurement of luminance, where one nit is equal to one candela per square meter (1cd/m<sup>2</sup>). A candela means a unit of measurement of the intensity of light, where one candela is the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction.

Sign, Changing (Automatic). “Changing sign (automatic)” means a sign for which motors, clockwork, or other mechanical means are used to move or rotate all or part of the sign, or to change the display on the face of the sign. in which the display on the sign face is changed by motors, clockwork, or other mechanical means; or by electric or electronic means, including changes in color or intensity of lights.

Sign, Electronic Display. “Electronic display sign” means a sign or portion of a sign on which the message or display is created by bulbs, light emitting diodes, liquid crystal displays, plasma display panels, pixel or sub-pixel technology, or other similar technology.



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“State highway” means the entire width between the boundary lines of every state highway as defined in ORS 366.005, including but not limited to the Interstate System and the federal-aid primary system.

“Static display” means a message or display on an electronic message sign that does not dissolve, fade, flash, scroll, travel, or display video images. These terms are defined as follows:

“Dissolve” means the changing of an electronic display by means of varying light intensity or pattern, where one display gradually appears to dissipate or lose legibility simultaneously with the gradual appearance and legibility of a subsequent display.

“Fade” means the changing of an electronic display by means of varying light intensity, where one display gradually reduces intensity to the point of being illegible or imperceptible and the subsequent display gradually increases intensity to the point of being legible or capable of being perceived.

“Flash” means sudden or intermittent electrical illumination.

“Scroll” means the changing of an electronic display by the apparent movement of the visual image, such that a new visual image appears to ascend and descend, or appear and disappear from the margins of the sign in a continuous or unfurling movement.

“Travel” means the changing of an electronic display by the apparent horizontal movement of the visual image.

“Video display” means providing an electronic display in horizontal or vertical formats to create continuously moving images.

### **CHAPTER 14.08 ADMINISTRATION AND ENFORCEMENT**

#### **14.08.100 Signs Visible from State Highways**

A proposed sign that would be visible from a state highway may require a permit from the Oregon Department of Transportation. The Planning Director may require an applicant for a sign that would be visible from a state highway to submit documentation from the Oregon Department of Transportation verifying that the sign could be approved pursuant to OAR 734 and ORS 377. The Planning Director may withhold issuance of permit for a sign until the applicant can demonstrate that the sign could be approved or could be conditioned to be approved by the Oregon Department of Transportation.

### **CHAPTER 14.12 SIGNS PROHIBITED OR EXEMPTED**

#### **14.12.020 PROHIBITED SIGNS**

It is unlawful for any person to install, display or maintain, and no permit shall be issued for the installation, display or maintenance of, any sign or advertising structure falling within any of the following descriptions:

- A. ~~Moving signs or flashing signs, or any other sign with a visible moving part or visible mechanical movement, including signs which move in the wind or move or change electrically or electronically. These signs are prohibited in order to prevent unduly distracting or hazardous conditions to motorists, cyclists, or pedestrians. Automatic changing signs that change no more than once every 10 seconds, and revolving signs that revolve at 6 revolutions per minute or less, are exempt from this prohibition. Switching the power for illuminated signs on and off 4 or fewer times in one day does not constitute a flashing sign.~~

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R. Electronic display signs that display message or copy in any manner other than a static display. Electronic display signs are allowed to change from one static display to another no more than once every [10-15] seconds. Transitions between static displays cannot be longer than [2-5] seconds and, aside from the appearance of a new message or copy, cannot change in a manner that violates the definition of a static display.

## **CHAPTER 14.16 SIGN DISTRICTS**

### **14.16.060 DOWNTOWN ZONES**

No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

#### **H. Illumination**

Illuminated signs may be permitted subject to the following:

1. Signs with opaque letters or symbols that are backlit, having a light source behind the opaque area and not directly visible from in front of the sign, are permitted.
2. Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.
3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
  - a. Sign lighting should be designed as an integral component of the building and sign composition.
  - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
  - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.
4. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises.
5. Internally illuminated cabinet signs are discouraged in the downtown zones. Internal illumination of cabinet signs may be permitted subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
  - a. The sign should be a unique design that responds to the Milwaukie Downtown Design Guidelines.
  - b. The sign copy should be lighter than the sign background.
  - c. The sign background should use a predominance of dark color or be opaque when the light source is on.
6. Electronic display signs are permitted for properties that have frontage on SE McLoughlin Blvd. subject to the following standards:
  - a. An electronic display sign that is part of a larger sign face is subject to the more restrictive of the following size limitations:

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- (1) 25% of the size of the sign face that contains the electronic display sign.
- (2) 20 square feet.
- b. An electronic display sign that is not part of a larger sign face or abutting another sign face may have a maximum display surface area of [6-8] square feet, unless other portions of this title have a more restrictive allowance for sign area.
- c. An electronic display sign shall be primarily visible from and oriented toward SE McLoughlin Blvd, and not toward any other street on which the property has frontage.
- d. Illumination for an electronic display sign is subject to the standards of Section 14.24.020.G.
- e. The manner of display on electronic display signs shall comply with the standards in Section 14.12.020.R.
- f. Incorporating an electronic display sign within an existing non-conforming sign is allowed subject to the regulations of Section 14.28.020.A.3.b.

### CHAPTER 14.24 SIGN CONSTRUCTION, MAINTENANCE, AND LIGHTING

#### 14.24.020 SIGN LIGHTING

- A. All lamps or bulbs exposed to direct view shall be limited to 25 watts or less capacity.
- B. When neon tubing is employed on the exterior or ~~inferior~~ interior of a sign, the capacity of such tubing shall not exceed 300 milliamperes rating for white tubing nor 100 milliamperes rating for colored tubing.
- C. When fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to 800 milliamperes rating tubes behind a Plexiglas face with tubes spaced at least 9 inches apart, center to center.
- D. Lighting from any sign may not directly, or indirectly from reflection, cause illumination on other properties in excess of 0.5 foot candles of light.
- E. In the event of a conflict between the standards in this section and a specific standard in the regulations for a sign district, the sign district regulations shall prevail.
- F. Other types of illumination not described by Subsections 14.24.020.A-C, such as light emitting diodes and other similar technology, are allowed for interior or exterior illumination of a sign if all other regulations of Title 14 are met.
- G. Electronic display signs are allowed in the Commercial sign district (Section 14.16.040) and the Manufacturing sign district (Section 14.16.050), subject to the standards below. The allowance for electronic display signs in the Downtown sign district is in Section 14.16.060.H.6.
  - 1. Illumination. The maximum daytime illumination level is 5,000 nits and the maximum illumination level between sunset and sunrise is 500 nits, as measured from the sign face at maximum brightness. The sign shall have a mechanism that automatically adjusts the illumination level to comply with these standards.
  - 2. Size. An electronic display sign is subject to the more restrictive of the size limitations below.

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An electronic display sign that is not part of a larger sign face or abutting another sign face is subject to the limitation of Subsection 14.24.020.G.2.b unless other portions of this title have a more restrictive allowance for sign area.

- a. 25% of the size of the sign face that contains the electronic display sign or abuts the electronic display sign.
- b. 50 square feet.

### CHAPTER 14.28 REMOVAL OF SIGNS IN VIOLATION

#### 14.28.020 NONCONFORMING SIGN

##### A. Time Limit

1. Except as provided in Subsection 14.28.020.A.4, signs that were in compliance with applicable regulations when installed; but that become nonconforming as a result of adoption, modification, or applicability of the City's sign regulations; may remain in place for 10 years after the date they became nonconforming but shall be removed or brought into compliance on or before 10 years plus 1 day of the date they became nonconforming.
2. (Repealed by Ord. 1965)
3. Any sign which is structurally altered, relocated, or replaced shall immediately be brought into conformance with all of the provisions of this chapter- with the following exceptions:
  - a. A nonconforming sign in all zones may be maintained or undergo a change of copy or image without complying with the requirements of this chapter.
  - b. The inclusion of an electronic display sign within the existing display area of a nonconforming sign is allowed if the addition of the electronic message sign does not cause the sign to go further out of conformance
4. The provisions of this code relating to sign illumination, flashing signs, par spot lights, revolving beacons, revolving signs, banners, streamers, strings of lights, and temporary signs are applicable to all signs, notwithstanding Subsection 14.28.020.A.1.

##### B. Notice

For legally established nonconforming signs that are approaching the end of the 10-year period during which they may be maintained under Subsection 14.28.020.A.1, the City Manager may provide additional notice in anticipation of the date the sign will be required to be removed or made to conform.

