



MILWAUKIE

Dogwood City of the West

To: Planning Commission
From: Denny Egner, Planning Director
Date: April 22, 2016 for April 26, 2016
Subject: Supplemental Packet

Enclosed is the supplemental packet for the April 26th Planning Commission meeting and includes the materials per Agenda Item below.

- Revised Agenda
- S5.1 MLP-2015-004/VR-2016-001 55th Ave Partition
 - Memo regarding amended staff report and attachments
 - Amended Staff Report
 - Amended Attachment 1 Recommended Findings in Support of Approval
 - Amended Attachment 2 Recommended Conditions of Approval
- S6.2 Marijuana Businesses Code Amendments
 - Memo regarding added agenda item for marijuana businesses code amendments
 - Summary of proposed changes
 - Proposed Code Amendments (Underline/Strikeout)

A supplemental e-packet PDF has been posed and can be viewed at <http://www.milwaukieoregon.gov/planning/planning-commission-148>. If you have trouble accessing the link, feel free to contact Alicia Martin at (503) 786-7600 or martina@milwaukieoregon.gov.



AGENDA
REVISED

MILWAUKIE PLANNING COMMISSION
Tuesday, April 26, 2016, 6:30 PM

MILWAUKIE CITY HALL
10722 SE MAIN STREET

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
- 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 Public Hearings** – Public hearings will follow the procedure listed on reverse
 - 5.1 Summary: 55th Ave Partition
Applicant/Owner: Trisha Clark, NW Land Planning/Joseph Taylor, Wildcard Investments, LLC
Address: 10722 SE 55th Ave
File: MLP-2015-004, VR-2016-001
Staff: Keith Liden
- 6.0 Worksession Items**
 - 6.1 Summary: Comprehensive Plan Visioning Update
Staff: David Levitan
 - 6.2 Summary: Marijuana Businesses Code Amendments**
Staff: Denny Egner
- 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:**
 - May 10, 2016 1. Cancelled
 - May 24, 2016 1. Public Hearing: WG-2016-001 11906 SE 19th Ave
 2. Public Hearing: Recreational Marijuana Code Amendments

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. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at 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. **TIME 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:

Sine Adams, Chair
Shaun Lowcock, Vice Chair
Shane Abma
Shannah Anderson
Adam Argo
Scott Barbur
Greg Hemer

Planning Department Staff:

Denny Egner, Planning Director
David Levitan, Senior Planner
Brett Kelver, Associate Planner
Vera Kolas, Associate Planner
Keith Liden, Temporary Planner
Alicia Martin, Administrative Specialist II



MEMORANDUM

To: Milwaukie Planning Commission
From: Keith Liden, Temporary Planner
Re: File# MLP-2015-004 / VR 2016-001
Date: April 21, 2016 for April 26, 2016 Public Hearing

Following the completion of the staff report for the above land use case on April 18, 2016, it was discovered that Parcel 1 of the proposed partition plat would not satisfy the R-7 Zone minimum lot size requirement of 7,000 square feet. Because the proposed Parcel 1 is only about 50 square feet less than the 7,000 square-foot requirement, a minor adjustment to the proposed 5.5 rear yard setback for the existing home on Parcel 2 will allow compliance with the minimum lot size standard.

Attached are an amended staff report, Attachment 1 Findings, and Attachment 2 Conditions of Approval that address the need to amend the proposal to satisfy the minimum lot size requirement.

cc: Dennis Egnor, Planning Director
File(s): MLP-2015-004



To: Planning Commission
Through: Dennis Egner, Planning Director
From: Keith Liden, Temporary Planner
Date: April 18, 2016, for April 26, 2016, Public Hearing
Subject: Amended Report – April 21, 2016

File: MLP-2015-004, VR-2016-001

Applicant: Trisha Clark, NW Land Planning

Owner(s): Joseph Taylor, Wildcard Investments, LLC

Address: 10722 SE 55th Ave

Legal Description (Map & Tax Lot): 1S2E31AB 01700

NDA: Linwood

ACTION REQUESTED

Approve application MLP-2015-004, VR-2016-001 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for a 2-parcel partition and a variance to the minimum rear yard setback for the existing residence.

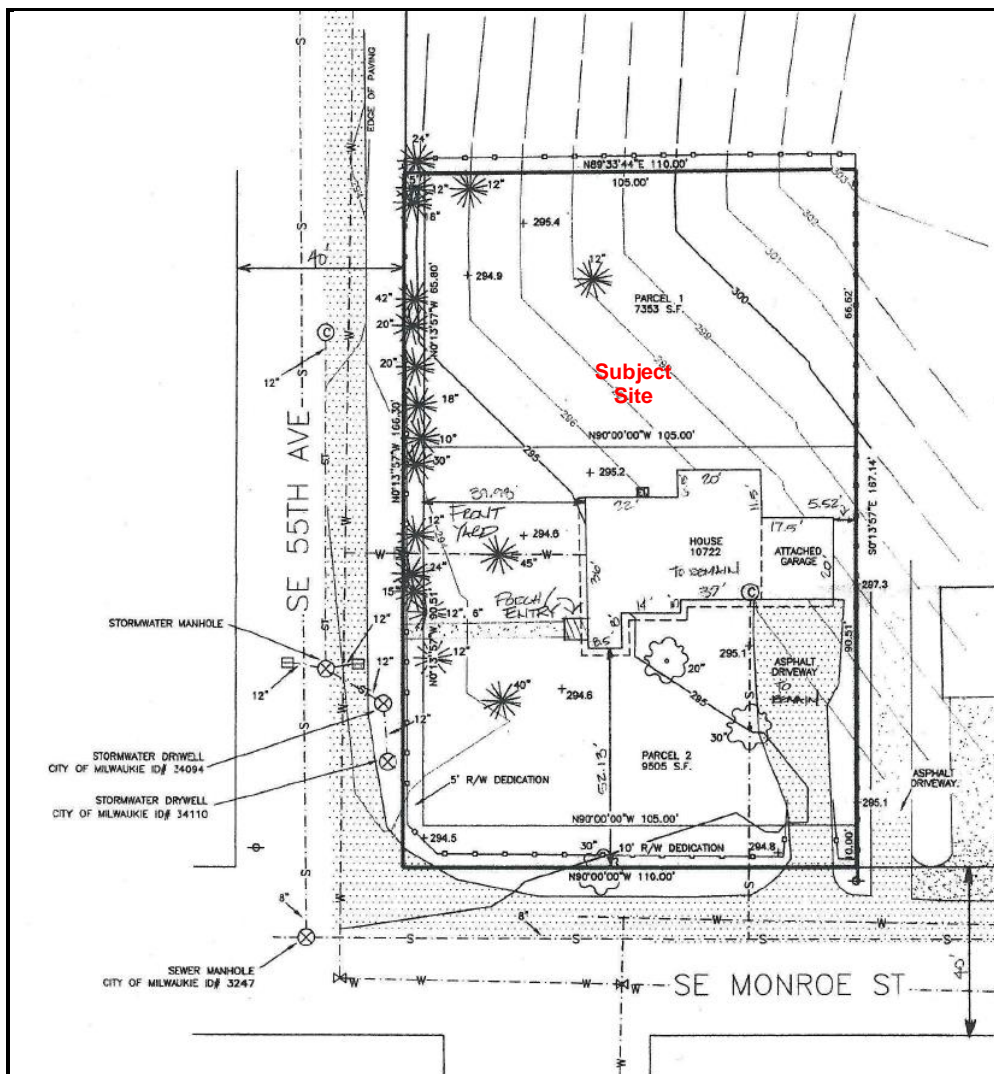
BACKGROUND INFORMATION

The subject 0.42-acre (18,270 sq. ft.) property is located on the northeast corner of SE 55th Ave and SE Monroe Street (see Figure 1). The applicant proposes to divide the existing rectangular lot into 2 parcels (see Figure 2). The property is developed with one residence, which is on the southern portion of the site (see Figure 3).

Figure 1. Subject site



Figure 2. Proposed Partition Plat



A. Site and Vicinity

The site is located in a residential neighborhood with lots sizes ranging from approximately 6,500 square feet to 1 acre. The subject property and neighboring parcels immediately to the east represent some of the larger properties in the immediate area. Both SE 55th Ave and SE Monroe are paved without curb or sidewalk.

B. Zoning Designation

R-7 Residential Zone

C. Comprehensive Plan Designation

LD Low Density Residential

D. Land Use History

There are no previous land use applications for this property.

E. Proposal

The applicant is seeking land use approval for the following:

1. Partition of the existing lot into 2 parcels of approximately 7,353 sq ft (Parcel 1) and 9,505 sq ft (Parcel 2). Parcel 1 would have frontage on SE 55th Ave and Parcel 2 would have frontage on both SE 55th Ave and SE Monroe Street. The house on Parcel 2 currently has driveway access on SE Monroe. This request is subject to Type II review. Following completion of the April 18, 2016 staff report, it was discovered that the size shown for Parcel 1 does not include the required 5-foot right-of-way dedication along the SE 55th Avenue frontage. This results in a lot size of approximately 6,952 sq ft, which is slightly less than the minimum lot size requirement of 7,000 sq ft. The 9,505 sq ft lot size calculation shown for Parcel 2 does reflect the right-of-way dedication along the SE 55th Avenue and SE Monroe Street frontages.
2. Variance to reduce the minimum rear yard setback for Parcel 2 from 20 ft to 5.5 ft. This request exceeds the 10% variance permitted through Type II review, and is subject to Type III review.

The project requires approval of the following applications:

1. Type II Minor Land Partition
2. Type III Variance

KEY ISSUES

Summary

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

A. A.—Is the proposed variance reasonable and appropriate?

B. How should the minimum lot size requirement of 7,000 square feet be addressed?

Analysis

A. Is the proposed variance reasonable and appropriate?

The existing house on Parcel 2 will have a rear yard setback of 5.5 ft. The applicant has provided an alternatives analysis (see application narrative) evaluating the impacts and benefits of the proposed 5.5-foot setback for Parcel 2.

As noted in Attachment 1 Findings, the dimensions of the property and the location of the existing house create a situation where at least one variance is necessary. If the rear yard requirement of 20 ft is met, then the lot width of Parcel 1 would need to be less than the code standard of 60 ft.

B. How should the minimum lot size requirement of 7,000 square feet be addressed?

As proposed, Parcel 1 would be approximately 50 square feet below the minimum lot size of 7,000 square feet. With a lot depth of 105 feet, Parcel 1 would only need to be approximately 0.5 feet wider to meet the 7,000 square-foot minimum area standard. Requiring compliance with the minimum lot size standard and approving the variance to allow a rear yard setback of approximately 5 feet would address this issue.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

1. Approve the 2-parcel land division.
2. Require compliance with the 7,000 square-foot minimum lot size standard of the R-7 Zone.
3. Approve the variance to the minimum rear yard setback of the R-7 Zone. This will result in a reduction of the minimum rear yard setback for Parcel 2 from 20 ft to approximately 5-5 ft.
4. Adopt the attached Findings and Conditions of Approval.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC Section 19.301 Low Density Residential Zones
- MMC Subsection 19.911.4 Variance Approval Criteria
- MMC Chapter 19.700 Public Facility Improvements
- MMC Chapter 19.1200 Solar Access Protection
- MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
- MMC Section 17.28 Design Standards
- MMC Section 17.32 Improvements

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by July 20, 2016, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Community Development and Engineering Departments, Linwood Neighborhood District Association (NDA), Clackamas County, and Clackamas Fire District #1. As of April 18, 2016, comments had been received from the Milwaukie Engineering Director and Clackamas Fire District #1.

ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	E-Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation dated March 14, 2016.				
a. Narrative	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Vicinity map	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Exhibit A Setbacks for Parcel 1	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Exhibit B Reduced Preliminary Plat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Exhibit C Preapplication Notes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
f. Exhibit D Assessor's Tax Map	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
g. Exhibit E City Utility Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
h. Exhibit F Deed/Ownership Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
i. Exhibit G Site Photos	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
j. Stormwater Simplified Approach Form	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
k. Exhibit H Letter of Authorization	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-148>.

Recommended Findings in Support of Approval
File #MLP-2015-004, VR-2016-001, Trisha Clark
(Amended – April 21, 2016)

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Trisha Clark NW Land Planning on behalf of Joseph Taylor, Wildcard Investments, LLC, has applied for approval to partition the property at 10722 SE 55th Ave (TLID 1S2E31AB 01700) and has requested a variance to the minimum rear yard setback requirements. This site is in the R-7 Zone. The land use application file numbers are MLP-2015-004 and VR-2016-001.
2. The applicant is proposing to divide the existing rectangular lot into 2 parcels. The property is developed with one residence, which is on the southern portion of the site. The applicant is requesting relief from the R-7 Zone minimum rear yard setback of 20 ft to allow a 5.5-ft rear yard setback for the existing house on proposed Parcel 2. The request for relief from the minimum rear yard setback standards of the R-7 Zone is subject to Type III Variance review, which is being reviewed concurrently with the Type II Minor Land Partition application.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.301 Low Density Residential Zones
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.911 Variances
 - MMC Chapter 19.1200 Solar Access Protection
 - MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
 - MMC Section 17.28 Design Standards
 - MMC Section 17.32 Improvements
4. Per MMC 17.12.020.D.1, applications for a preliminary partition plat (the first phase of a minor land partition, or MLP) shall be processed in accordance with MMC Section 19.1005 Type II Review unless an associated application subject to Type III review is submitted in conjunction with the partition. The requested Variance is subject to Type III review, and the application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on April 26, 2016, as required by law.
5. MMC Section 19.301 Low Density Residential Zones
 - a. MMC 19.301.2 establishes uses allowed in the R-7 zone. Development on the parcels will be subject to the uses allowed in this subsection.
 - b. MMC 19.301.4 establishes development standards for newly created lots. The standards are met as shown in Table 1.

Table 1. Overview of Compliance with Development Standards

Residential Zone R-7 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	7,000 sq. ft.	Parcel 1: 7,353 sq. ft. (6,952 sq. ft. following ROW dedication) Parcel 2: 9,505 sq. ft.	<u>Parcel 2 area calculation reflects required ROW dedication, but Parcel 1 does not. Parcel 1 does not comply</u> Complies with <u>this</u> standard.
2. Minimum Lot Width	60 ft.	Parcel 1: 66 ft. Parcel 2: 105 ft.	Complies with standard.
3. Minimum Lot Depth	80 ft.	Parcel 1: 105 ft. Parcel 2: 90.5 ft.	Complies with standard.
4. Minimum Street Frontage (std. lot)	35 ft.	Parcel 1: 65.8 ft. Parcels 2: 105 ft. along Monroe St.	Complies with standard.
5. Minimum Yard Requirements for Primary Structures	Front: 20 ft. Side: 5 ft. Street side: 20 ft. Rear: 20 ft.	Parcel 1: NA Parcel 2: front (40'). Side (5.5'), street side (42') & rear (5.5')	Complies with standards except for rear yard.
6. Density	5.0-6.2 units/net acre	2 parcels	The site is 0.42 acres and approximately 0.38 net acres with the proposed ROW dedication of 5 ft. Minimum density is 2 dwelling units. Complies with standard.
7. Transportation Requirements	Yes, per MMC 19.700	Right-of-way dedication in lieu of improvements	As conditioned, complies with standard. See Finding 6.

The Planning Commission finds that, as conditioned, these standards are met with the exception of the rear yard setback for which a variance is sought.

6. MMC Chapter 19.700 Public Facility Improvements

- a. MMC Section 19.702 establishes the applicability of this chapter to new development.

MMC Chapter 19.700 applies to partitions, subdivisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

The applicant proposes to partition the existing parcel into two new lots. The partition triggers the requirements of MMC Chapter 19.700.

This chapter is applicable to the proposed development.

- b. MMC Section 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.

The proposed development will not trigger a significant increase in trip generation and therefore does not require a transportation impact study.

This section is not applicable to the proposed development.

- c. MMC Section 19.705 requires that transportation impacts of the proposed development be mitigated.

The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service previous to the proposed development.

As conditioned, this standard is met.

- d. MMC Section 19.708 contains the City's requirements and standards for improvements to public streets.

- (1) MMC Subsection 19.708.1 requires all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

The applicant shall construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to the new lot. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line.

The applicant shall remove all signs, structures, or vegetation in excess of three ft in height from "vision clearance areas" at intersections of streets, driveways, and alleys.

The proposed development, as conditioned, is consistent with MMC 19.708.1.

- (2) MMC Subsection 19.708.2 establishes standards for street design and improvement.

The applicant shall construct a half street improvement on the east side of SE 55th Ave along the newly created lot's frontage. The street improvements include, beginning from the fronting property line, a 5 ft setback sidewalk, 5 ft planter strip, curb and gutter. The applicant agrees that the proposed development will impact SE 55th Ave, and that the ultimate improvement of SE 55th Ave to city standards, including stormwater planter facilities and sidewalks will benefit the subject property. The applicant has requested to dedicate Right-of-Way in lieu of constructing public improvements on SE 55th Ave along the newly created lot. The proposed dedication includes a width of 5 ft on SE 55th Ave and 10 ft in width on SE Monroe Street adjacent to parcel 1. The City has calculated the value of the proposed land dedication and finds it to be roughly proportional to the cost of street improvement construction and, due to the anticipation of improvements constructed as part of the Monroe Street Neighborhood Greenway project which is currently in a planning phase; the City of Milwaukie finds this alternative to be approvable.

The existing right-of-way width of SE 55th Ave fronting the newly created lot is 40 ft. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE 55th Ave a local street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 ft and 68 ft depending on the required street

improvements. The right-of-way width required to accommodate the required improvements on SE 55th Ave is 50 ft. The applicant is responsible for a right-of-way dedication of 5 ft in width fronting the newly created lot.

The proposed development, as conditioned, is consistent with MMC Section 19.708.2.

- (3) MMC Subsection 19.708.3 establishes sidewalks shall be provided on the public street frontage of all development.

The construction of sidewalks along the proposed development property abutting SE 55th Ave is included in the street frontage requirements. MMC Section 19.708 states that “The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character”. The proposed development fronts a local road which currently does not contain sidewalks on either side, providing no opportunity for sidewalk connectivity. The City finds that the applicant’s proposal to dedicate right-of-way in lieu of constructing sidewalk along the frontage of the newly created lot provides a greater benefit for future pedestrian connectivity through contribution of needed right-of-way acquisition for the Monroe Street Greenway Project.

The proposed development, as conditioned, is consistent with MMC Section 19.708.3.

- (4) MMC Section 19.708.4 establishes standards for bicycle facilities.

The portion of SE 55th Ave fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan. As a result, bicycle facility improvements are not required for the proposed development.

MMC 19.708.4 does not apply to the proposed development.

- (5) MMC Section 19.708.5 establishes standards for pedestrian and bicycle paths.

The proposed development property is surrounded by single family residences. The proposed development does not present an opportunity to provide a pedestrian or bicycle path and is not required to provide one.

MMC 19.708.5 does not apply to the proposed development.

- (6) MMC Section 19.708.6 establishes standards for transit facilities.

The portion of SE 55th Ave fronting the proposed development is not classified as a transit route in the Milwaukie Transportation System Plan. As a result, transit facility improvements are not required for the proposed development.

MMC 19.708.6 does not apply to the proposed development.

The Planning Commission finds that, as conditioned, these standards are met.

7. MMC Chapter 19.911 Variances

- a. MMC 19.911.3 establishes the appropriate review process for variance applications.

The applicant proposes to reduce the rear yard setback on Parcel 2 from the minimum R-7 Zone requirement of 20 ft to 5.5 ft. This request would reduce the rear yard setback by over 70%, which exceeds the maximum 25% reduction to lot width standards permitted through Type II Variance review.

The Planning Commission finds that the request is subject to a Type III Variance review.

- b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

(1) Discretionary relief criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The applicant indicates that the existing house has a 5.5-ft setback between the garage and eastern property line. This setback condition will not be affected by the partition. The front entrance to the house faces SE 55th Ave, making a reasonable argument for this to be considered as the rear yard and the setback from the northern side of the house to the new boundary with Parcel 1 as a side yard. Figure 19.201-6 Yards in MMC 19.201 Definitions supports this interpretation.

Given the minimum lot width standard of 60 ft, the existing property may not be partitioned without a variance to at least one code standard. Creating a lot that meets the city's dimensional standards will create a new buildable lot which should be fully capable of satisfying applicable building setback requirements for the new home. This will enable the new home on Parcel 1 to be compatible with surrounding development.

This criterion is met.

- (b) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

- (i) The proposed variance avoids or minimizes impacts to surrounding properties.

The proposed variance avoids creating adverse impacts for surrounding properties. Development on the newly created lot will be subject to the same setback and lot coverage requirements of the R-7 Zone. The building setback variance will be internal to the site and will not pose any discernible adverse impacts on surrounding properties. As noted above, some type of variance would be necessary to divide this property, and the proposed variance will allow for a new lot, which can satisfy all city standards.

This criterion is met.

- (ii) The proposed variance has desirable public benefits.

The proposal will create a modest public benefit by providing additional housing opportunity and by meeting the current density requirements of the R-7 Zone.

- (iii) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

As noted above, the location of the existing house is driving the need for the variance. Without it, the lot could easily be partitioned in a manner that meets all dimensional requirements. However, the house has significant value, and it is not feasible to remove it and begin anew.

- (c) Impacts from the proposed variance will be mitigated to the extent practicable.

The potential impact of the variance on neighboring properties will be mitigated by having the setback reduction located in the middle of the site and not adjacent to adjoining properties. ~~In addition~~ As noted in Table 1, Parcel 1 as proposed will not satisfy the minimum lot size requirement of the R-7 Zone once 5 feet of right-of-way is dedicated along the SE 55th Avenue frontage. To allow compliance with this standard, the rear yard setback should be further reduced from 5.5 feet to approximately 5 feet to create a lot, which meets the minimum lot size standard. With this modification, the new buildable lot will meet all applicable dimensional standards, enabling construction of a new home that also complies with code requirements.

The Planning Commission finds that these criteria are met.

8. MMC Chapter 19.1200 Solar Access Protection

- a. MMC 19.1203 contains the standards for solar access protection for new development.

- (1) MMC 19.1203.2 establishes applicability for this chapter for a partition, unless an adjustment as provided in MMC 19.1203.5 is justified.

The applicant proposes an adjustment. This chapter is not applicable as noted in the findings relating to MMC 19.1203.5 below.

- (2) MMC 19.1203.5 allows the Director (in this case, the Planning Commission) to reduce the percentage of lots that must comply with the design standards in MMC 19.1203.3.

MMC 19.1203.5 A. allows for adjustments to the design standards when compliance would reduce density or increase on-site development costs. Subsection MMC 19.1203.5 A 2 allows consideration of “significant development amenities.”

In this case, the significant development amenity is the existing house, which cannot be reasonably be moved or removed due to the value of this improvement. The house location dictates dividing the property in the manner proposed. In addition, with an east-west dimension of 110 ft (105 ft following right-of-way dedication) removing the house and creating two long parcels with frontage on SE Monroe Street would require a variance to the minimum lot width standard of 60 ft.

The Planning Commission finds that the criteria for granting an adjustment are met.

9. MMC Section 17.12 Application Procedure and Approval Criteria

a. MMC 17.12.040.A establishes criteria for approving a preliminary plat.

- (1) The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

See Finding 5 for an analysis of the proposal against the standards of MMC 19.301 Low Density Residential Zones.

- (2) The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

The applicant has requested a variance to the minimum rear yard setback of the R-7 Zone for Parcel 2. See Finding 7 for an analysis of this request.

- (3) The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

The proposed partition is not a subdivision, and this section is not applicable.

- (4) The streets and roads are laid out so as to conform to subdivision plats, which are already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

No new streets or amended street alignments area proposed, and this section is not applicable.

- (5) A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

The applicant has provided this information in the materials submitted for the land use application.

The Planning Commission finds that, as conditioned, these criteria are met.

10. MMC Section 17.20 Preliminary Plat

MMC 17.20 contains the information required for a preliminary plat application.

The materials submitted by the applicant satisfy the requirements of this chapter.

The Planning Commission finds that these requirements are met.

11. MMC Section 17.28 Design Standards

- a. MMC 17.28.010 requires that partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City.

As demonstrated by these findings, the partition conforms with all applicable City criteria and standards with the exception of the variance request for the rear yard of the existing house.

- b. MMC 17.28.020 requires that all land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for

improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

As described in finding 6, the proposed partition complies with Chapter 19.700. Utilities and work within the right-of-way will be reviewed by the Milwaukie Engineering Department for conformance with Public Works Standards.

c. MMC 17.28.040 contains standards for lot design.

- (1) MMC 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.

As approved by this action, the proposed parcels have adequate size and dimensions for development and uses allowed in the R-7 zone, and conform to the standards of Title 19 as described in these findings.

- (2) MMC 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

The proposed parcels are rectilinear in shape, with side lot lines at right angles and the rear lot lines parallel to the street.

- (3) MMC 17.28.040.C limits compound lot lines for side or rear lot lines.

There are no compound lot lines proposed for side or rear lot lines of either parcel.

- (4) MMC 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911.

The applicant has requested a variance to the minimum rear yard setback standard of the R-7 Zone, which is being processed pursuant to MMC 19.911.

- (5) MMC 17.28.040.E states that double frontage and reversed frontage lots should be avoided except in certain situations.

None of the parcels in the proposed partition have a double or reversed frontage on more than one public right-of-way.

- (6) MMC 17.28.040.F requires that pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. This standard applies when a lot has frontage on more than one street.

The minimum street frontage standard for the R-7 Zone is 35 ft (MMC 19.301.4, Table 19.301.4). Parcel 1 only has street frontage along SE 55th Ave with over 60 ft of frontage. Parcel 2 contains the existing house, which has access via SE Monroe Street, where it has over 100 ft of street frontage. As established in Finding 5.b, these frontages meet the minimum required street frontage in the R-7 zone.

d. MMC 17.28.080 contains criteria for public open spaces.

The Milwaukie Comprehensive Plan does not identify any planned park or open space for the site. As such, no dedication for public open space is required.

- e. MMC 17.28.070 prohibits flag lots in new subdivisions and subdivisions platted after August 20, 2002.

The proposed land division would create 2 lots and is not a subdivision.

The Planning Commission finds that these standards are met.

12. MMC Section 17.32 Improvements

- a. MMC 17.32 described required public improvements.

The applicant proposes to dedicate right-of-way of constructing street and sidewalk improvements.

The Planning Commission finds that these standards are met.

13. The application was referred to the following departments and agencies on March 31, 2016:

- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Linwood Neighborhood District Association Chairpersons and Land Use Committees
- Clackamas County
- Metro

The comments received are summarized as follows:

- Clackamas County Fire District #1 indicated it had no comments or concerns (via email from Matt Amos, Fire Inspector).
- The Milwaukie engineering Department submitted recommended findings and conditions of approval in a memorandum dated April 14, 2016.

Recommended Conditions of Approval
File #MLP-2015-004, VR-2016-001, Trisha Clark
(Amended – April 21, 2016)

1. The applicant shall submit a final plat application within 6 months of the preliminary plat approval in accordance with MMC Subsection 17.24.040. The applicant shall obtain approval of the final plat prior to the expiration of this preliminary plat approval.
2. The applicant's final plat application shall include the items listed on the City of Milwaukie Final Plat Checklist. The following specific items and changes are required as part of the application:
 - a. A written narrative describing all changes made to the final plat that are not related to these conditions of approval.
 - b. A final plat that substantially conforms to the plans received by the Planning Department and deemed complete on March 22, 2016, and approved by this action, except as modified by these conditions of approval.
 - c. The plat shall include spaces for signatures by the Milwaukie Planning Director and Milwaukie Engineering Director, and a note indicating that this partition is subject to the requirements of City of Milwaukie Land Use Applications MLP-2015-004 and VR-2016-001.
3. Prior to approval of the final plat, the following shall be resolved.
 - a. Dedicate 5 ft of Right-of-Way along the frontage of both lots on SE 55th Ave, and 10 ft of Right-of-Way along the frontage of the existing lot on SE Monroe Street.
 - a-b. Amend the dimensions of Parcel 1 to meet the minimum lot size requirement of 7,000 square feet in the R-7 Zone. The rear yard setback for Parcel 2 may be reduced from 5.5 feet as necessary to satisfy the minimum lot size requirement for Parcel 1.
 - b-c. Remove all signs, structures, or vegetation in excess of 3 ft in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development.
4. Prior to final inspection for any building on the proposed development, the following shall be resolved:
 - a. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.
 - b. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to the new lot on SE 55th Ave. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line, and shall be constructed in conformance with Milwaukie Public Works Standards.

Additional Requirements

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various point in the development and permitting process.

1. The Time Limit on Approval established in MMC 17.04.050 applies to this proposed partition.

- a. MMC 17.040.050.A: All decisions on boundary changes and land divisions shall expire 1 year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.
Staff note: approval of a final plat must occur prior to the expiration of the preliminary plat approval on which the final plat is based.
 - b. MMC 17.04.050.B: Approvals may be extended up to 6 months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed 6 months will be granted if the criteria in MMC 17.04.050.B are satisfied.
2. The requirements on MMC 17.24 for preparation and recording the final plat are as follows:
 - a. MMC 17.24.040: Within 6 months of City approval the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.
 - b. MMC 17.04.120.B: Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
 - c. MMC 17.04.120.A: Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within 6 months of City approval.
 3. Prior to commencement of any earth-disturbing activities, the applicant shall obtain an erosion control permit.
 4. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).



Memorandum

To: Planning Commission

From: Denny Egner, Planning Director

Date: April 22, 2016 for April 26, 2016 Worksession

Re: Marijuana Businesses Code Amendments

On May 24th, a public hearing is tentatively scheduled on zoning text amendments related to the regulation of marijuana businesses. I will be out of town on May 10 so I have added a worksession for the proposed amendments to the April 26th Planning Commission agenda. The proposed amendments are based partially on direction from the City Council regarding where grow sites (production) should be permitted. This is one of the key issues for discussion.

ATTACHMENTS

	PC Packet	Public Copies	E-Packet
1. Summary of proposed changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Marijuana Businesses Code Amendments (Underline/Strikeout Version)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

City of Milwaukie, Oregon
Recreational and Medical Marijuana Land Uses
Proposed Code Amendments

Purpose of amendments – The purpose of the proposed amendments is to employee local regulations to address potential impacts associated with marijuana businesses. The local regulations are intended to supplement state requirements for marijuana businesses.

Approach – Milwaukie's proposed regulations address retail sales, testing labs, processing facilities, warehousing, and production/growing. Each is addressed below:

Retail Sales – In 2015, the City of Milwaukie adopted local regulations for medical marijuana dispensaries. The local regulations essentially allowed dispensaries anywhere that pharmacies were permitted consistent with state mandated buffering requirements for 1000-ft buffers around schools and other dispensaries. Milwaukie added 1000-ft buffers around two former schools where many youth related activities are held. The proposal resulted in dispensaries being allowed in all of the commercial and mixed use zones except for the C-N Neighborhood Commercial Zone and the B-I Business Industrial Zone. In the M-Manufacturing Zone and the Tacoma Station Overlay, dispensaries generally need to be located in a building with a permitted manufacturing use. The northern sub area of the Tacoma Station Overlay does allow the opportunity for stand-alone retail use.

The proposed changes merge recreational sales with medical dispensaries and make zoning requirements the same for both types of retail marijuana businesses including the 1000 ft separation between retail stores.

Testing Labs – Testing labs are considered a type of production office use similar to a medical or dental lab. There are no regulations proposed for this type of use. It is allowed in any zone where an office use or an industrial processing use is allowed. Limitations specific to the zone apply.

Processing Facilities – Processing facilities generally involve the transformation of plant materials into oils or resins or into other products such as edibles. Processing may also involve packaging. Processing facilities are allowed in all industrial and manufacturing zones and to a limited extent in some commercial zones. No changes are proposed as to where these uses may be permitted except that in the BI zone a conditional use permit would be required. A code amendment is proposed to address potential odor problems resulting from these uses.

Warehousing – Warehousing for marijuana businesses is allowed in the flowing zones: Manufacturing –M, Tacoma Station Area Manufacturing - M-TSA, and the Business Industrial B-I zones. No changes are proposed.

Production/Growing – Under current standards, Milwaukie considers production or growing of marijuana plants an agricultural use. Agriculture is only listed as a permitted use in the following zones:

- Low Density Residential: R-10, R-7, and R-5;

- Medium and High Density Residential: R-3, R-2.5, R-2, R-1, and R1-B
- Commercial Zones: C-G and C-L

Agricultural use is not an allowed use in any other zones. The code places limitations on livestock and chickens and in residential zones, restricts agricultural sales only to those that occur as part of a home occupation.

The proposed code changes include the following:

Residential Zones – Proposed code changes require medical marijuana grow operations to occur only as home occupations and only with ventilation and odor control equipment. Recreational marijuana growing is limited to that which is for personal use only and may occur outdoors subject to state regulations.

Commercial Zones – Commercial recreational or medical grow operations are not allowed. Growing for personal use is allowed.

Industrial Zones – Regulations are proposed to vary by area. Each area is addressed below:

- M-Zone along Johnson Creek Boulevard in NE Milwaukie – Recreational and medical marijuana grow operations are allowed as permitted uses provided that the operations are fully indoors and utilize required ventilation and odor control equipment.
- BI-Zone– Recreational and medical marijuana grow operations are allowed as conditional uses provided that the operations are fully indoors and utilize required ventilation and odor control equipment.
- M-Zone and M-TSA Zones within the North Milwaukie Industrial Area –Recreational and medical marijuana grow operations are not allowed in this area. Following completion of the NMIA plan project consideration will be given to allowing grow operations within the area.

Underline/Strikeout Amendments

Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

“Production-related office” means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

“Medical marijuana facility” means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie’s medical marijuana facility regulations.

“Marijuana business” means a state-licensed business involved in the production, processing, warehousing, testing, research, or sale of marijuana or marijuana-derived products.

“Marijuana processor” means a state-licensed business that processes, compounds, transforms, or converts marijuana into other marijuana products including concentrates, extracts, or edible products.

“Marijuana production” means planting, cultivating, growing, or harvesting of marijuana for sale or processing as a legal, state-licensed business.

“Marijuana retailer” means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.

CHAPTER 19.300 BASE ZONES

19.301 LOW DENSITY RESIDENTIAL ZONES

19.301.2 Allowed Uses in Low Density Residential Zones

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Proposed Code Amendment

Table 19.301.2 Low Density Residential Uses Allowed				
Use	R-10	R-7	R-5	Standards/Additional Provisions
Accessory and Other Uses				
Agricultural or horticultural use	P	P	P	Subsection 19.301.3 Use Limitations and Restrictions
Home occupation	P	P	P	Section 19.507 Home Occupation Standards

P = Permitted.

19.301.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

- A1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
- B2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
- C3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Marijuana production is not permitted in low density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the following standards:
 - a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
 - b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production rooms to the building exterior. Negative air pressure is maintained within the rooms used for production. Exhaust outlets shall be a minimum of 25 feet from a property line.
 - c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
 - d. No more than 12 mature medical marijuana plants may be grown on a lot or parcel of land.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

Proposed Code Amendment

19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

19.302.2 Allowed Uses in Medium and High Density Residential Zones

Uses allowed, either outright or conditionally, in the medium and high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.302.2 Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Accessory and Other Uses						
Agricultural or horticultural use	P	P	P	P	P	Subsection 19.302.3 Use Limitations and Restrictions
Home occupation	P	P	P	P	P	Section 19.507 Home Occupation Standards

P = Permitted.

19.302.3 Use Limitations and Restrictions

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
 1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
 2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
 3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
- B. Office uses allowed in the medium and high density zones are offices, studios, clinics, and others similar professional offices. Offices for marijuana businesses are not permitted.
- C. Marijuana production is not permitted in medium and high density residential zones except as follows:
 1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the following standards:
 - a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
 - b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production rooms to the building exterior. Negative air pressure is maintained within the rooms used for production. Exhaust outlets shall be a minimum of 25 feet from a property line.

Proposed Code Amendment

- c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
 - d. No more than 12 mature medical marijuana plants may be grown on a lot or parcel of land.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.
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Proposed Code Amendment

19.303 COMMERCIAL MIXED-USE ZONES

19.303.2 Uses

Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Commercial^{3, 4}			
<p>General Office</p> <p>General office means professional, executive, management, or administrative or administrative offices of firms or organizations.</p> <p>Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; <u>offices for testing and research-related businesses</u>, and medical and dental clinics.</p>	P	P	<u>Subsection 19.303.6.C Marijuana testing and research facilities</u>
<p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public. Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p>	P	P	
<p>Marijuana retailer <u>Medical marijuana facility</u></p> <p>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</p> <p>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</p>	P	P	<u>Subsection 19.303.6.A Standards for Marijuana retailers</u> <u>Medical Marijuana Facilities</u>

Proposed Code Amendment

Manufacturing and Production			
<p>Manufacturing and production.⁸ Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; <u>marijuana processors</u>; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys. <u>Marijuana production is prohibited.</u></p>	<p>P</p>	<p>P</p>	<p><u>Subsection 19.303.6.B Marijuana processors</u></p>

P = Permitted.

3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.
4. The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to "retail-oriented sales" uses established within the existing lot and building situated at 4320 SE King Rd, within the lot's boundaries that exist on February 13, 2016, the effective date of Ordinance #2112. Redevelopment of the site is subject to all standards of Table 19.303.2.
8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.6 Standards for Marijuana Businesses ~~Medical Marijuana Facilities~~

A. Marijuana Retailers

In the commercial mixed-use zones, marijuana retailers ~~medical marijuana facilities~~ shall meet the following standards:

- A1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites. nor within 1,000 ft of another marijuana retailer.
- B2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.

Proposed Code Amendment

- ~~3.~~ Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
- ~~4.~~ The hours of operation for marijuana retailer ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
5. No drive-through sales are permitted.

B. Marijuana Processors

- ~~1.a.~~ The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
- ~~2.b.~~ Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for processing. Exhaust outlets shall be a minimum of 25 feet from a property line.
- ~~3.c.~~ An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
- ~~4.d.~~ Marijuana processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

C. Marijuana Testing and Research Facilities - permitted as office uses with no special standards.

19.304 DOWNTOWN ZONES

19.304.2 Uses

Table 19.304.2 Downtown Zones—Uses			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
Commercial			
Production-related office Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, <u>research</u> , production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio,	P/CU	N	Subsection 19.304.3.A.2 Main St limitations Subsection 19.304.3.A.3 Commercial use limitations Subsection 19.304.3.A.7.a <u>Marijuana testing and research facilities</u> Section 19.905 Conditional Uses

Proposed Code Amendment

and internet studios and broadcasting; scientific and technical services; call centers, and medical and dental labs.			
<p><u>Marijuana retailer</u></p> <p>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</p> <p>Medical marijuana facility</p> <p>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</p>	P/CU	N	<p>Subsection 19.304.3.A.7.a</p> <p><u>Standards for Marijuana retailers</u></p> <p><u>Medical Marijuana Facilities</u></p>
Manufacturing			
<p>Manufacturing and production</p> <p>Uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; <u>marijuana processors</u>; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments (including musical instruments), vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p>	P	N	<p>Subsection 19.304.3.A.7.b</p> <p><u>Marijuana processors</u></p> <p>Subsection 19.304.3.A.8</p> <p>Manufacturing and production limitations</p>

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

19.304.3 Use Limitations, Restrictions, and Provisions

A. Use Limitations and Restrictions

Proposed Code Amendment

The following provisions describe the limitations for uses listed in Table 19.304.2.

7. Marijuana Businesses

a. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:

~~a.~~ (1) As set forth by Oregon Administrative Rules, a marijuana retailer medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors. In addition, a marijuana retailer shall not be located or within 1,000 ft of another marijuana retailer medical marijuana facility.

~~b.~~ (2) A marijuana retailer medical marijuana facility shall not be collocated collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.

~~c.~~ (3) Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.

~~d.~~ (4) The hours of operation for a marijuana retailer medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.

(5) No drive-through sales are permitted.

b. Marijuana Processors

(1) The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.

(2) Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for processing. Exhaust outlets shall be a minimum of 25 feet from a property line.

(3) An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

(4) Marijuana processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

c. Marijuana Testing and Research Facilities - permitted as production office uses with no special standards.

8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production. Marijuana production is prohibited.

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19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- B. Offices ~~of for~~ administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- F. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection 19.306.3.L.

19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

19.306.3 Standards

In a C-L Zone the following standards shall apply:

- L. ~~Marijuana retailers~~ ~~Medical marijuana facilities~~ shall meet the following standards:
 1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
 2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
 3. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
 4. The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
 5. No drive-through sales are permitted.

19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

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19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

- B. Offices ~~of~~ for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory;
- Y. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection 19.307.3.M;

19.307.2 Conditional Uses Permitted

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

19.307.3 Standards

In a C-G Zone the following standards shall apply:

- M. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:
 1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, ~~or within 1,000 ft of another medical marijuana facility.~~ In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
 2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
 3. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
 4. The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
- 5. No drive-through sales are permitted.

19.308 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS

In a C-CS Zone the following regulations shall apply:

19.308.1 Uses

Development shall be a community-scale shopping center.

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- A. Such center shall include at least 3 out of the 4 following uses:
1. Department store uses;
 2. Drug and/or variety store uses;
 3. Food supermarket;
 4. Retail specialty shops.
- B. Such center may include the following additional uses:
7. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection 19.308.5.K;

19.308.5 Development Standards

- K. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:
1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
 2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~colocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
 3. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
 4. The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
 5. No drive-through sales are permitted.

19.309 MANUFACTURING ZONE M

19.309.2 Permitted Uses

Permitted uses are limited to industrial uses meeting the following criteria:

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.309.2.B.
- B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing, and production.

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- C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant, and retail/wholesale commercial use and showroom.
- D. May produce small amounts of noise, dust, vibration, or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the City Noise Ordinance.
- E. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets.
- F. Warehouse use which is accessory to an industrial use.
- G. ~~Marijuana retailers~~ ~~Medical marijuana facilities~~ are allowed as a commercial use under Subsection 19.309.2.A. and subject to the special development standards set forth in Subsection 19.309.7.A.

19.309.4 Specific Prohibited Uses

- D. All lots included in mapped "Industrial" areas, as shown on Milwaukie Comprehensive Plan Title 4 Lands Map, April 6, 1999, carry the following additional restrictions:
 1. Individual retail trade uses greater than 5,000 sq ft gross floor area per building or business are prohibited.
 2. Multiple retail trade uses that occupy more than 20,000 sq ft gross floor area are prohibited, whether in a single building or in multiple buildings within the same project.
 3. Facilities whose primary purpose is to provide training to meet industrial needs are exempted from this prohibition.

19.309.7 Special Development Standards

The following development standards apply to specified uses in the M Zone.

- A. ~~Marijuana Businesses~~ ~~Medical Marijuana Facilities~~
 1. ~~Marijuana retailers~~ ~~Medical marijuana facilities~~ shall meet the following standards:
 - 1 ~~a.~~ As set forth by Oregon Administrative Rules, a ~~marijuana retailer~~ ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a ~~marijuana retailer~~ ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
 - 2 ~~b.~~ A ~~marijuana retailer~~ ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
 - 3 ~~c.~~ Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.
 - 4 ~~d.~~ The hours of operation for ~~marijuana retailers~~ ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.

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e. No drive-through sales are permitted.

2. Marijuana producers and processors

a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.

b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production or processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for production or processing. Exhaust outlets shall be a minimum of 25 feet from a property line.

c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

d. Marijuana producers and processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

3. Marijuana testing, research, and warehousing – no special standards

19.310 BUSINESS INDUSTRIAL ZONE BI

19.310.2 Uses Permitted Outright

- A. The following business and industrial uses are allowed outright, subject to the standards of Subsection 19.310.6.
1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site (including marijuana testing or research);
 2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;
- C. Warehousing and distribution (including marijuana warehousing).

19.310.6 Standards

In the BI district, the following standards shall apply to all uses:

K. Nuisances

The use shall not be of a type or intensity which produces dust, odor, smoke, fumes, noise, glare, heat, or vibrations which are incompatible with other uses allowed in this zone; and the use does not produce off-site impacts that create nuisance as defined by the Oregon D.E.Q. and the City Noise Ordinance.

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19.310.5 Conditional Uses

B. Uses allowed subject to the above conditions are:

4. Marijuana producers and processors

- a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
 - b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production and processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for production or processing. Exhaust outlets shall be a minimum of 25 feet from a property line.
 - c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
 - d. Marijuana producers and processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.
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19.312 TACOMA STATION AREA MANUFACTURING ZONE M-TSA

19.312.2 Use Categories

The categories of land uses that are permitted in the M-TSA Zone are listed in Table 19.312.2. Permitted uses are designated with a “P.” A “C” in this table indicates a use that may be authorized as a conditional use in conformance with Chapter 19.905. An “L” indicates a use that is permitted outright with certain limitations as described in Subsection 19.312.6. Uses not listed in the table are not allowed.

All uses must comply with the land use district standards of this section and all other applicable requirements of the Zoning Ordinance. If it is unclear whether a proposed use is allowed under the use categories, the applicant may submit a Director determination application per Subsection 19.903 to resolve the issue.

Table 19.312.2 M-TSA Zone Uses	
Use Category	Status
B. Manufacturing	
This category comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including the assembly of component parts. Examples include: alternative energy development; biosciences; food and beverage processing; software and electronics production; printing; fabrication of metal products; products made from manufactured glass; products made from rubber, plastic, or resin; converted paper and cardboard products; and microchip fabrication. Manufacturing may also include high-tech and research and development companies.	P
C. Wholesale Trade	
This category comprises establishments engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, or professional business users; or to other wholesalers, generally without transformation, and rendering services incidental to the sale of merchandise. Wholesalers sell or distribute merchandise exclusively to other businesses, not the general public, and normally operate from a warehouse or office and are not intended for walk-in traffic. Associated retail is only allowed as an accessory use in conformance with Subsection 19.312.2.G.2 and other applicable standards in this section.	P
D. Warehousing and Storage	
This category comprises industries that are primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other products and materials that have been manufactured and are generally being stored in anticipation of delivery to final customer. Examples include: transportation and distribution uses with loading docks, temporary outdoor storage, and fleet parking. Ministorage facilities (generally used by many individual customers to store personal property) are not considered industrial warehousing and storage and are not permitted in the M-TSA Zone.	P
G. Limited Uses	
This category comprises uses that are primarily intended to support and serve other allowed uses in the M-TSA Zone. Limited uses are divided into two subcategories. See Subsection 19.312.6 for applicable limitations on these uses.	L
<p>3. <u>Marijuana Businesses</u> Medical Marijuana Facilities</p> <p>This subcategory applies only to processing, warehousing, testing, research, and retail sales of medical-marijuana at State-licensed facilities. <u>Marijuana producers are prohibited.</u></p>	

P = Permitted.

L = Limited.

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C = Conditional use.

19.312.6 Standards for Limited Uses

The following standards apply to those uses listed as limited (L) in Table 19.312.2.

B. Marijuana Businesses ~~Medical Marijuana Facilities~~

1. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:

- 1a. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of ~~the Wichita and Hector Campbell school sites~~ of another marijuana retailer.
- 2b. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
- 3c. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
- 4d. The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
- e. No drive through are permitted.

2. Marijuana processors

- a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
- b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for processing. Exhaust outlets shall be a minimum of 25 feet from a property line.
- c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
- d. Marijuana processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

3. Marijuana testing, research, and warehousing – no special standards.

C. Retail Commercial and Professional Services

In order to ensure that these uses are limited in size and scale and do not dominate land intended for manufacturing uses, the following standards apply. See Figure 19.312.6.B for an illustration of the size limitations.

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1. The total gross leasable square footage of an individual retail or professional service use shall not exceed 5,000 sq ft or 40% of the floor area of an individual building, whichever is less.
2. Multiple retail or professional service uses shall not exceed 20,000 cumulative gross leasable sq ft within the same development project. For the purposes of this section, a development project is defined as:
 - a. A single building with 50,000 sq ft or more of gross floor area.
 - b. Multiple buildings, each with less than 50,000 sq ft of gross floor area, that share common development features (such as access, parking, or utilities), whether or not the buildings are located on the same or a different parcel or lot.
3. Retail and professional service uses shall not be permitted in a stand-alone building. They must be included within a building whose primary purpose is for an allowed manufacturing use. The retail commercial or professional service use is not required to be related to the primary manufacturing use. Food carts are permitted as a stand-alone use.

19.312.7 Development Standards for All Uses

The following development standards apply to all uses in the M-TSA Zone.

H. External Effects

The potential external effects of manufacturing uses shall be minimized as follows:

1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.
 2. Potential nuisances such as noise, odor, electrical disturbances and other public health nuisances are subject to Title 8 Health and Safety.
 3. Roof-mounted mechanical equipment, such as ventilators and ducts, for buildings located adjacent to residential districts, arterial streets, or transit streets, shall be contained within a completely enclosed structure that may include louvers, latticework, or other similar features. This screening requirement does not apply to roof-mounted solar energy systems or wind energy systems.
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CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.406 TACOMA STATION AREA OVERLAY ZONE TSA

19.406.3 General Provisions

The following provisions apply to all development within the Tacoma Station Area Overlay Zone.

A. Consistency with Base Zone

The M-TSA Zone is the base zone for the properties within the Tacoma Station Area Overlay Zone and all requirements of the base zone apply unless otherwise noted in this section. Where conflicts occur between this section and other sections of the code, the standards and requirements of this section shall supersede.

B. Off-Site Impacts

In order to ensure greater compatibility between manufacturing and nonmanufacturing uses in the Tacoma station area, the following off-site impact standards apply in Subareas 1-3.

4. Odor

Continuous, frequent, or repetitive odors are prohibited. The odor threshold is the point at which an odor may just be detected. An odor detected for less than 15 minutes per day is exempt.

19.406.4 Tacoma Station Area Overlay Zone Subareas

19.406.5 Subarea 1: North of Springwater

D. Limited and Prohibited Uses

The following uses are not allowed or are allowed with limitations.

1. Retail uses are permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). Retail uses shall not exceed 60,000 sq ft per building or development project.
 2. Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.
 3. Only those manufacturing uses that comply with the off-site impact standards in Subsection 19.406.3.B are allowed.
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19.406.6 Subarea 2: West of McLoughlin

D. Limited and Prohibited Uses

The following uses are not allowed or are allowed with limitations.

1. Retail uses are permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). Retail uses shall not exceed 20,000 sq ft per building or development project.
2. Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.
3. Only those manufacturing uses that comply with the off-site impact standards in Subsection 19.406.3.B are allowed.

19.406.7 Subarea 3: Mixed Employment

D. Limited and Prohibited Uses

The following uses are not allowed or are allowed with limitations.

1. Retail uses are permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). Retail uses shall not exceed 20,000 sq ft per building or development project. Development standards for manufacturing uses will be the standards of the base zone plus additional standards similar to those in the Business Industrial Zone Subsection 19.310.6.
2. Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.
3. Only those manufacturing uses that comply with the off-site impact standards in Subsection 19.406.3.B are allowed.

19.406.8 Subarea 4: Manufacturing

C. Permitted Uses

Permitted uses in Subarea 4 are the same as those permitted in the base M-TSA Zone, with the following exceptions: Retail commercial and professional service uses may be permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). The size limitations of the base M-TSA Zone Subsections 19.312.6.C.1-2 still apply.

D. Limited and Prohibited Uses

The following uses are not allowed or are allowed with limitations: Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.507 HOME OCCUPATION STANDARDS

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the City's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.507.1 Home Occupation Use Standards

Home occupation uses are allowed by right; however, they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property.
- B. Maintain the residential character of the building and premises.
- C. Not have the outward appearance of a business.
- D. Not detract from the residential character of the neighborhood.
- E. Be owned and operated by an occupant of the dwelling.

19.507.2 Prohibitions and Use Restrictions

- A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.
- B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.
- C. In the case of on-premises instruction, no more than 5 enrollees shall be present at the same time.
- D. Motor vehicle, boat, or trailer repair is prohibited as a home occupation.
- E. Only 1 home occupation is allowed per residence, except that 2 may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.
- F. Except as set forth below, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for

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medical marijuana patients is permitted provided the operation is entirely indoors and meets the following standards:

1. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
2. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for production. Exhaust outlets shall be a minimum of 25 feet from a property line.
3. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.