

Memorandum

Date: August 27, 2009

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

From: Mary Dorman, AICP
Serah Overbeek, AICP

cc: Rachel Ferdaszewski, TGM Code Assistance Grant Manager

Re: Smart Development Code Evaluation - Action Plan

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

The Action Plan focuses on six key areas.

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

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

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

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

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

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

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H= High M= Medium L = Low
Residential Design Standards										
Single-Family Architectural Design	19.301 - 19.309, 19.425	Outcome: Promote high quality design and a flexible design approach that supports the character and livability of existing neighborhoods. Problems: ▪ No design standards exist for garages. ▪ No design standards exist for home additions. ▪ Minimal design standards exist for new homes. ▪ Existing design standards, coupled with existing development standards, can result in undesirable designs, i.e. no eaves.	√		▪ What level of design regulation is appropriate for single-family housing? ▪ Should there be a discretionary design review option to allow for design variations? ▪ Should particular construction materials be required or prohibited (similar to downtown standards)? ▪ If design standards are applied to home additions, should they apply to all or just some types of home additions? ▪ Should the existing design menu approach be refined or a new approach developed? ▪ Should the location and design of garages be regulated?	√	√	√	√	H

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Infill Compatibility		Outcome: Ensure that the scale of new development fits with existing neighborhoods. Problems: - No requirement that new development consider existing development with regard to height and mass. - Low lot coverage standards minimize building footprint allowance, which often leads to taller/bulkier homes. - Development standards for large and small lots are the same, which can result in larger (and often incompatible) homes on larger lots.		√	- Should infill development be limited by the height and mass of existing development? If so, what are the best tools for Milwaukie? - Should infill home development be subject to more and/or different regulations than additions to existing homes? - Should development standards be different for different size lots?	√	√	√	√	H
Multifamily Residential	Not in existing code.	Outcome: Establish design standards for multi-family dwellings to ensure high quality construction and design. Problems: No design standards exist for multi-		√	- What level of design regulation is appropriate for multifamily housing? - Should standards be clear and objective or should there be a discretionary design review option to allow for design variations?	√	√	√	√	M

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		family development in non-downtown zones.			Should particular construction materials be required or prohibited (similar to downtown standards)?					
Housing Variety										
Accessory Dwelling Units (ADUs)	19.301 - 19.309, 19.402.4, 19.602.10	Outcome: Encourage a diverse range of housing types to meet the housing needs of all segments of the population. Problems: - ADU approval process is often excessive and appears to discourage ADU development. - ADU design standards are minimal and difficult to apply due to their subjectivity. - Type 1 ADUs are allowed, but not listed, as permitted uses in residential zones. - Type 2 ADUs are allowed, but not listed, as conditional uses in residential zones. - ADUs are required to be attached to existing dwellings.	√		- Should the City reduce the level of review required for ADUs to encourage a greater variety of housing types? - What kinds of design standards are appropriate for ADUs? Should there be different design standards for conversions vs. additions? - Should there be two types of ADUs? - Should ADUs be allowed as stand-alone detached structures or as part of existing detached structures? If so, design standards for accessory structures may need to be updated.		√	√	√	L

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Townhouses	19.301 - 19.309	Outcome: Encourage a diverse range of housing types to meet the housing needs of all segments of the population. Problems: - Remnant and fragmented code provisions imply that townhouses are allowed in certain zones, but they are not explicitly listed as a permitted use in any non-downtown residential zones. - Lot size, lot coverage, and setback standards for townhouse developments are unclear - No design standards exist for townhouses in non-downtown zones.		√	- Should townhouses be outright or conditionally allowed in all non-downtown residential zones? Are there areas or zones where townhouses should not be allowed? - What lot sizes are appropriate for townhouse development? - What are the best tools to ensure compatibility with surrounding development? Should there be limitations on the number of townhouses allowed in a row? - Should there be different design standards for townhouses or should they be subject to single or multifamily design standards?	√	√	√	√	L
Duplexes	19.301 - 19.309	Outcome: Encourage a diverse range of housing types to meet the housing needs of all segments of the population.	√		- Should duplexes be allowed and/or encouraged along streets with higher classifications (i.e., arterials)? - Should duplexes be outright allowed on corner lots in zones	√	√	√	√	L

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		Problems: - Required minimum lot sizes for duplexes are restrictive. - Conditional use approval in certain zones may be excessive.			where they are only otherwise conditionally allowed? - Are there areas or zones where duplexes should not be allowed? - What lot sizes are appropriate for duplex development?					
Review Processes & Procedures										
Amendments and Administrative Provisions	19.900, 19.1000	Outcome: Provide review processes and procedures that are consistent with Oregon state law and that are clear and complete. Problems: - The City's administrative procedures are outdated, incomplete, unclear, and poorly organized. - Having five review types may be overly complex. - The process for a Director's Interpretation is not clear. - There is no existing process for modification of approved plans.			- How can the City consolidate and streamline the review types to provide consistency and clarity, and avoid unnecessary processing? - Should the City establish a process and review criteria for modification of approved plans?		√			H

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Conditional Uses, Variances & Exceptions, and Nonconforming Uses	19.600, 19.700, 19.800	Outcome: Develop reasonable review criteria and an appropriate level of review for all land use actions. Problems: - The City does not have a “Development Review” chapter that allows staff to review new development outside the building permit process. - It can be difficult to determine the appropriate level of review for some land use actions. - The required level of review may be excessive for some land use actions - The approval criteria for variances are difficult to meet. - The provisions for establishing a legal non-conforming use are not always appropriate.	√		- Should the City reorganize its code and establish a Development Review chapter or should we continue to use the same organizational structure? - Should approval criteria be more permissive for some types of variances but not others?		√	√		H
Downtown Zones										
Downtown Uses	19.312	Outcome: Foster downtown revitalization by protecting existing businesses, capturing unrealized market niches, and responding to the current	√		How can the City provide a more flexible approach to ground-floor uses while continuing to encourage retail uses along Main Street?		√	√	√	M

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		marketplace. Problems: - There are many existing non-conforming uses. - Permitted uses in each downtown zone are overly prescriptive and may be inhibiting downtown revitalization.			Should there be a different approach to nonconforming uses in the downtown zones?					
Downtown Design Standards	19.312	Outcome: Ensure high quality construction and design that implements Milwaukie's urban design vision for downtown. Problems: - Design standards are minimal and focus on what the City doesn't want rather than on what it does want. - Minimum height requirements are restrictive. - List of prohibited building materials is restrictive. - Public area requirements may act as a disincentive to downtown developers.	√		- Should the City could establish more flexible building height standards and develop incentives for construction of taller buildings? - Should the City revise building material restrictions to allow greater flexibility for developers? - How can the City encourage more adaptable ground-floor retail spaces? - Illustrations of the design standards would help applicants and staff implement the code.	√	√	√	√	M

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Downtown Design Review	19.312	Outcome: Establish a design review process that is clear, reasonable, and effective. Problems: - Determining the project type (maintenance, minor alteration, major alteration) and the required level of review is often difficult. Applicability section is overly complex and confusing. - Existing review process can be excessive and may serve as a disincentive to developers. - Design guidelines are difficult to apply due to their subjectivity. They do not provide adequate direction for determining compliance.	√		How can the City clarify and streamline the review process for downtown development projects?			√	√	M
Manufacturing Zone										
Use and Development Standards	19.314	Outcome: Promote clean, employee-intensive industries. Problems: Permitted uses are overly broad and either undefined or ill-defined.	√	(√)	- What kinds of industries are most appropriate for this area? - Is it feasible or realistic to require a certain level of employment? - Is the list of allowed uses overly restrictive and outdated? If so,		√	√	√	L

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		- There is insufficient guidance for measuring and enforcing the requirement that 25% of “the total project involves an industrial use.” - There is insufficient guidance for measuring and enforcing the requirement that “the combined uses shall provide at least 10 employees per acre.” - Size limitations on retail uses only apply in the Title 4 boundary, which is a very small portion of the M zone. - Development standards are minimal and development review process is unclear.			what is the best way to update and clarify M-zone uses given: (1) the multi-tenant and multi-building characteristics of this area, and (2) the evolving nature of industry in this country?					
Commercial Zones										
Commercial Uses	19.307, 19.309, 19.310, 19.311, 19.313, 19.315	Outcome: Allow uses that meet residents’ shopping and service needs in a way that minimizes neighborhood impacts. Problems: - Use lists are quite limited for CN and CL zones. - All uses in the CN zone require	√		- Should there be six different commercial zones? - What is the best way to allow for an appropriate mix of uses in the City’s different commercial areas? Should the scale of the use be a consideration or just the use itself? - Should the City undertake commercial district planning to		√	√		H

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		conditional use approval. - Some newer types of businesses (e.g. yoga studios, doggie daycare) are not explicitly listed in the code. - The definitions for “high-impact commercial,” “commercial recreation,” and “commercial school” are overly broad and outdated.			bridge the gap between zoning regulations and design standards?					
Commercial Design Standards	Not in existing code.	Outcome: Establish design standards for commercial development to ensure high quality construction and design that contributes to neighborhood character. Problems: - Milwaukie has minimal design standards for commercial development relative to similar-size cities. - Transition Area Review (19.403.7) only applies to commercial development next to lower density zones.		√	- What level of design regulation is appropriate for commercial development? - Should standards be clear and objective or should there be a discretionary design review option to allow for design variations? - Should particular construction materials be required or prohibited (similar to downtown standards)?	√	√	√	√	H