



## AGENDA

### MILWAUKIE PLANNING COMMISSION Tuesday September 14, 2010, 6:30 PM

MILWAUKIE CITY HALL  
10722 SE MAIN STREET

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
  - 2.1 July 13, 2010
- 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
- 6.0 Worksession Items**
  - 6.1 Summary: Land Use and Development Review Process Tune-Up: Continuation of discussion about variances and nonconforming uses and structures  
Staff Person: Susan Shanks
- 7.0 Planning Department Other Business/Updates**
  - 7.1 Metro COO Recommendation overview
- 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:**
  - September 28, 2010
    - 1. Worksession: South Downtown Concept Plan
    - 2. Worksession: Natural Resource Overlay project update
  - October 12, 2010
    - 1. Public Hearing: AP-10-01 Appeal of Director's Determination re: LED signs in Downtown
    - 2. Worksession: Land Use and Development Review Process Tune-Up: Review of draft amendments for revised Variances and Nonconforming Situations chapters and new Development Review chapter
    - 3. Worksession: Comp Plan – Thinking About, and Planning For, the Future

### Milwaukie Planning Commission Statement

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

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

#### Public Hearing Procedure

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

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

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

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

Jeff Klein, Chair  
Nick Harris, Vice Chair  
Lisa Batey  
Teresa Bresaw  
Scott Churchill  
Chris Wilson  
Mark Gamba

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

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

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**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, July 13, 2010  
6:30 PM**

**COMMISSIONERS PRESENT**

Nick Harris, Vice Chair  
Lisa Batey  
Scott Churchill  
Teresa Bresaw  
Mark Gamba

**STAFF PRESENT**

Katie Mangle, Planning Director  
Susan Shanks, Senior Planner  
Bill Monahan, City Attorney

**COMMISSIONERS ABSENT**

Jeff Klein, Chair  
Chris Wilson

**1.0 Call to Order – Procedural Matters**

**Vice Chair Harris** called the meeting to order at 6:32 p.m. and read the conduct of meeting format into the record.

**2.0 Planning Commission Minutes**

2.1 May 11, 2010

**Commissioner Batey** replaced the “[inaudible]” on Page 23 Line 747 as follows, “especially in light of the riparian restoration in the plan, it seemed like *promoting goat trails for nonmotorized access was inconsistent with that.*” She verified the application noted on Page 28 Line 915 would formally return to the DLC to review some of the details of the plan because of a condition of approval.

**Commissioner Bresaw** moved to approve the May 11, 2010, Planning Commission Meeting minutes as amended by Commissioner Batey. Commissioner Gamba seconded the motion, which passed unanimously.

2.2 June 22, 2010

**Commissioner Gamba** moved to approve the June 22, 2010, Planning Commission meeting minutes as presented. Commissioner Churchill seconded the motion which passed 3 to 0 to 2 with Commissioners Bresaw and Batey abstaining.

**3.0 Information Items**—None.

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

**5.0 Public Hearings**

- 5.1 Summary: Pond House Deck and Landscaping
- Applicant/Owner: Paul Shirey / City of Milwaukie
- Address: 2215 SE Harrison St
- File: WQR-10-02, CSU-10-06
- Staff Person: Susan Shanks

**Vice Chair Harris** called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

**Susan Shanks, Senior Planner**, cited the applicable approval criteria of the Milwaukie Municipal Code (MMC) as found on 5.1 Page 7 of the packet, which was entered into the record. Copies of the report were made available at the sign-in table.

**Vice Chair Harris** asked if any Commissioners had a conflict of interest or any ex parte contacts to declare.

Each Commissioner declared they had visited the site. No Commissioners, however, declared a conflict of interest, bias, or conclusion from a site visit. No Commissioners abstained and no Commissioner’s participation was challenged by any member of the audience.

**Commissioner Bresaw** declared her neighbor, who was on the Library Board, had spoken briefly with her regarding the deck area at the Pond House and commented that she hoped the Commissioners would look at it in a favorable manner.

- She confirmed that her contact with her neighbor would not affect her judgment. She would not be biased and would be able to participate in this evening’s hearing.

**Vice Chair Harris** stated he had briefly spoken with Chair Klein but their conversation did not involve anything germane to the application.

76 **Ms. Shanks** presented the staff report via PowerPoint, responding to questions and comments  
77 from the Commission as follows:

- 78 • She noted the application was only to review the impervious improvements; the landscaping  
79 improvements were allowed outright by the MMC.
- 80 • She clarified the new stairs would be in approximately the same location as the old stairs,  
81 which would exit from the back door, turn, and head toward the north of the building. The  
82 exit from the stairs would be a 5 to 6 ft wide egress path that would be created between the  
83 house and retaining wall.
- 84 • She deferred questions about the current condition of the egress to the Applicant,  
85 though she believed it was old gravel.
- 86 • Staff believed it was desirable to maintain the second egress off the rear deck because  
87 the Pond House is a public facility. The Applicant's Water Quality Resource (WQR)  
88 consultant indicated a larger disturbance would occur to the WQR area. A different  
89 configuration for the stairs would likely require additional footings or extending the stairs  
90 further out over an established rock wall and through existing trees due to the required  
91 run and rise. Further clarification was deferred to the Applicant.
- 92 • Improvements involving the footings and stepping stone path added approximately 39 sq  
93 ft of new impervious area. The plantings would total about 525 sq ft which staff believed  
94 would mitigate the disturbance to the WQR area.
- 95 • The area where the plantings were installed had not been an impervious area, but primarily  
96 a grassy and weedy area not considered to be native. Some nuisance plants were removed.  
97 Brad Albert, Civil Engineer, had reviewed the application and many of the installed and  
98 proposed plants were listed on the stormwater facility list. These plants have a greater  
99 benefit of cleaning and managing stormwater before it enters the pond.
- 100 • The window for the in-water work period would be July 15 to August 31, 2010.
- 101 • Correspondence regarding the Pond House proposal included a letter received tonight from  
102 Kay Sweetland Bower, a member of Ledding Library Board and Friends of Ledding Library  
103 dated July 8, 2010 in support of the application. Copies of the letter were distributed to the  
104 Commission.

105

106 **Vice Chair Harris** called for comments from the Applicant.

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108 **Paul Shirey, Public Works Operations Director**, stated the Pond House facility maintenance  
109 fell under the jurisdiction of the Public Works Department. The Pond House is unlike other City-

110 owned buildings because of the number of people involved, including the Library Board and the  
111 Friends of the Library. The current principal function of the Pond House is to serve as the library  
112 book store, which was approved by the CSU, and it is a meeting place for City business and  
113 related community functions.

- 114 • Following the purchase of the Pond House, the Applicant anticipated that the Booktique  
115 application would require constructing the sidewalk to Downtown standards, which they  
116 were prepared to do. It was also discovered that the deck was close to collapsing and the  
117 decision was made to dismantle it.
- 118 • After the approval for the Booktique and learning that not as much money was needed for  
119 the sidewalk, the City Manager at the time asked that the deck be replaced. The driveway  
120 was effectively closed, providing the opportunity to replace the driveway, apron, and curb.
- 121 • The on-call carpenter, Steve Philips, was directed by Mr. Shirey to replace the deck without  
122 increasing its size. Mr. Philips determined the original footings were not safe, and poured  
123 expanded concrete footings without first consulting Mr. Shirey. This work immediately  
124 triggered the need for a Type III Review, delaying the project.
- 125 • The application also included small footings for the bench, a small footing for art work, and  
126 stepping stones, which would contribute to the overall esthetics of the Pond House.
- 127 • The mitigation for the addition of the impervious area was in the form of landscaping that  
128 had been completed. He noted the driveway was replaced with impervious pavers, which  
129 removed quite a bit of pervious surface, but was not included in the mitigation calculations.

130

131 **Mr. Shirey**, along with consultant team members Anne MacDonald, Rivergrove Environmental  
132 Consulting, and Sarah Smith, Landscape Designer, responded to questions from the  
133 Commission as follows:

- 134 • The recently poured footings had not been engineered and the depths of the footings were  
135 unclear; however, they were square, vertical footings, and sufficient to bear the deck's  
136 weight. Mr. Philips was licensed and bonded.
  - 137 • **Ms. Shanks** noted City Building Official, Tom Larsen, was satisfied with the current  
138 footings as stated in the attachment.
- 139 • The details on the deck style, including the handrails, had not been determined. The deck  
140 would be made with artificial decking material, such as Trex, with cedar, 2 ft by 6 ft capped,  
141 picket handrails and finishing trim.
- 142 • **Ms. Shanks** clarified that Facility Management Coordinator, Willie Miller, confirmed with the  
143 Mr. Larsen that the second egress was not required, so it did not trigger ADA accessibility

- 144 standards. A greater impact would occur to get the egress ADA accessible based on the  
145 house design and height of the second egress. The City's desire was to have the second  
146 egress be ADA accessible, however, that was not included in the proposal.
- 147 • The purpose of the deck was to provide a second egress and allow users of the Pond  
148 House to take advantage of the pond amenities and natural resources surrounding the  
149 facility.
  - 150 • About 6 people could occupy the deck at one time. The deck would be used for egress  
151 and entertainment, such as a guitarist performing for events occurring in the yard. The  
152 deck space would not provide a comfortable meeting place.
  - 153 • **Mr. Shirey** clarified where the stairs would terminate onto the deck.
  - 154 • The area near the water's edge at the rear of the Pond House was important for  
155 accessibility, but was not a walk that would be made by choice because the walkway is very  
156 narrow; only 40 inches existed between the back of the retaining wall and the foundation of  
157 the Pond House.
  - 158 • The intent was to place gravel along the rear of the house for the walkway, but not along  
159 the side of the garage near the existing bookstore. That area along the garage was now  
160 just bark dust, and was so shaded grass could not grow.
  - 161 • The deck would be 8½ ft deep with the 36-in rail height as required by Code.
  - 162 • The City budgeted \$20,000 for the deck. The Friends of the Library paid for the design,  
163 landscaping, and impervious elements. The cost of the deck included encapsulating, or  
164 wrapping, the deck's substructure to keep the pressure treated lumber from contaminating  
165 the pond. This was a specialized, labor-intensive approach. The artificial decking material  
166 was more expensive than wood, including cedar.
  - 167 • The encapsulation process involved "shrink-wrapping" a stretchy, clinging, heavy-duty  
168 material around the deck's substructure.

169

170 **Commissioner Batey:**

- 171 • Asked if the long term plans existed for rebuilding the library or expanding the existing  
172 building. Her concern was spending City money now for the Pond House if the library  
173 intended to vacate its current site.
- 174 • **Joe Sandfort, Library Director**, replied that no plans exist to tear down the current  
175 library. Plans did exist to expand the library pending City Council and City administration  
176 involvement. However, those plans were developed in 2003 and involved the library site  
177 itself, not the Pond House. At one time, relocating the library was considered. He had

178 also heard a discussion about building a walkway over the pond. No discussion existed  
179 about tearing down or replacing the Pond House.

180 • **Ms. Shanks** stated that new construction on the site would definitely be reviewed  
181 under the WQR regulations.

182 • Asked the main reason for constructing the deck.

183 • **Mr. Sandfort** explained several reasons existed for needing the deck, but ranking them  
184 was difficult. The community deserves a building that is competently designed and  
185 maintained. People visiting the library could see the current condition of the back of the  
186 Pond House, which was an eyesore. The community would be better served with the  
187 building completed. The Friends of the Library's idea of having music playing during  
188 summer events would be nice for the community. And the deck was needed to function  
189 as an egress. It was a very important project for the community.

190

191 **Commissioner Bresaw** asked about the proposed garbage can enclosure's description, which  
192 seemed to be a wooden box with a Sunbrella or outdoor equivalent canvas on one side.

193 • **Mr. Sandfort** replied that the intention was to utilize a trellis; however, the trellis had  
194 been stolen which prompted the new design for the enclosure. He deferred to the  
195 Applicant's landscape designer for further detail.

196 • **Sarah Smith, Landscape Designer, The Gardensmith**, explained the intent was to  
197 enclose the garbage can screen with wood on 3 sides with the fourth side made of a  
198 sliding, fabric curtain to hide the trash cans. The garbage enclosure was very visible to  
199 the public, and close to the front door of the Pond House. Swing-type doors would take  
200 too much space and the turf-block floor surface was difficult for the wheel-supported  
201 door to roll across.

202

203 **Commissioner Batey:**

204 • Asked the purpose of the path, where would it lead, and who would use it.

205 • **Ms. Smith** replied there was a nice view along the proposed path's area. The path  
206 would lead to the existing stairs allowing access to the lower lawn area, which provides a  
207 nice view of the pond. The path would draw people through the landscape to an  
208 appropriate spot to view the pond, rather than cutting through across the grass.

209 • The 2 vine maple trees on each side of the proposed stone path would grow to frame a  
210 view of the pond, and the path would draw people in to better experience the landscape.

211 • The stepping path would provide access from the parking lot.



- 212 • Expressed concern about the path encouraging people to cut across the lawn,  
213 circumventing the use of the sidewalk.
- 214 • **Ms. Smith** said she did not envision the path as a shortcut to the library. The sidewalk  
215 was still a much more direct way to the library. She was not aware of any plan to restrict  
216 people from walking or using the lawn.
- 217 • Noted there was a difference between using the lawn for recreation versus creating a path  
218 through the lawn from foot traffic.
- 219 • **Ms. Smith** stated she had seen people at the edge of the water and believed they  
220 walked down from the sidewalk to access the pond.
- 221 • **Mr. Shirey** noted that using the stepping stone path was not a convenient way to reach  
222 the library.

223

224 **Vice Chair Harris** called for public testimony in favor of, opposed, and neutral to the  
225 application. There being none, he called for additional comments from staff.

226

227 **Ms. Shanks** clarified that questions regarding cost had no Code basis, as cost was not a WQR  
228 Code approval criteria. Those criteria regarded whether alternative designs were considered,  
229 and if a reasonable design was proposed that minimized and mitigated for its impacts, etc.

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231 **Vice Chair Harris** confirmed no Commissioners had any further questions for staff and that the  
232 Applicant had no rebuttal. He closed the public testimony portion of the hearing on WQR-10-02  
233 and CSU-10-06 at 7:37 pm.

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### 235 **Planning Commission Discussion**

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237 **Commissioner Batey** believed the Pond House would be a nice addition. She initially had  
238 concerns that the Pond House would not be a long term fixture, but now understood it would be  
239 here for a long time. She had no problem with the proposal.

240

241 **Commissioner Bresaw** said she was glad to see people care by volunteering and getting  
242 involved with the improvements.

243

244 **Commissioner Churchill** said he strongly supported the application. It was wise of staff to  
245 realize what had been done with the footings and require more appropriate review, but he

246 believed there was no apparent impact to the WQR zone. It would be inappropriate to leave the  
247 Pond House unfinished. It was an asset not just to the library, but to the city of Milwaukie as a  
248 whole. Completing the deck would provide the public an area to enjoy Milwaukie's water quality  
249 resources.

- 250 • He noted a sign posted toward the library on the Harrison St side that stated, "Nature Area  
251 Keep Out." It was absurd that people could not be respectful of the water quality resources  
252 and enjoy them. He strongly supported the application.

253

254 **Commissioner Churchill moved to approve WQR-10-02 and CSU-10-06 with staff's**  
255 **recommended findings and conditions of approval as found in Attachments 1 and 2.**

256 **Commissioner Gamba seconded the motion, which passed unanimously.**

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258 **Motion passed 5 to 0.**

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260 **Vice Chair Harris** read the rules of appeal into the record.

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262 The Commission took a short recess.

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## 264 **6.0 Worksession Items**

265 6.1 Summary: Review Procedures Code Amendment project briefing part 2

266 Staff Person: Susan Shanks

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268 **Katie Mangle, Planning Director**, noted that Serah Breakstone worked closely with Mary  
269 Dorman of Angelo Planning Group and both were working as consultants for the City on the  
270 Code Amendment Project.

271

272 **Susan Shanks, Senior Planner**, stated the first draft of the amended Zoning Code Title  
273 19.1000 was attached to the staff report. This chapter was the essential component for how the  
274 City did everything in Development Review, Zoning Administration, and Land Use Review. The  
275 Commission would be familiar with this very important chapter because staff cited this chapter  
276 during the quasi-judicial process at each hearing.

277

278 **Ms. Shanks** presented the staff report regarding Title 19.1000 amendments via PowerPoint.

279

280 Discussion points from the Commission and staff regarding key topics were as follows:

- 281 • Table of Contents, Chapter 19.1000 - The proposed Table would be more focused,  
 282 straightforward, and organized with a section of General Provisions and the 4 types of  
 283 review processes. Also included would be preapplication conferences, application, public  
 284 hearings, and appeals.
- 285 • Items in the existing Table of Contents would be reorganized, or moved elsewhere but  
 286 retained.
- 287 • Some changes were proposed; for example, changing the number of review  
 288 processes from 4 to 5, the actual number of City review processes; however, the  
 289 basic procedural content would remain the same.
- 290 • Review types in the draft were organized alphabetically, but the final Code Table of  
 291 Contents would follow numerical format similar to other jurisdictions.
- 292 • Providing examples according to the different types of review would be helpful.

293

294 **Serah Breakstone, Angelo Planning Group**, reviewed key changes proposed for Chapter  
 295 19.1000.

296

297 Comments and discussion regarding the following items was as follows:

- 298 • Time limits on land use approvals.
- 299 • The next set of revisions would address consistency to better define time limits on public  
 300 notices and notices of decision, and would include clarification on business days versus  
 301 calendar days.
- 302 • Type II reviews will only go to a Type III hearing if appealed; and would no longer be  
 303 'bumped up' a level by the Planning Director or others.
- 304 • No criteria exist for making the decision, resulting in a very arbitrary process. Different  
 305 rules, timelines, costs, and processes were involved, but the criteria for approval were  
 306 the same.
- 307 • The responsibility should be placed on those appealing the decision or trying to make  
 308 changes.
- 309 • The appeal process should be clear; even the permitting process can be daunting.
- 310 • The recently adopted fee schedule has 3 appeal fee categories:
- 311 • No charge for Neighborhood District Associations (NDAs) that already have  
 312 standing.
- 313 • Type I or Type II appeals, involving the Planning Commission, cost \$500.

- 314           • Appeals from the Planning Commission to City Council cost \$1,000, which typically  
315           involves staff enlisting the City Attorney's assistance, increasing expenses  
316           dramatically.
- 317   • Public Notice. The applicant would be required to post signs at the site and provide an  
318   affidavit stating they posted the sign in an appropriate place in a timely manner.
- 319   • The affidavit affirms the applicant had posted a sign a minimum number of days prior to  
320   the hearing or decision. It was the onus of the applicant to follow through with this  
321   process, ensuring the sign had not blown away, been removed, etc.
- 322   • Not meeting this posting requirement would be treated like not meeting a Code standard.  
323   It could be reason for denial or to have the applicant waive the 120-day land use clock.
- 324   • Map Amendments. Proposed changes would result in the Planning Commission making  
325   more decisions on map amendments.
- 326   • Because Comprehensive Plan maps are adopted by ordinance, Ms. Breakstone would  
327   verify whether small changes would be governed by some type of ordinance.
- 328   • It was discussed that Commission decisions would be the accepted decisions and  
329   Council could adopt the ordinance on the Consent Agenda. Council would not redo  
330   the hearing, but would review an item for adoption. Council could always pull the  
331   item for discussion.
- 332   • Questions regarding how maps are adopted would be clarified for the final  
333   amendments.
- 334   • Public noticing in newspapers. Recommended replacing this requirement with more  
335   effective practices, such the City's website and bigger noticing signs.
- 336   • The City's website will be used for paying utility bills by next year, creating more  
337   common traffic, and providing a more effective public noticing tool.
- 338   • Newspaper noticing was a useful way to get public notices out, but with multiple, lengthy  
339   listing requirements and a \$4,000 per year expense, newspaper notices was considered  
340   inefficient.
- 341   • Reducing the size of the newspaper notices was suggested, such as the content  
342   included on the public notice sign.
- 343   • No changes would be made to Type III and Type IV public noticing. Written notices  
344   would still be required to be sent out by mail to property owners within 300 ft of a Type III  
345   quasi-judicial and 400 ft for a Type IV legislative procedure. This distance was measured  
346   from the outside edge of the property.

- 347 • Legislative Code Changes. The next set of revisions being considered would allow staff to  
348 initiate a Type IV application; currently the Code allowed anyone to submit a Type IV  
349 application.
- 350 • Applicants that continually run into Code issues could also apply to change it.
  - 351 • Concerns were expressed that allowing anyone to initiate a Type IV application could  
352 require extensive staff time. However, the current legislative application fee is \$3,500,  
353 requiring people to consider the expense of changing the Code if they did not like a City  
354 decision.
  - 355 • NDAs would be required to pay the fee; however, most NDAs contact the  
356 Commission, Council, or staff about a change being a City project.
  - 357 • Some applicants were willing to help staff with the legwork involved and pay the fee. No  
358 one should be eliminated from proposing a good change for the community.
  - 359 • The City would ultimately have control of the actual language adopted. The Commission  
360 and Council would still have to approve the change.
  - 361 • The applicant would have to demonstrate that a public benefit would result from  
362 changing the Code.
  - 363 • All applications would still be subject to the approval process, and applicants must  
364 address all the applicable criteria. Are the criteria stringent enough to weed out obviously  
365 bad ideas?
- 366 • Time Limits for Preapplication (6.1 Page 24). Should the more informal preapplication  
367 meeting have an expiration date?
- 368 • The preapplication meeting was a more informal process involving just a staff member  
369 with no other City department and did not require written notes; similar to an over-the-  
370 counter application meeting.
  - 371 • A preapplication meeting would be offered when it was not required to complete a full  
372 application or when the City authorized that the preapplication conference be waived.
  - 373 • Preapplication conferences (6.1 Page 26, Section 19.106.5) currently had an 18-  
374 month time limit.
  - 375 • A 1-year maximum time limit was suggested for preapplication conference because  
376 standards may change; a sunset should exist.
  - 377 • New language under the Purpose Statement was proposed to clarify that if the  
378 standards had changed between when an application was submitted and the  
379 preapplication conference, the Code in place at the time the application was submitted

- 380 would apply. The applicant would be notified of Code changes in advance to assist them  
381 in the planning stages.
- 382 • Appeal Section (6.1 Page 35) Proposed language was consistent with State law, yet  
383 clarified how the appeal process works, who can appeal, and when an appeal can be made.
    - 384 • Type II decision can be appealed by the applicant or any party that feels they have  
385 been aggrieved by the decision. This language was from the Oregon State statute  
386 and would also be a de novo hearing before the Commission.
    - 387 • Type III decisions can be appealed by the applicant or any person having official  
388 standing, meaning they provided comment during the public comment period or at  
389 the initial hearing.
  - 390 • In Section 19.1009.1.A.2, should the term “party” be defined or clarified?
    - 391 • The language probably should be revised, especially for the Type II process where  
392 the appellant did not necessarily need to be a party per se; they could be an  
393 aggrieved party rather than someone who testified.
    - 394 • The Type II appeal process has no hearing, but does have a public comment period.  
395 One would not have had to provide comment to be considered an aggrieved person.  
396 Appeal must still be based on approval criteria, but a party does not need to be a  
397 person of standing to be an aggrieved party.
  - 398 • The language regarding aggrieved parties should also be carried into the Type III appeal  
399 process.
    - 400 • Discussion clarified that a legal basis and a formal effort stating a clear objection  
401 should be made for a person to be considered an aggrieved party to the appeal  
402 process. Comments could be received by letter, email, or even a phone call to staff.
    - 403 • All parties affected by an application receive written notice 20 calendar days before  
404 the hearing, which describes the appeal rights and the process to appeal. Written  
405 notices of decision are mailed out the next day after the hearing.
  - 406 • The City’s website could be used to notify citizens that an application has been received.  
407 The website could include a map indicating land use application sites. The applications  
408 should need to be searchable by certain key words.
  - 409 • The NDAs and Land Use Committees (LUCs) are able to get the word out about  
410 applications quickly. The LUC and relevant NDA Chair of where the property is located  
411 are notified and receive information within 2 days of an application being deemed  
412 complete. A 2-week comment period is allowed for NDAs.
  - 413 • Staff currently responds to all questions and concerns in any contact format, and informs

- 414 those individuals about the requirements to be a person of standing in case of appeal.
- 415 • The Oregon State statute was clear about who has standing to appeal for a quasi-judicial
- 416 procedure. It does not imply a minimum, but any changes would need to be reviewed by
- 417 legal counsel for ramifications.
- 418 • Applications Procedures and Summary Table (6.1 Page 39).
- 419 • The Design and Landmarks Committee (DLC) should not be the review authority on
- 420 Downtown Design Review applications; the DLC reports to the Commission.
- 421 • Further clarification about Minor, Moderate, or Major Downtown Design Review was
- 422 requested.
- 423 • One topic for discussion to revisit in the future was how DLC hearings are conducted;
- 424 staff does public notice for the Commission, but did not want to redo the work done by
- 425 the DLC, which sets up a strange process.
- 426 • The table would be revisited with the Commissioners' suggestions and comments taken
- 427 into consideration and presented in a more complete form at the next worksession.
- 428 • Application time limits and extensions of approvals. Issues associated with land use
- 429 approvals that do not expire were reviewed (6.1 Pages 2 and 3). Staff sought input from the
- 430 Commission about:
- 431 • Better clarification of the vague term, "substantial construction," which is commonly
- 432 used but better defined in other jurisdictions' codes. Is "substantial construction" the
- 433 appropriate threshold?
- 434 • What problem was the City trying to solve by limiting or not limiting, extending or not
- 435 extending approvals for all types of land use approvals? Should current limitations
- 436 and extensions apply to all applications?
- 437 • Should extensions require approval by the Commission, or should straightforward
- 438 criteria be developed so staff could approve extensions, or should only certain
- 439 extensions be reviewed by the Commission.
- 440 • Time limits would help with applications that have multiple conditions about remedial
- 441 plantings, for instance. Changes in personnel after such long time lapses create
- 442 inefficiencies in implementing the application and enforcing conditions of approval,
- 443 resulting in a project that may not be completed to the Commission's expectations.
- 444 • There were reasons to consider not having time limits.
- 445 • The Southgate Park and Ride project was a CSU, which have no time limits, and
- 446 would not have been completed if a 2-year time limit was implemented. The project
- 447 had to wait to receive stimulus funding. Going through the permitting process would

- 448 not have prevented the project from being built because it would not have met the  
449 stimulus funding criteria.
- 450 • Consideration should be given for the larger public projects, like the Riverfront Park.  
451 Having too stringent of time limits may leave projects without ways to get extensions.
  - 452 • Establishing unlimited extensions was mentioned. However, the applicant would need to  
453 demonstrate an understanding of the conditions and why the extension was needed.  
454 The applicant should be able to do the project as originally envisioned.
  - 455 • The applicant would have to verify that certain conditions, like traffic or water quality  
456 resource areas, have not changed, or that the project would not really impact those  
457 items. Some level of review would be needed to verify that the project should  
458 proceed.
  - 459 • Written records should be very clear as to not be affected by a change in staff.
  - 460 • While engineering conditions of approval are often clear cut, only some planning  
461 conditions, such as those regarding setbacks, are clear. Other planning conditions  
462 can be unclear, like those involving benefits, mitigation, or intent, even though every  
463 effort is made to avoid ambiguity.
  - 464 • Staff has been diligent about keeping clean records and being disciplined to retain  
465 the last, most recently approved plan. Most items can be digitally recorded, but many  
466 materials cannot be included in a digital format for the record.
  - 467 • “Substantial construction.” Legal precedent was found in a case in upstate New York.  
468 The previous definition was not satisfactory to the Commission.
  - 469 • The definition for “substantial completion” which regarded occupancy was preferred  
470 to using “substantial construction.” 10% of construction should not be considered  
471 “substantial construction.”
  - 472 • The term or definition used needs to identify the problem the City was trying solve.  
473 Was it to ensure the project was done and ready for occupancy? What if construction  
474 is not involved? Was it to prevent unintended impacts?
  - 475 • “Substantial construction” is difficult to implement even with a clear definition,  
476 primarily because removing the applicant’s ability to finish a project could leave a  
477 half-finished project. When should a project be stopped?
  - 478 • The land use application process does not verify proof of the applicant’s ability to fund a  
479 project. Generally, the Commission reviews applications that are at 60% completion, so  
480 the applicant has a lot more work to do, but wants to get approval before moving  
481 forward.



- 482           • Applicants should be required to prove that funding was available/in place before any  
483           work could be done on the project, like tree removal, grading, etc.
- 484           • A mechanism was suggested to deny the occupancy permit if a project did not reach  
485           100% completion after approval is given.
- 486           • Some applications involve allowed use permits.
- 487           • One approach might be to differentiate between applications that do or do not  
488           include structures, or for those involving new construction.
- 489           • Sometimes it takes a long time for applicants to submit the required materials for  
490           their building permit application, lowering staff's confidence that the project could be  
491           constructed in a timely manner. Staff could determine an application has been  
492           incomplete too long and the applicant must start over and resubmit a new  
493           application. This would occur during the post-approval process.
- 494           • Opportunities for extensions or a more generous time period were preferred to using  
495           "substantial construction," which is a bad policy idea. The idea is to get projects finished.  
496           Having 2- or 4-year time limits with a possible 2-year extension was a consideration;  
497           although costs and the process requirements may make applying for an extension less  
498           appealing.
- 499           • The applicant must prove nothing has changed as far as the original application  
500           approval.
- 501           • Making Code for extraordinary situations was not desired, but maybe exceptions should  
502           be allowed for publicly funded projects; projects involving more than a specific number of  
503           acres or dollar amount could involve different time limits.
- 504           • Clear and consistent deadlines should be set for at least 80% to 90% of the projects in  
505           the city.
- 506           • Currently, applicants are subject to the Code in place at the time the application was  
507           submitted. If an extension is denied, the application would have to be resubmitted and  
508           therefore subject to the most recent Code.
- 509           • That process can be quite costly, and not necessarily result in a different conclusion.  
510           Both staff and the applicant go through the time, money, and energy of reprocessing  
511           the application, but no different analysis results, which is not good public policy.
- 512           • Extension requests should consider any Code changes from the initial application  
513           submission. There are too many struggles, research efforts, and ramifications on  
514           projects being "grandfathered" in.

- 515           • Flag lots were subject to special regulations implemented decades ago, creating real  
516           challenges for staff. The current Code cannot be applied.
- 517           • The extension process did not apply to land divisions, which operate under a separate  
518           set of ORS rules.

519

520   **Commissioner Gamba** sought clarification in the future about how an application is categorized  
521 as a conditional land use. The term “land use” needs to be clearly defined to consider past and  
522 present philosophies for more sustainable lifestyles.

- 523   • Staff explained that all zones have a list of allowed and conditional uses that has evolved  
524 over time. Some zones having a prohibited use list. Decisions were needed about which  
525 uses should and should not be allowed to coexist.
- 526   • Future meetings would include further discussion about use zones, including how they  
527 related to the Willamette Greenway being an automatic conditional use, the upcoming  
528 residential standards project, and a broad consideration of the Comprehensive Plan over  
529 the next 2 years.

530

531 The Commission consented that it was generally appropriate to have time limits and extensions  
532 for all applications, not just conditional uses and variances. Discussion continued as follows:

- 533   • “Substantial construction” did not make sense as an appropriate threshold in many  
534 situations. Perhaps another type of threshold could be used that was appropriate for all  
535 situations.
- 536   • Large commercial projects require a completion bond, but this was not appropriate for  
537 private development. Currently, the City utilizes completion bonds for public facilities  
538 improvements and to allow for temporary occupancy on private projects.
- 539   • Again, the goal was to get the project completed or cancel the application.
- 540   • Should some applications, like more sensitive CSU projects, be singled out for things like  
541 extended deadlines?
- 542   • The only real benchmark would be substantial completion, but no milestone existed to tie to  
543 completion. Judging the level of completion is difficult; 10% did not seem like enough, but  
544 also needed clarification. Was it 10% of the value?
- 545   • “Substantial completion” was defined by AIA and essentially meant that a certificate of  
546 occupancy could be obtained, which provides time to close out and get a final  
547 inspection.

- 548 • In doing variance research and talking with Mr. Larsen, staff discovered that a project  
549 could be really close to completion, but still get occupancy. Bonds had been secured for  
550 completing a parking lot or water quality resource mitigation.
- 551 • Construction case law involving litigation about substantial completion regarded the  
552 ability to get pay applications approved. Connecting substantial completion to the  
553 beginning of a construction project was difficult.
- 554 • “Substantial completion” was more palatable than the term “substantial construction.”
- 555 • Issues arose with Harmony Mini-Storage when substantial completion of one building  
556 meant substantial completion of the whole project.
- 557 • Phasing was an important factor to consider.
- 558 • If an applicant decided to build only the first building of a multi-building project, they  
559 should reapply for the second building.
- 560 • Perhaps a more abbreviated or less expensive process could be used than the  
561 original application process.
- 562 • Development involving multiple parcels or buildings, like a small university, would have a  
563 master plan involving phases of completion. Approval of the master plan would occur and  
564 then each project/phase of that master plan would be reviewed.
- 565 • The City was contemplating a master plan application process for the future. Would that  
566 process be similar to the master plans adopted for parks, which was a legislative, more  
567 policy approach? The applicant essentially returned for individual land use development  
568 approvals for each portion of the project, but had some certainty about the approvals  
569 given.
- 570 • Phasing was simpler than a master plan. An applicant developing an apartment complex  
571 could decide to complete only 2 of 3 buildings. Phasing would allow them to build what  
572 made sense for the project without losing their approval because they did not build the third  
573 building.
- 574 • Phasing made sense. Water quality areas, transportation, or other conditions might  
575 change, requiring staff review, but that would not necessarily need to come back to the  
576 Commission.
- 577 • Industry standards applied to wetland delineations, which are good for 5 years, and  
578 traffic studies, which are good for 3 years.
- 579 • For extensions, staff discussed having a staff level review to confirm that conditions had not  
580 substantially changed to allow the applicant to move forward. If new development had  
581 occurred or a transportation condition changed, then the applicant would need to return for

582 another approval.

583 • Certain standards are never grandfathered in and applicants are required to comply with  
584 current standards, such as the Public Works Standards.

585 • Changing the City's standards so much as to not allow development would affect the  
586 development rights of the applicant.

587 • Project changes that might harm the environment were another issue of concern if an  
588 applicant was not held to the standard of Code changes.

589

590 **Ms. Shanks** reminded that in addition to revamping the Review Procedures Chapter, Ms.  
591 Breakstone and Ms. Dorman already evaluated the Code's basic structure and found missing  
592 basic aspects of the review process, such as a clear development review structure and process,  
593 and even having development review as an application type to do things like site plan review, or  
594 modification of an approved plan. Given these needed changes, potential opportunity existed to  
595 change the Code's actual structure similar to the Table of Contents for the Review Procedures  
596 Chapter.

597 • The proposal was to essentially overhaul the entire structure of Title 19 in the MMC while  
598 retaining most of the content. This restructuring would allow for the appropriate insertion of a  
599 development review chapter and application type, while also clearly grouping the City's  
600 applications all in one place.

601 • Discussion on the Review Procedures Code Amendment project would continue, and a  
602 detailed restructure of Title 19 would be presented to the Commission in late August,  
603 particularly regarding development review.

604

605 **7.0 Planning Department Other Business/Updates—None**

606

607 **8.0 Planning Commission Discussion Items—None**

608

609 **9.0 Forecast for Future Meetings:**

610 July 27, 2010 1. Public Hearing: CPA-10-01 North Clackamas Park North Side  
611 Master Plan

612 August 10, 2010 1. Worksession: Natural Resources Overlay project update  
613 *tentative*

614

615 **Ms. Mangle** reviewed the upcoming meeting schedule with these additional comments:

- 616 • She was uncertain whether the July 27<sup>th</sup> hearing would require a continuance. Some  
617 comments had been received. The application was sent to the Lake Road NDA and the  
618 Community Planning Organization in Clackamas County, with limited response from either  
619 entity. Notice was sent out to those within the 300-ft radius, which resulted in only some  
620 clarifying questions. Staff was preparing for a long, complex hearing, but no signs for such  
621 were being seen. The application included the area north of Camas Creek and west of the  
622 Milwaukie Center.
- 623 • Assuming the Master Plan is not continued, the August 10<sup>th</sup> meeting would include two  
624 worksessions, the Natural Resources Overlay project, which was being prepared for public  
625 hearing in early fall, and the land use hearings training.

626

627 Meeting adjourned at 9:43 p.m.

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630

Respectfully submitted,

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

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641 Jeff Klein, Chair



**To:** Planning Commission

**From:** Katie Mangle, Planning Director  
Susan P. Shanks, Senior Planner

**Date:** September 7, 2010 for September 14, 2010 Worksession

**Subject:** Land Use and Development Review Process Tune-Up  
Code Amendment Project Briefing #4

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## **ACTION REQUESTED**

None. This is a briefing for informational purposes only. Staff is seeking feedback from the Commission on the proposed chapter reorganization of Title 19 and on the proposed changes to variance and nonconforming situation provisions to guide the development of new draft chapters. This is a continuation of the Commission's August 24 discussion on these matters.

## **BACKGROUND INFORMATION**

Please refer to the August 24, 2010 staff report for more detail.

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

- **August 2010:** Briefing #3 on Land Use and Development Review Process Tune-Up Project (formerly Review Procedures Code Amendment Project), with a focus on variances and nonconforming situations.
- **July 2010:** Briefing #2 on Review Procedures Code Amendment Project, with a focus on time limits and extensions of land use approvals.
- **May 2010:** Briefing #1 on Review Procedures Code Amendment Project, with a focus on project goals and the City's code history and current review procedures.
- **March 2010:** Staff provided the Commission with a copy of the intergovernmental agreement between the City and the State of Oregon that commits the City to prepare draft code amendments based on priorities that were identified in the 2009 Smart Growth Code Assessment Final Report.
- **October 2009:** Staff presented the 2009 Smart Growth Code Assessment Final Report to Council. Council concurred with the code amendment priorities identified in the report and requested that staff move forward with the next phase of the project.
- **September 2009:** Design and Landmarks Committee held a worksession to discuss the residential design standards element of the code assessment project.

- **August 2009:** Planning Commission reviewed and provided concurrence on the Action Plan presented in the 2009 Smart Growth Code Assessment Final Report.
- **August 2009:** Planning Commission held a worksession to discuss the consultant's code assessment findings prepared during Phase I of the Smart Growth Code Assistance project.
- **July 2009:** Planning Commission held a worksession to discuss the consultant's code assessment findings prepared during Phase I of the Smart Growth Code Assistance project.

## **B. Discussion Items**

Since this is a continuation of the discussion from the Commission's last work session, please read and come prepared to discuss the packet materials from the August 24 session and this session. If you have not already done so, it would also be helpful to read the Variances (Chapter 19.700) and Nonconforming Uses (Chapter 19.800) chapters.

### **Variances**

Based on the discussion at the August 24 work session, staff prepared a draft outline for the new variance chapter (Attachment 1) to facilitate further discussion on specific provisions of the existing variance chapter, specifically Sections 19.701 – 19.704. This outline does not include the remaining sections in this chapter because staff proposes to retain the existing use exception provisions, i.e. Sections 19.705 – 19.706, and delete the home improvement exception provisions, i.e. Sections 19.707 – 19.709. As you will see, some of the language from the home improvement exception provisions has been incorporated into the new draft variance approval criteria. This is because staff proposes to replace the existing home improvement exception process with the new Type II variance process.

To aid in the discussion, staff has also prepared a table (Attachment 2) that shows the base zone development standards that staff proposes could be reviewed through a Type II review process.

### **Nonconforming Situations**

See August 24 staff report and attachments for detail.

### **Code Reorganization**

See August 24 staff report and attachments for detail.

## **C. Next Steps**

Planning Commission to review and discuss Variances, Nonconforming Situations, and Development Review draft chapters in October 2010. Commission to also review minor amendments to the Conditional Use and Amendments chapters at this time.

## **ATTACHMENTS**

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Variances Draft Chapter Outline (attached)
2. Base Zone Development Standards (attached)

## **VARIANCES**

### **Draft Chapter Outline**

#### **I. Purpose Statement**

The purpose of the variance provisions is to provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. Variances may be granted for the purpose of fostering reinvestment in existing buildings, allowing for creative infill development solutions, avoiding environmental impacts, and/or precluding an economic taking of property. Variances shall not be granted that would be detrimental to public health, safety, or welfare.

#### **II. Review Procedures**

Variance proposals to be reviewed through the Type II and Type III review process.

#### **III. Applicability**

- Type II review to allow for small variations to base zone development standards up to the percentage or dimension listed below:
  - 10% variation to lot width, depth, and area standard
  - 25% variation to front, rear, and street side yard setback standard
  - 40% variation to side yard setback standard
  - 1/2-story or 5-foot variation to height standard
  - 10% variation to lot coverage and minimum vegetation standard
  - 10% variation to lot area per dwelling unit standard
  - 10% variation to frontage standard
- Type III review to allow for variations to all other development or design standards not allowed through the Type II review process.
- Variances shall not be allowed in the following situations:
  - To allow a use that is not permitted, either city-wide or in a specific zone. Use exceptions may be granted through the Use Exception provisions of this chapter.
  - To adjust any restrictions on development or uses that contain the word “prohibited.”
  - To allow an increase to the residential density of a zone.
  - To adjust a threshold for review such as those contained in applicability sections.
  - To adjust a procedural step or change the required review procedure type.
  - To adjust a definition or classification.
- Statement about how this chapter will coordinate with other variances and adjustments in other code provisions (e.g. Sign Ordinance, Water Quality Resource chapter, and Off-Street Parking chapter) and outright allowed exceptions in the Supplementary Development Regulations chapter.

#### **IV. Type II Variance Approval Criteria**

- The proposed variance will not be detrimental to surrounding properties, natural resource areas, or the public health, safety, or welfare.
- The proposed variance will not preclude or interfere with future improvements to any public transportation facility or utility.



- Where multiple variances are proposed, the cumulative effect will be consistent with the intent of the property's zoning designation.
- Where site improvements already exist, the proposed variance will sustain the integrity of or enhance an existing building or site design. A Building Code violation cannot be used to justify the integrity of an existing design.
- Impacts from the proposed variance will be mitigated to the extent practicable.

#### **V. Type III Variance Approval Criteria**

##### Discretionary Relief

- Other alternatives were considered and the proposed variance was determined to be the best approach because it avoided or minimized impacts, had desirable public benefits, and/or responded to the existing built or natural environment in a creative and sensitive manner.
- Where multiple variances are proposed, the cumulative effect will be consistent with the intent of the property's zoning designation.
- Impacts from the proposed variance will be mitigated to the extent practicable.

##### Economic Hardship

- Due to unusual site characteristics and/or other physical conditions on or near the site, the variance is necessary to allow reasonable economic use of the property or a use that is substantially similar to other uses in the surrounding area.
- The proposed variance is the minimum variance necessary to allow for reasonable use of the property.
- Impacts from the proposed variance will be mitigated to the extent practicable.

### Base Zone Development Standards

Milwaukee Municipal Code September 2010

Non-Downtown Zones	Minimum Lot Dimensions					Minimum %		Setbacks	Maximum Building Height
	Lot Area	Area/Unit	Lot Width	Lot Depth	Frontage	Lot Cover	Veg	F/R/S/S/SS <sup>1</sup>	
<b>R10</b>	10,000	7,000	70	100	35	30%	35%	20/20/10/10/20	2.5 or 35 ft
<b>R7</b>	7,000	7,000	60	80	35	30%	30%	20/20/10/5/20	2.5 or 35 ft
<b>R5</b>	5,000	5,000	50	80	35	35%	25%	20/20/5+/5+/15	2.5 or 35 ft
<b>R3</b>	5,000	3,000	50	80	35	40%	35%	15/15/5+/5+/15	2.5 or 35 ft
<b>R2.5</b>	3,000	2,500	40	75	35	40%	35%	15/15/5+/5+/15	35 ft
<b>R2</b>	5,000	2,500	50	80	35	45%	35%	15/15/5+/5+/15	3 or 45 ft
<b>R1</b>	5,000	1,400	50	80	35	45%	35%	15/15/5+/5+/15	3 or 45 ft
<b>R1B</b>	5,000	1,400	50	None	35	50%	15%	15/15/5+/5+/15	3 or 45 ft
<b>ROC</b>	5,000	1,400	50	80	35	50%	15%	15/15/5+/5+/15	3 or 45 ft
<b>CN</b>	5,000	NA	50	80	35	40%	20%	15/10/5+/5+/15	2.5 or 35 ft
<b>CL</b>	None <sup>2</sup>	None <sup>2</sup>	None <sup>2</sup>	None <sup>2</sup>	35	None	15%	None	3 or 45 ft
<b>CG</b>	None	NA	50	80	35	85%	15%	None	3 or 45 ft
<b>CCS</b>	None	NA	None	None	None	None	20%	Site Specific	3 or 45 ft
<b>M</b>	None	NA	None	None	None	None	15%	F=20; SS=10	45 ft
<b>BI</b>	None	NA	None	None	None	None	15%	F=20; SS=10	3 or 45 ft
<b>PD<sup>3</sup></b>	2 acres	None	None	None	None	None	None	Site Specific	None

(1) F/R/S/S/SS = Front/Rear/Side/Side/Street Side

(2) No lot dimension requirements except for residential uses.

(3) Site design and development standards determined on a case-by-case basis during PD adoption process.

Downtown Zones	Lot Area	Veg	Setbacks			Bldg Height	
	Min.	Min.	Front & Street Side		Side & Rear	Min.	Max.
			Min.	Max.			
<b>DS</b>	750	None	0 ft	10 ft	None	35 ft	45-55 ft
<b>DC</b>	10,000	10%	0 ft	50 ft	None	25 ft	55 ft
<b>DO</b>	5,000	None	0 ft	10 ft	None	25 ft	65 ft
<b>DR</b>	750 or 5,000 <sup>1</sup>	15%	0 ft	None	15 ft <sup>2</sup>	None	45-65 ft
<b>DOS</b>	None	20%	0 ft	None	None	None	None

(1) Townhouse lots may be as small as 750 sq. ft. All other lots shall be a minimum of 5,000 sq. ft.

(2) Setbacks are required only where the DR zone abuts a lower-density residential zone.