



# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

August 24, 2021

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

**Staff:** Vera Kolias, Senior Planner  
Natalie Rogers, Climate and Natural  
Resources Manager  
Justin Gericke, City Attorney

**Absent:** Amy Erdt

(00:15:57)

### 1.0 Call to Order — Procedural Matters\*

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

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

(00:16:23)

### 2.0 Planning Commission Minutes

The July 27, 2021 minutes were approved with a 5 – 0 vote.

(00:17:26)

### 3.0 Information Items

No information was presented for this portion of the meeting.

(00:17:39)

### 4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:17:56)

### 5.0 Work Session Items

(00:17:56)

### 5.1 Comprehensive Plan Implementation – Tree Code

**Vera Kolias, Senior Planner** shared an update of the Comprehensive Plan Implementation Project. The policy mandates were to increase supply of middle housing, increase the tree canopy, preserve existing trees, and manage parking to enable middle housing. Draft code and maps were under development.

**Natalie Rogers, Climate and Natural Resources Manager** presented an overview of the proposal to establish a private tree code. Some of the key amendments were to:

- Establish tree preservation standards to protect trees on site, prioritizing trees based on their native and climate adapted status.
- Establish canopy standards which ensure intentional preservation and planting on development sites to achieve 40% canopy coverage.
- Establish mitigation standards which provide mitigation fees or discretionary alternatives for necessary but excessive tree removal.
- Establish tree protection standards to prevent occurrences which harm new plantings on sites during development.
- Require a permit for non-development tree removal if the tree is equal to or greater than six inches in diameter breast height (DBH), if the tree is less than six inches in DBH but is a species specified on the city's rare or threatened tree list, or if it was planted to meet any requirements in the private tree code.

**Rogers** continued, the proposed canopy standards ensure intentional preservation and planting on development sites to achieve 40% canopy coverage on each completed development site. 75% of the predicted mature canopy coverage of any new planting may be considered to achieve the required 40% canopy coverage. The canopy standards prohibit the removal of more than 33% of priority trees without mitigation. This standard would be one of the highest in the region and is based on a recommendation by the tree board. If 40% canopy coverage cannot be met or tree removal in excess of 33% is required for development mitigation is necessary.

**Chair Loosveldt** asked how new plantings used to achieve 40% canopy coverage would be ensured. **Rogers** responded that the urban forester must review proposed tree species and their placement and provide approval. There is also a bonding opportunity to ensure tree plantings grow to a healthy size, which hasn't been fully explored. **Consultant Todd Prager** noted bond issuances are a tool other municipalities use, however they are usually a non-code item often administered as a condition of approval. **Commissioner Sherman** requested that bond issuances for new plantings be more explicitly noted or encouraged in the code.

**Commissioner Hemer** asked for clarification on tree related terms and who determines current and projected tree canopy and ultimately which trees can be removed for development. **Rogers** responded that trees are defined as a multi-stemmed vegetation which reaches sixteen feet tall and trees at maturity are those which have reached their maximum size. The developer's designated

arborist is required to complete an arborist report and tree inventory. The report includes calculating the existing tree canopy by the tree's dripline. The arborist will estimate a sapling's projected tree canopy size at maturity based on comparisons to other trees in the existing tree lists. **Commissioner Hemer** requested that "planted in the ground" be added to the definition of tree.

**Commissioner Sherman** asked whether other permits or land use applications could trigger requirements to adhere to canopy standards. **Rogers** responded it is possible but could potentially be cost prohibitive.

**Rogers** continued the overview, when mitigation is necessary, the private tree code establishes mitigation standards which provide mitigation fees or discretionary alternatives for necessary tree removal. Mitigation fees are calculated based on the diameter at breast height (DBH) of the trees removed. Discretionary alternatives aim to incentivize other sustainable design practices which don't thrive under tree canopy. They include but are not limited to wildlife enhancements, minimization of hydrological impacts, or energy efficiency beyond regulatory requirements. **Chair Loosveldt and Commissioner Khosroabadi** expressed concern that mitigation fees may not deter developers from removing priority trees unless the fees are substantial enough and asked if mitigation fees would be put towards new plantings elsewhere. **Rogers** responded that fee calculations are not complete and open to discussion and that portions of the mitigation fees may be used for a variety of services intended to expand the city's tree canopy. **Commissioner Sherman and Chair Loosveldt** asked what tools could be used to incentivize tree planting over other priorities such as parking.

**Rogers** explained tree protection standards would be established to prevent occurrences which harm new plantings. Additionally, tree protection standards require developers to establish a tree protection plan and root protection zones which ensures existing trees are protected from development impacts. When these prescriptive measures are not feasible, the applicant may propose alternative measures under the guidance of an International Society of Arboriculture (ISA) certified arborist. The developer must ensure the tree protection standards are met but an ISA certified arborist is required to submit the report to establish the root protection zones for a given site. If there is disagreement between the developer's arborist and the city's arborist the code states that the city has the authority to interpret their code to ensure the standards are met. **Chair Loosveldt** asked whether any of the measures are currently required. **Rogers** noted the only required measures currently are erosion and sediment control.

**Rogers** continued, soil volume standards would be established to improve new planting's chance of long-term success. The standards require at least 1,000 cubic feet of soil per tree planted. The proposed code requires developers to submit a soil volume plan which must be conducted by an arborist. The methods and specifications used in the plan must be consistent with ISA best management practices.

The proposed code requires a permit for non-development tree removal if the tree is equal to or greater than six inches in DBH, the tree is less than six inches in DBH but is a species specified on the city's rare or threatened tree list, or if it was planted to meet any requirements in the private tree code. The code establishes mitigation fees and replanting requirements for healthy tree removal. The code further establishes approval standards to waive mitigation fees for trees which are dead, dying, or a hazard. For these trees replanting is required. For trees whose removal is required for fire management purposes or necessary thinning, no replanting is required. No permits are required for removal of agricultural trees (i.e., a Christmas tree farm does not need a permit to remove each tree). The City Manager may exempt property owners from the permit and replanting fees when the owner demonstrates household income at or below 80% of median household income for the Portland-Vancouver-Hillsboro Metropolitan Statistical Area. **Commissioner Hemer** asked whether you need a permit to remove a tree which is on the State of Oregon noxious weed list. **Rogers** responded that a permit is still required however one of the permit approval standards is whether the tree is on the noxious weed list. **Commissioner Sherman** asked if the permit fee or entire process could be waived for removal of trees on the noxious weed list. **Rogers** responded that the permit process is necessary to track tree inventory within the city but waiving the permit cost would be considered. **Vice-Chair Edge** asked what volume of permits we should expect. **Rogers** responded that there's no accurate prediction currently, but ways to streamline the permit process are being considered. **Commissioner Hemer** asked what the cost will be to the city after implementing the code. **Rogers** responded that the city has an arborist on staff and that permit costs are intended to cover much of the labor necessary to process the permits.

**Commissioner Sherman** expressed concerns applying natural resource zones to properties abutting but not within natural resource zones and whether the city has legal authority to require root protection zones within a redevelopment site for trees located in abutting properties. **Rogers** noted the code will be reviewed by the city attorney who will determine whether the city has the legal authority to create the requirements.

**Commissioner Sherman** asked what the objective standard was for determining unreasonable in "whether maintenance of the tree creates an unreasonable burden for the property owner" and recommended that "whether the removal will have a negative impact on neighborhood character" be removed from the code.

**Commissioner Sherman** recommended the language be clarified for non-development tree removal permits so it is clear and objective, stating clearly which and how many of the tree board considerations need to be met. Clarification was also requested for the penalties. **Vice Chair Edge** asked whether the tree board's decision could be appealed and who would have the ultimate authority in deciding whether cases meet the considerations defined in

the code. **Prager** responded that the non-development code language is not legally required to be clear and objective. **Rogers** added that the City of Lake Oswego recently developed clear and objective standards for their code which can be referenced in developing Milwaukie's code language. **Commissioner Massey and Chair Loosveldt** stated that the tree board considerations would likely not present challenges and that allowing the tree board's decision to be appealed is unnecessary.

**Rogers** discussed the various public outreach and engagement efforts used to grow awareness around the tree code and comprehensive plan implementation. The efforts include an informational campaign, program branding, and website and online media refresh. Continued outreach is key to foster stewardship, grow awareness of best management practices, and ensure utilization of low-income assistance. **Commissioner Sherman** suggested signage be used on development sites to display the number of trees removed and the city arborist's contact information to increase accessibility and public awareness.

**Commissioner Hemer** noted that his vote on the code adoption will be determined by public comments and advocated for the public to comment on the code.

(01:54:53)

## **5.2 Comprehensive Plan Implementation – Draft Code / Map Amendments – Batch #3**

**Kolias and Consultant Marcy McInelly** presented a report on draft code/map amendments which were under development. The proposed amendments were informed by the city's comprehensive plan goals and policies to expand housing choice, , compliance with HB 2001, and DLCD's Large City Model Code, and . Some of the key amendments were to:

- Establish universal design standards which apply to all middle housing
- Allow lot size to determine permitted housing types
- Allow middle housing to be permitted as stacked, attached, or detached units
- Establish design standards for townhouses creating a maximum width for attached townhouses in the R-MD zone
- Require one parking space per unit and allow the space to be located in the driveway or setback
- Establish maximum number of clusters on large cottage cluster lots
- Prohibit cottage clusters on flag lots over a certain area

**McInelly** noted the proposed design standards regulate the maximum width of attached townhouses by total street frontage in feet as opposed to the number of townhouses to maximize distance between driveways and keep townhouses congruent with the surrounding urban form. **Commissioner Khosroabadi, Commissioner Hemer, Vice Chair Edge, and Chair Loosveldt** agreed that width in feet as opposed to number of units should be used to determine maximum width

of attached townhouses to also maximize the number of housing units on a given lot. **Commissioner Sherman** noted that parking requirements may conflict with a developments ability to meet the city's proposed 40% canopy requirement. **Commissioner Khosroabadi** stated canopy requirements should supersede parking requirements and asked if parking requirements could be waived in situations where parking and canopy requirements are in conflict. **Kolias** responded tree preservation and other canopy considerations can potentially be added to waive parking requirements. **Commissioner Hemer** stated parking requirements should not be waived. **Commissioner Sherman** responded that the market would continue to build townhouses with parking spaces for each unit but requiring parking minimums is unnecessary with the ample availability of on-street parking.

**Commissioner Hemer** asked if there was a requirement for the street facing main entrance to have a paved path directly to the street or to a shared driveway. **McInelly** responded there was a requirement for a paved path directly to the street.

**Vice Chair Edge** asked whether proposed townhouse developments would require a preapplication conference for any of the requirements presented. **Kolias** responded that a parking modification would require a preapplication conference and land partition would require a preapplication conference although the proposed SB 458 would require the process to be expedited making the process essentially by-right.

**Kolias** shared the requirements of HB 2001 to permit cottage clusters on all lots greater than 7,000 sq ft. The proposed cottage cluster code amendments were informed by the Large City Model Code, the 2019 Cottage Cluster Feasibility Study, and the design and modeling recommendations from the project consultant Urbsworks. The amendments are intended to promote market-rate homes affordable to households of a variety of incomes and sizes, encourage design which promotes shared outdoor common areas, and promote community-building both within the housing cluster and with the surrounding neighborhood.

**McInelly** explained the code language determines the maximum number of cottages allowed through determining maximum number of cottages per cluster, and number of clusters allowed which is congruent with HB 2001.

**Commissioner Hemer** asked what separates one cluster from another. **McInelly** responded the design standards determine what is a common courtyard and a cluster is a group of units facing the same common courtyard, HB 2001 prohibits more than 50% of the cottages on a lot to be facing away from any of the common courtyards. **Commissioner Sherman** asked what the setback requirements are for cottage clusters. **McInelly** responded that HB 2001 prohibits setback requirements in excess of five feet for cottage clusters. **Commissioner Khosroabadi and Chair Loosveldt** commented that the two-cluster example presented in the report balanced the comprehensive plans priorities well. **Vice**

**Chair Edge** expressed concern in capping the number of clusters on a lot at two. He stated support for allowing attached structures in clusters in the R-MD zones if they are congruent with the surrounding urban form. **McInelly** responded that additional clusters can be added with review, however by allowing more than two clusters by right, may cause issues such as ineffective infrastructure service and emergency response access. **Commissioner Massey** noted the cottage cluster provision has been in effect for nearly a decade and none have been developed. **McInelly** responded that Milwaukie is one of the few jurisdictions that allowed the cottage cluster before HB 2001 and the bill will likely act as an impetus for new cottage cluster development.

**Commissioner Hemer and Vice Chair Edge** requested that flag lots be permitted to have cottage clusters provided the pole portion of the lot adhere to any requirements emergency vehicles require for adequate access. **Kolias** responded an alternative in some scenarios may be incorporating a parent home into the cottage cluster such that the flag lot would not need to be created in the first place. She further notes that any development needs to adhere to Clackamas Fire standards regardless. **Commissioner Sherman and Vice Chair Edge** advocated for allowing parent homes on large lots to develop cottage clusters and incorporate their parent home into the cluster.

**Commissioner Hemer** requested the eyes on the street consideration be eliminated for cottage clusters on flag lots.

**Commissioner Khosroabadi** requested single family detached dwellings and duplexes be allowed by right on 1,500 sq ft lots.

**Vice Chair Edge** expressed his desire to allow every lot the ability to develop four dwellings by right and more than four should the additional dwellings be affordable. **Commissioner Hemer** noted that all lots should be allowed to develop four dwellings by right but no more in the R-MD zone. **Vice Chair Edge** responded with a proposal to cap lots in R-MD at six total units with two guaranteed affordable. **Commissioner Sherman** added that many areas in the city could be up zoned to better provide dense development where appropriate. **Kolias** responded that staff will be revisiting the zoning map during the Neighborhood Hubs project.

**Kolias** noted this was the final work session for the middle housing code and the first hearing will take place October 12, 2021.

(03:28:13)

## **6.0 Planning Department Other Business/Updates**

**Kolias** shared that Assistant Planner Mary Heberling is leaving the City of Milwaukie as she accepted a position with the city of Newburg, OR.

(03:29:38)

## **7.0 Planning Commission Committee Updates and Discussion Items**

**Commissioner Hemer** shared that August 29 is the car-free day downtown and September 11 is a comedy performance at the Milwaukie Museum.

(03:31:02)

## **8.0 Forecast for Future Meetings:**

September 14, 2021	1. Public Hearing: VR 2021-013, Bonaventure Senior Living Walkways
September 28, 2021	1. Public Hearing: DR-2021-001, Coho Point Redevelopment (tentative)
October 12, 2021	1. Public Hearing: Middle Housing Code – Hearing #1
October 26, 2021	1. Public Hearing: PD-2021-001, Hillside Final PD (tentative)

Meeting adjourned at approximately 9:47 p.m.

Respectfully submitted,

Will First, Administrative Specialist II