



CITY OF MILWAUKIE

AGENDA

February 23, 2021

PLANNING COMMISSION

milwaukieoregon.gov

Zoom Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the Planning Commission will hold this meeting through Zoom video. The public is invited to watch the meeting online through the City of Milwaukie YouTube page (https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw) or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at planning@milwaukieoregon.gov. Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time.

To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-67>) and follow the Zoom webinar login instructions.

1.0 Call to Order - Procedural Matters — 6:30 PM

2.0 Planning Commission Minutes – Motion Needed

2.1 December 8, 2020

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 Work Session Items

5.1 Summary: Comp Plan Implementation – Code Concepts

Staff: Senior Planner, Vera Kolias

6.0 Planning Department Other Business/Updates

7.0 Planning Commission Committee Updates and Discussion Items — This is an opportunity for comment or discussion for items not on the agenda.

8.0 Forecast for Future Meetings

March 9, 2021 No items currently scheduled

March 23, 2021 *Hearing Item:*

PD-2020-002 – Hillside Preliminary Planned Development

Work Session Items:

Comp Plan Implementation – Community Review and Testing – Results

Central Milwaukie Bikeways Connection (Update)

April 13, 2021

Hearing Item: DR-2021-001 - Coho Point (tentative)

Milwaukie Planning Commission Statement

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

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to planning@milwaukieoregon.gov.
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at www.milwaukieoregon.gov/meetings.
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **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 attend the Zoom meeting posted on the city website, state their name and e-mail for the record, and remain available 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.

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

Milwaukie Planning Commission:

Lauren Loosveldt, Chair
Joseph Edge, Vice Chair
Greg Hemer
Robert Massey
Amy Erdt
Adam Khosroabadi
Jacob Sherman

Planning Department Staff:

Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Brett Kelter, Associate Planner
Mary Heberling, Assistant Planner
Janine Gates, Assistant Planner
Tempest Blanchard, Administrative Specialist II



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

Meeting held online via Zoom
www.milwaukieoregon.gov

December 8, 2020

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

Staff: Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Justin Gericke, City Attorney
Steve Adams, City Engineer
Brett Kelter, Associate Planner

(00:00:06)

1.0 Call to Order – Procedural Matters*

Chair Massey called the meeting to around 6:30 pm and read the conduct of meeting format into the record.

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

(00:01:06)

2.0 Planning Commission Minutes

2.1 Chair Massey asked the Commission, did anyone have any corrections or suggestions to the October 27th meeting minutes.

Chair Massey had a correction to 2.1 and 2.2, which were bolded during the meeting report. It said, "Commissioner Hemer motioned to approve the minutes as amended, Commissioner Edge seconded the motion." He believed that needed some clarification, "Commissioner Hemer recommended a motion to approve the minutes. That motion was seconded by Commissioner Edge and subsequently approved by the Commission."

Commissioner Edge recommended approval that the Commission approve the minutes as amended from October 27, 2020. Commissioner Sherman seconded the motion. The Commission approved the motion.

(00:03:06)

3.0 Information Items

3.1 No information was presented for this portion of the meeting.

(00:03:17)

4.0 Audience Participation

4.1 No information was presented for this portion of the meeting.

(00:04:05)

5.0 Public Hearings

5.1 Summary: The purpose of this continued hearing was to consider a proposal for a multi-family development consisting of four residential buildings, a community center with a swimming pool, and a community room built over three phases with 100 units. The proposed development was being submitted as a planned development application to provide more flexibility related to the development standards, such as building height and the Willamette Greenway Zone. The purpose of this application was to request an approval of the planned development and Willamette Greenway conditional use application on property located at 10415 SE Waverly Court. The applicant had the burden of proving the application was consistent with the City of Milwaukie Zoning Ordinance, Comprehensive Plan, and any applicable municipal code provisions. The proposal conformed with all the City's applicable criteria. During the hearing, the Commission recognized those who submitted testimony and asked that they state their names and addresses for the record. All testimony needed to respond to the new information that was being presented. Lastly, the Commission previously held a meeting about the planned development and heard over an hour's worth of testimony from the applicant and community members.

The Commission was responsible for making a recommendation to City Council as to whether the proposal conformed with all the City's applicable criteria. Commissioner Massey asked the staff to state the ordinance sections where the criteria can be found.

Vera Kolas, Senior Planner shared the applicable provisions of the Municipal Code, which were:

- Title 12: Street Sidewalks and Public Places
- Section 19.1007: Type IV Review
- Section 19.311: Planned Development Zone
- Section 19.302 Medium and High Density Residential Zones

- Title 17: Land Division
- Section 19.401: Willamette Greenway Zone
- Chapter 19.500: Supplementary Development Regulations
- Chapter 19.600: Off Street Parking and Loading
- Chapter 19.700 Public Facility Improvements
- Section 19.902 Amendments to Maps and Ordinances
- Section 19.905 Conditional Uses

None of the Commissioners had a conflict of interest.

None of the Commissioners wished to abstain.

None of the Commissioners reported an ex-parte contact.

Chair Massey and Commissioners Edge, Hemer, and Sherman had previously visited the site. None of the Commissioners talked to anyone on the site.

Ms. Kolas presented the staff report. This was a continued hearing from October 27, 2020. The focus of the hearing was to present new information and give a brief overview of the proposed development. The site was located at 10415 SE Wavery Court and surrounded by residential development on three sides. In the neighborhood, there was a mix of single and multi-unit developments and Waverly County Club to the west. The proposed site was connected to Dunbar Woods apartments. A portion of the site was in the Willamette Greenway, which meant the development needed to comply with the Willamette Greenway Zone. The site was also located in the Historic Milwaukie Neighborhood. The site was zoned Residential R2 (R-2), which was a high density residential zone and was adjacent to Residential R10 (R-10). The proposal was for a 100-unit apartment community with a goal to build in three phases on 6.77 acres. The development was subject to a Type IV review, which required the Planning Commission to consider whether the applicant had demonstrated compliance with the code sections. The Commission also needed to make a recommendation to the City Council for a final decision. As mentioned above, the development was planned for three phases. Phase one was building A1, which meant 32 units would be built along the ridge. Phase two included building A2, which had a plan to develop 32 units. Phase three was buildings B1 and B2, which consisted of 32 units between the two buildings and the community building. The applicant was seeking land use approval to develop 100 units and a community room through a planned development process. The applicant was also seeking a density bonus of 16 units through the planned development process and a height exception for a taller building in the Willamette Greenway Zone.

Various questions were asked during the previous public hearing regarding specific aspects of the project. The applicant answered the questions, which were.

- **Project Phasing:** The project's general contractor estimated each phase would take approximately one year to complete resulting in three years of total construction for all three phases over the permitted 7-year timeframe. Per Section 19.311.16 Expiration of Planned Development Zone, "substantial construction" of Phase 1 was required to occur within one year of the final development approval. Building A.1 was currently on schedule for a mid-Summer 2021 construction start with site utility work scheduled for late Spring 2021. Construction on Phase 2 would commence after Phase 1 construction was completed. The applicant also confirmed in writing and on a revised site plan that some of the amenities included tuck-under parking, preserved open space and vegetated areas, large community garden, viewing areas, and a forested path. The planned pathway would be accessible from the public right-of-way.
- **Construction Access:** The applicant confirmed that all construction access for the proposed project would be from Waverly Court and not from Lava Drive.
- **Distance to adjacent property:** The applicant revised their site plans to include an additional six feet setback for Building A2, which meant the building was setback a total of 49 feet. The distances proposed between buildings A2, B2, and B1 from the closest residents in the neighborhood were 218 feet, 200 feet, 143 feet, and 82 feet. The revised site plan also shared that Build A2 was 99 feet from Waverly Country Club property line, 54% of the site would remain in vegetation, open space area would be 40% of the site. In MMC 211, this area must be preserved as open space. The applicant had not proposed a conservation restriction or a conversation easement for the open space. Staff created a draft condition of approval for an easement that reflected the language from the code. This depended on whether the Commission wanted to require permanent protection of the area. The Commission planned to discuss this at their next hearing.

There were three issues for the Commission to consider:

- Did the proposed project comply with the applicable comprehensive plan?
- Did the project design adequately address the approval criteria for review of a development in the Willamette Greenway?
- Did the project provide enough "exceptional advantages" to warrant the additional proposed density and building height as allowed by MMC Subsection 19.311.3?

Comments were raised during the public hearing and in written testimony regarding the applicability of the 2020 Comprehensive Plan on the proposal. During the first hearing, there was a suggestion that the proposal needed to follow the previous Comprehensive Plan, which was adopted in 1989. The applicant submitted revised materials. The staff report reflected the updated materials and information about the 1989 Comprehensive Plan elements that were applicable to the project. Some of the key highlights were:

- Open Spaces, Scenic Areas, and Natural Resources, which discussed conserving open space and protecting and enhancing natural and scenic resources. The property did not contain any mapped natural resources subjected to our natural resources code 19.402. However, as proposed and discussed earlier 40% of the site was proposed as preserved forest and 54% of the site as vegetation. The proposed development responded to that element of the 1989 Comprehensive Plan.
- Residential Land Use and Housing Element was to provide for maintenance of existing housing, rehab of older housing, and development of adequate new housing to meet the housing needs of local residents and larger metropolitan housing market while preserving and enhancing local neighborhood quality and identity. A wide range of housing types were needed in the city and this project was providing 100 units of multi-unit development with additional setbacks and landscaping.
- Willamette Greenway Element was another section of the 1989 Comprehensive Plan. The proposed development was between 770 and 1000 feet from the river. There was private development between the river and the proposed site.
- Neighborhood Element was the last aspect considered from the 1989 Comprehensive Plan. Waverly Heights was a mix of large homes and high-density apartments. That was the description of the Waverly Heights neighborhood within the 1989 Comprehensive Plan.

During the last Planning Commission meeting, staff went into great detail about the Willamette Greenway Review. There was a summary presented, which stated the section of the code that discussed compatibility with the river, minimal impact on surrounding uses, mitigation of impacts, protection of views, conformance with Comprehensive Plan policies, landscaping, aesthetic enhancement, open space, and vegetation. The project had identified the walking paths, development was set back from the river, existing development between site and the river, and was designed to maintain and enhance views. The applicant created a view that is accessible from the public right-of-way.

The Planned Development review stated that the property was in the Residential R-2 zone, which was a high-density residential zone, as well as the Willamette Greenway. The Plan Development review process allowed the applicant flexibility in the development standards for the project, including deviations from the base code. The applicant requested a 20% density bonus, which allowed development for 100 units rather than 84. Also, there was a request for 203 feet building length rather than the 150 feet. This was permitted as long as the applicant proved the exceptional advantages to their development were not found in similar developments.

The applicant submitted additional information after receiving comments and decided to relocate and enlarge the community garden. The dwelling units were designed to have very large balconies. The smallest balcony was 195 sq feet. Those were significant parts of the overall design of the project, as well as, the cross ventilation and corner windows. The applicant proposed a public viewpoint to the river and large landscaped setbacks. The applicant shared they would like to offer solar panels and electric car chargers.

In a previous meeting, there were comments received about the proposed buildings' relationship to existing homes and building height. The applicant submitted revised site plans, which included Building A2 moved an additional 6 feet from the adjacent property line for a total setback of 49 feet. This was to ensure neighbors still had a view. There were large setbacks from the buildings surrounding residents, as well as, the Waverly Country Club. Regarding the building heights, the slope of the building was measured at 52 feet and from the top of the slope the building was measured at 43 feet. The R-2 zone allowed buildings of 55 feet in height and building height is limited in the Willamette Greenway zone to 35 feet.

The approval criteria for the key code sections for the zone development were compliant with 19.311, compatibility with surrounding area and landuse pattern and density, demonstrated need for permitted uses, adequate infrastructure, proposal demonstrated it addressed a public purpose, and provided public benefits and amenities beyond the base zone.

The staff recommended approval to the City Council. The proposal provided a better design than required by the base zone requirements.

The review process for the project was:

- December 8, 2020: continued Planning Commissioner hearing to include written and oral testimony regarding the information submitted to date, including the staff report, findings, and conditions.

- December 15, 2020: deadline for applicant's final written argument.
- January 12, 2020: continued public hearing for Planning Commission deliberations.

The 120-day deadline for this application was January 9, 2021. A waiver of the 120-day deadline was required.

This application was a Type IV application and required the Planning Commission to consider whether it demonstrated compliance with the code sections and to submit a recommendation to the City Council.

The decision-making options were:

- Recommend approval of the application with the recommended Findings and Conditions of Approval (staff recommended).
- Recommend approval of the application with modified Findings and Conditions of Approval – such modification needed to be read into the record.
- Continue the hearing.
- Recommend denial of the application.

Justin Gericke, City Attorney, informed the Planning Commission that they were not making any decisions tonight or deliberating. The deliberation was scheduled for January 12, 2021.

The Commissioners asked the staff clarifying questions.

Commissioner Hemer asked, whether the 40% forest preservation was the applicant's proposal or the City's?

Ms. Kolias responded, the applicant proposed 40% forest preservation.

Commissioner Hemer followed up, the applicant did not propose the preservation with a deed restriction?

Ms. Kolias responded that the applicant did not propose a formal deed restriction. The development portion of code required a minimum of 30% of the site to be an open space and the applicant proposed 40%.

Commissioner Hemer asked, if the intersection on this project was falling from a C to a D would ODOT allow an applicant to improve the street?

Steve Adams, City Engineer, responded, that a section of 17th between 224 and Lake Road needed improvement. ODOT wanted the city to take authority of the road. Peter Pascarelli was the lead contact with ODOT. He agreed to talk to Peter about it. ODOT may want to have a say due to possible impacts to McLoughlin and 224. The main thing was the cost to place a signal there would be over \$0.25 million. Currently, that was not in the budget.

Commissioner Hemer asked, could you make the project developer pay it?

Mr. Adams responded, the only time he's ever requested a developer to pay for such a project was when they created a significant amount of traffic to signal one lane and the City signalized the other two lanes. Previously, he collected funds in the amount of 12% of the intersection cost if there was a significant transit increase to the area. He did not think the state would allow the City to require a developer to be financially responsible for implementing an intersection.

Commissioner Hemer asked, would that be the only upgrade that could be made to change from a D to a B or something like that? Or was a signal needed for the grade to change.

Mr. Adams responded, he needed to look into why the intersection was failing. He believed coming down Lava Drove there was a left and right turn lane eastbound as one came onto 17th street. A conversation with a traffic engineer was needed to understand how to improve the grade of the intersection at McLoughlin and 224. The main direction of travel on 17th Ave was running just fine. The side street would increase slightly to a D.

Commissioner Edge asked, was there an instrument the city needed or was this part of the draft Condition of Approval to preserve public access to the path and viewpoint?

Ms. Kolas responded, as proposed the public viewpoint and the path were adjacent to the public right-of-way. The materials from the applicant indicated the viewpoint and path were accessible for the public right-of-way. She needed to ask the City Attorney if the City needed an additional instrument to guarantee that.

Mr. Gericke suggested, documentation of the public's access to the viewpoint and path would be helpful for maintaining the area as a public space and ensuring the applicant complies with their proposal.

Commissioner Sherman discussed, the exceptional advantages and the applicant's studies. There were no avenues to ensure the exceptional advantages, such as the electric charges and solar panels would happen. He asked, had there been any discussions about adding this information to the Conditional of Approval?

Mr. Gericke responded, the items being studied were not set in stone because they were being studied. That was probably something the Commissioner should not count on because the studies could determine that the exceptional advantages should not happen. The Commission needed to concentrate on concrete proposals that were part of the development application.

Commissioner Sherman asked, if the applicant was willing to commit to a minimum of electric charges was it feasible to count on those?

Mr. Gericke responded, certainly, if the applicant was willing to offer up some concrete examples of items.

Chair Massey asked, the Planning staff to summarize the additional correspondences they had received.

Ms. Kolias shared, Steve Stone sent a comment last night regarding concerns about the historic neighborhood of Waverly Heights, the height of the proposed buildings, orientation of the proposed buildings, plans about removing diseased and neglected trees, pathways, and requested reevaluation of the building materials pallet to ensure it was compatible with the neighborhood. The department also received comments from Patty Justice about the compatibility of the development, as well as the development within the Willamette Greenway Zone. The attorney representing Waverly Country Club identified various areas they believed the application fell short of the requirements and recommended a denial of the application. The Applicant also sent a correspondence regarding the views of the development from surrounding neighbors. There were some graphic representations of what the development would look like from the surrounding properties.

Chair Massey invited the Applicant to share their testimony for 15 minutes.

Mike Connors, a Land Use Attorney with Hathaway Larson LLP, was representing the Applicant. He focused on three aspects the Applicant wanted the Commission to think about as they considered the application. The first theme was the Applicant minimizing the impacts to the subject and

surrounding properties. One of the big drivers around the Applicant's desire to pursue the planned development was it allowed for additional flexibility, certain design elements that may not strictly meet the code and offered trade – offs that would be beneficial. Some of the elements they were able to accomplish was a significantly smaller development footprint. That was a result of tucked under parking, the additional height that allowed the Applicant more density, the preservation of a significant amount of the natural forest, provided more open space than what was required, and provided greater buffers and setbacks from the adjacent properties. The Applicant conducted a lot of outreach with the neighbors and attempted to factor in some of their comments and concerns. The Applicant met with the neighborhood formally in July and informally. The Applicant also had individual conversations with neighbors closer to the property, such as the Stones, Waverly Country Club, and the Applicant continued having conversations with nearby neighbors. The Applicant worked diligently to ensure the Stones would not be impacted by their proposed development. The Stones had not seen the updates because the Applicant had recently created the updated development graphics. He wanted the Planning Commission to know that the Applicant was working closely with the neighbors. The next theme he shared was the Applicant was not asking for anything the code did not support or contemplate. The property was Comprehensive Planned and zoned for high density residential and that was the goal of the Applicant. While there were some concerns from neighbors in the single-family area, the Applicant was proposing a development that the City zoned for. There were concerns about development in the Willamette Greenway. The property's site was zoned approximately 70% in the Willamette Greenway overlay. With that being said, the code did not preclude development, or mentioned that the Willamette Greenway or the proposed site be maintained in its current state. The code required the Applicant to minimize the impact on the Willamette Greenway. The Applicant believed they were doing that by preserving 40% of the natural forested area and 54% open space. There were concerns about the planned development, which was recognized in the code and allowed the Applicant to provide some flexibility and trade-offs. The Applicant was not seeking a variance and was seeking design standards and phasing to better assist the neighbors and to follow the code. The third theme was to understand the benefits of what the planned development process allowed for. The applicant was seeking trade-offs for the building height, length, and density with the goal to provide additional setbacks and open space than required. The Applicant was proposing 54% open space as opposed to 15%. It allowed for 4 buildings instead of 5 and tucked under parking, which was a huge advantage of the residents and avoided providing additional surface parking. It enabled the Applicant to offer a superior design with a larger number of windows, views to the river, larger balconies, tuck under parking, community garden and pool, and cross ventilation. The proposed development was an exceptional project because of the planned

development flexibility and the trade-offs being offered. The adjustments the Applicant sought were not significant. An example was the height. They were exceeding the height for the Willamette Greenway but noted that the height would be allowed under the base zone. The proposed development was consistent with the R-2 height requirements. Only the A1 and A2 buildings were considering a height adjustment along the ridge line. The Applicant was not seeking increase heights on the B1 or B2 buildings, which were closer to the majority of the residents. The length was 203 feet and there were nearby apartments at 284 feet in length. Their building provided a significant recess in the open area that gave it some articulation. Also, the proposed development looked like two structures instead of one big monolithic structure. The Applicant asked for a density of 20% increase, which the code specifically allowed. The nearby neighbors were receiving a smaller footprint when considering the height and tucked under parking. The last theme he wanted the Planning Commission to consider was the staff's position. The staff had the expertise of the City code and how it should be applied. Throughout the process, the staff had recommended approval of the application because the proposed development satisfies the code. The neighbors had concerns and still do, and the Applicant planned to continue to work with them to the extent that they can address their fears and concerns. The proposed development needed to be judge based on compliance with the approval criteria.

Chair Massey invited the Commissioners to ask Mr. Connors questions.

Commissioner Hemer asked, had the Applicant visited the site to see how many golf balls had wandered onto the proposed site? Were there any concerns that the driving range could break some of the windows?

Mr. Connors responded, look at the distance between the driving range and the property, which was 100 feet. It was highly unlikely with the buffer that a golf ball would break a window. The applicant was willing to look into and he wanted to share that the Applicant was having ongoing conversations with the club.

Commissioner Hemer asked, did your client consider parking for non-residents so the public could access the viewpoint and pathway via a vehicle.

Mr. Connors answered, he did not know the answer and it was something the Applicant would consider.

Commissioner Hemer asked, would your client consider a deed or easement to keep the remaining forest area for preservation and to not remove trees unless they hold harmful to safety or healthy?

Mr. Connors shared, a conservation easement or re-dedication was required in order to accomplish that goal. He had not seen a development where a conservation easement was used. Here the Commission had a proposal with a layout that proposed preservation of a specific amount of open space and natural area in its existing condition. He believed that the Commission's approval of the Applicant's proposal was enough to prove an enforceable condition requiring them to maintain it.

Commissioner Hemer asked, you agreed with my statement that open space did not necessarily mean forest land. He wondered if they would be willing to call it a forest preserve as open space and not just a grassy space to protect the trees. One of the worries was trees would be removed so tenants could see the river. Would the Applicant be willing to call it a forest preserve?

Mr. Connors said, this was something he needed to discuss when his clients and address in their closing argument.

Chair Massey invited community testimony.

Erin Forbes, with the law firm of Schwabe, Williamson, & Wyatt, said she was attending the hearing on behalf of the country club. The firm submitted their four- page letter opposing the development for all the reasons they mentioned in their previous letters. They would like the Commission to take their reasonings into consideration.

Patty Justice shared, her property borders the driving range and golf balls have landed on her property on a regular occurrence. She submitted a letter earlier today and discussed thoughts in regard to the code and proposed development. She used to walk Cambridge Lane. Once, she was near the subject property, she saw the woods. That was the case for 50 years. The proposed development would change that. She would see building B2 with windows and balconies facing the neighbors. When the neighbors look to the right and down the driveway, the Stones, Reaumes, and her residents would see building A2. The residents would see lights from the windows of building A2 at night. The new development would take away from the neighbors' privacy. She knew the subject site would be developed with apartments. She asked, how would the Applicant protect that level of privacy that the neighbors had enjoyed for many years? She

shared possible solutions, which were to limit the windows and balconies facing the neighbors, don't place walking paths between the buildings and the fence, reduce the 4 story apartment buildings to 3 stories, move both buildings further to the south increasing the distance between them, choose a color palette and materials that were compatible with a forested setting and, landscaping alone would solve their privacy concerns. Lastly, she shared that the Milwaukie Municipal Code and Comprehensive Plan required these considerations.

Gloria Stone shared, she had golf balls in her front yard every day. They had submitted multiple documents, photographs, and testified previously. The proposed development looked directly into Waverly Heights, her yard, and home of 50 years. The development was between 65 and 70 feet from her land. The height of the building had not been clearly identified for her. It should have included the mechanicals and slope of the roof because she was looking at that. The developer shared the exceptional development of the nature features as the reason they should have granted approval. She discussed what exceptional was and shared, the developer requests an approval of plan that did not meet the Willamette Greenway, Comprehensive Plan, or the Milwaukie Municipal Code requirements. That was exceptional. There were no reasonable criteria for abolishing those approved documents that were designed by and for the citizens of Milwaukie. The amenities the developer shared were impactful and would have a negative impact on the existing neighborhood. There were no reasons the developer could not adhere to the existing urban planning rules. The community planned development next to the proposed site was exceptional in every way. She hoped the developer had taken the time to read the history of the neighborhood. The neighborhood was plotted in the 1800s and to this day residents were meticulous stewards to their land and homes. The Waverly Heights neighborhood was zoned R-10 and have protected their landscape and natural areas. There were historic homes preserved by Portland's renowned architects and some of them were on the national register. Those attributes were exceptional. She asked the Commission to consider the exceptional jewels of the neighborhood. The development would impact that and emailed the City and applicant suggestions. Until the development was changed, she asked the Commission to deny the Applicant's request.

Chair Massey invited the Applicant to share any rebuttals or additional comments to the public testimony.

Mr. Connors responded to Mrs. Stone's comments first. He shared, the Applicants were not asking the Commission to disregard the code. They were asking for the Commission to apply the planned development process. The real criteria were if the proposal satisfied the applicable approval

criteria. The applicant believed they do. To be clear, they were not asking for an exception to the standards. He has been doing this for 25 years and knows that a neighborhood who had a vacant lot did not want to see change. However, that was part of living in the city and the zoning code to allow properties owners and developers to understand what is allowable. This development was allowed based on what the code required. The height of the building was based on what the code allowed. The walkway was not proposed for the at large public. The trails were designed for residents of the apartment complex. In terms of visual impact, he hoped the Stones had an opportunity to review the updated information. In terms of Ms. Justice's comments, some of her suggestion the Applicant would be able to consider, such as the colors. The Applicant could not consider the windows and walking part as those were not restrictions under the code. Those features of part of the amenities that they were providing for the Planned Development.

Commissioner Sherman shared, some of the written testimony was about noise impacts from construction, especially when considering asphalt blasting. He wondered if Mr. Connors and the Applicant would give notice and/or create a website to share project updates with neighbors?

Mr. Connors shared, not to his knowledge. That was the first time he was hearing that suggestion. He believed that was something his client could consider.

Mr. Adams had experience with asphalt blasting and shared, in his past he was a geotechnical engineer. He was involved in a building being constructed and needed to blast asphalt. The surrounding property was concerned about damage to their building. He measured the vibration and the noise from blasting and found out that it did not make much noise if any. He stood 100 feet from the blasting and the noise was less than what can be heard from a truck or car driving by.

Chair Massey shared, the next hearing was January 12th and the Council hearing on February 16th. This would require an extension of the 180- day clock by the Applicant. The Commissioner asked for an extension through February 18th for the issuance of a Notice of Decision. There was not deliberation during the hearing tonight. The Applicant was given seven days to provide a final written argument and which was due by close of business on December 15th. The testimony is now closed. The Commission entertained a motion to continue the public hearing to January 12, 2021.

Commissioner Edge recommended approval that the Commission continue the hearing to a date certain of January 12, 2021.

Commissioner Sherman seconded the motion.

All Commissioners agreed.

ZA-2020-001 Emergency Shelters - Temporary Use Code Amendments

(01:37:53) **Chair Massey** invited individuals to share their testimonies regarding the proposal based on the code. He asked Ms. Kolas to state the applicable code sections, which were:

5.2

- Section 19.902: Amendment to Maps and Ordinances
- Chapter 19.1000: Review Procedures

None of the Commissioners had a conflict of interest.

None of the Commissioners wished to abstain.

Ms. Kolas presented the staff report. Staff was before the Planning Commission in November during a worksession to discuss the amendment. The proposed amendments had changed significantly based on November's Planning Commission meeting. The Planning Department was proposing a two-phase approach for emergency and transitional housing. The first phase was to formalize a process for temporary emergency shelters for warming, cooling, or hazardous air quality. This was the phase the city was in right now. The second phase focused on permanent and semi-permanent transitional housing. Staff were in the initial research phase of research for that phase. The staff planned to conduct a needs analysis and host discussions later in the year. The City wanted to implement a third phase for short and longer term emergency shelters and emergency planning efforts. The first phase, which Ms. Kolas was presenting focused on allowing indoor emergency housing as temporary uses during certain situations, such as extreme cold or hot events and during hazardous air quality. Within the staff report, staff included the proposed code language and the requirements and limitations within the code language. A permit was for no more than 90 days in any 12-month period. There was an opportunity for one 30 day extension. Each applicant needed to comply with the Milwaukie and Clackamas Fire District's joint policy for temporary and emergency shelters. Those standards were included in the staff report. Leila Aman, Director of Community Development, was in attendance to answer any questions.

Ms. Kolas invited the Commission to ask any questions.

Commissioner Hemer asked, in the Clackamas Fire District policy there was a red line about 110 square feet because of Covid and wondered if the language would change to its original requirement after Covid?

Ms. Kolias responded, normally, the requirement was 35 square feet for any one individual and that was expanded to 110 square feet for social distance. She did not know if the requirement would return to 35 square feet. She presumed it would return to its previous requirement prior to Covid.

Ms. Amam shared, we were tracking with the Clackamas County rules since this was a joint initiative. Clackamas County was also working with Oregon City to ensure we are serving everyone to the best of our knowledge and in a safely.

Commissioner Hemer wondered, how was the policy going to be updated? Were we following Oregon City or County's Fire District? Or did we need permission from City Council?

Ms. Amam responded, it was all the above since this was an agreement between the Building Departments. Typically, when regulating something like this, which is a non-residential use, the Building Departments must be involved. Her guess was we would revisit our policy and stay in communication with the County. Staff believed if the City had ideas for improvement, we could take that information to City Council and Clackamas County.

Commissioner Hemer asked, what were the requirements for applying for a permit.

Ms. Kolias responded, regarding a warming shelter, there were specific triggers for that, which were temperatures below 32 degrees. Staff planned to issue one permit and count the number of days of cold weather. It was safe to say, the City normally did not have 90 days of cold temperatures in a year and probably never would. Staff have never had to enforce the 90 days permit before.

Commissioner Hemer wondered if there were any fees associated with the permits?

Ms. Kolias responded, there was not a fee. The City does not charge for temporary use permits. This was also used as an example for the outdoor seating that we were doing for social distancing with restaurants.

Commissioner Sherman asked, more about the requirements of the permit and believed it was unclear. He wondered if an applicant would receive one permit for 90 days, have a punch card, and how did the one additional 30 days permit fit in? He believed more clarity was needed.

Commissioner Edge shared, he was also confused. He wondered if the plan was to offer flexibility or the applicant had to use the permit at chunk of time. 3 months was a season and the applicant had that timeframe to offer emergency shelter.

Ms. Kolias responded, for the warming shelters no one has ever exceeded or come near the 90 days. She shared it was good question and staff needed to determine how the permits would be issued, including the days they offered shelter.

Commissioner Edge responded, that sounded terrible to administrate.

Ms. Kolias agreed.

Commissioner Hemer suggested, every time the City manager or dedicated member issued an emergency that required shelter every applicant received punch card with a permit. It would be rare that we had 120 days where shelter was needed for warming, cooling, and hazardous air quality. Was it possible for an applicant to receive a permit for one year and the Planning Department kept track of the number of emergency days? Once, we were close to the 90 day mark, we would reach out to each applicant and asked if they need the one additional 30 day permit. That seemed feasible and would offer a punch card system.

Ms. Aman added, there was setup involved when a shelter was established. If we offered a punch card program the Building Department had to complete an inspection to ensure the space was safe. The applicant then would not be authorized to proceed until an inspection was completed and this was one way to track the number of days a shelter was in use. A 90 day permit was proposed because of the Building Department's code an applicant cannot offer shelter in a non-residential use for more than 90 days.

Commissioner Hemer shared, he understood Ms. Aman's point and wondered if more than one inspection in a year was needed?

Commissioner Sherman suggested, the Commission to approve of the 90

days permit with a one time additional 30 day permit and let the City figure out how to administer the program.

Commissioner Edge asked, if an application was appealed would it come to the Commission and what type of application was emergency permits considered?

Ms. Kolias responded, this did not need a landuse review and would not come to the Commission.

Commissioner Hemer shared, Oregon City and other jurisdictions had figured this out and it was a copy of paste of what they were doing.

Chair Massey asked, if we had received any correspondence or individuals who wanted to testify.

Ms. Kolias responded, we had not.

Chair Massey announced, the public testimony for ZA-2020-001 Emergency Shelters - Temporary Use Code Amendments was now closed and invited the Commission to have a discussion.

Commissioner Hemer recommended approval of ZA-2020-001 Emergency Shelters - Temporary Use Code Amendments and adopt the recommended findings of approval found in Attachment 2. Commissioner Edge seconded the motion. The Commission approved the motion.

(02:02:58)

6.0 Worksession Items

6.1 Update on Central Bikeway Concepts Plan

Summary: **Brett Kelter**, Associate Planner presented an update about the Central Bikeway Concepts Plan to the Planning Commission.

Central Milwaukie was bounded by Highway 224 along the West and South, 37th Ave on the East, and on the Northern side by the County's Hillside Development and Providence Milwaukie Hospital, with Harrison Street running through it. The area had some opportunity sites, including: (1) the Hillside Manor site, with the Clackamas County Housing Authority in the process of preserving the existing multifamily tower and developing 400 additional units; (2) the Murphy site, which does not have a development

plan at this time; and (3) the McFarland site, which has already been approved for a 230-unit multifamily development. Providence Milwaukie Hospital is also looking to develop their property at the corner of Llewellyn St and 34th Ave, potentially with a building featuring a mix of clinic space and senior housing.

Some of the key businesses in the area are Kimmy's Market, Harrison Plaza, Pit Stop & Purdy's Car Wash, and ISE Labs. The City's Public Safety Building is at the intersection of 32nd Ave and Harrison St, and a City well and water treatment facility are situated between 34th Ave and Oak St/Monroe St. The 29th Ave greenway route comes into the area from the north and the Monroe St greenway runs east-west from downtown to Linwood Ave.

In 2015, the City developed a Land Use and Transportation Plan for Central Milwaukie. There are at least five projects in the Transportation System Plan (TSP) for better connections through the area.

The City is participating once again in the Department of Land Conservation and Development's (DLCDD) Transportation and Growth Management program (TGM). The TGM program is focused on creating thriving, livable places with diverse transportation choices. The City was awarded a grant that is allowing Planning and Engineering staff to work with Alta Planning + Design to identify a safe bikeway connection through the area, in anticipation of the upcoming development of the Hillside and Murphy sites.

To date, the team's progress has included initial interviews with key stakeholders, development of an existing conditions memo, identification of concept alternatives, follow-up interviews with key stakeholders, and preparation for an online community survey (to launch in mid-December). The key stakeholders include Providence Milwaukie Hospital, Clackamas County Housing Authority for the Hillside site, the owners of the Harrison Plaza, the Murphy site owner, and representatives from the Bike Milwaukie advocacy group.

Mr. Kelver shared the three concept alternative routes, the goal being to connect the southern end of the 29th Ave greenway with the Monroe St greenway.

- Option 1 (blue line): This route follows the general concept of the 2015 Central Milwaukie Plan. It would cut through the Murphy site, make an at-grade crossing of Harrison St alongside the railroad tracks, and then continue along the railroad to connect to Monroe St. There was some concern with placing the route through the Murphy site, as that would impact the development plan for the site. Crossing Harrison St so close to the railroad (as well as so close to the intersection of Harrison St with Highway 224) presents a serious safety concern and may not work.

- Option 2 (orange line): This route takes the newly re-established Meek St from 29th Ave to 32nd Ave, goes along the west side of 32nd Ave on a separated shared-use path, crosses Harrison St at the 32nd Ave intersection, and then follows Railroad Ave to Oak/Monroe. One significant drawback is the very busy intersection of 32nd Ave and Harrison St.
- Option 3 (green line): This route takes Meek St to 32nd Ave, where it would either cross to the east side of 32nd Ave or go down the west side to cross at Llewellyn St. Either way, the route continues along Llewellyn St from 32nd Ave to 34th Ave, where it goes south for a safer crossing of Harrison St, then through the City-owned treatment plant property to connect with Oak/Monroe. This option has some notable safety benefit and provides less actual out-of-direction travel than first appears.

Mr. Kelter invited the Commissioners to provide feedback.

Mr. Edge loved the idea of giving cyclists access to main streets, but he was concerned about giving them access to 32nd due to safety concerns. He believed the third option was the best for providing the safest and most comfortable route, even if it was a little out of direction. He encouraged the City to tie the routes together at 34th, Monroe St, and Oak St and make that connection work. He wondered if the new North Clackamas Greenway Trail tied into any of the proposed trails. He wanted to make sure we make the trail safe, especially at busy intersections. He wondered if there were opportunities to work with the Murphy site to have the path go through the interior of that site and cross 32nd Ave at Llewellyn St to travel to 34th Ave.

Mr. Kelter explained that, for option three, the idea was to have a shared bike/ped path between Meek St and Llewellyn St on one side or the other. A path on the west side of 32nd Ave would cross 32nd Ave at Llewellyn St; if the crossing of 32nd Ave happened at Meek St, the path would be on the east side of 32nd Ave.

Mr. Edge wondered whether a separate path on 32nd Ave would be wide enough for cyclists and pedestrians to feel safe. He explained that the North Clackamas Greenway Trail was designed to parallel Railroad Ave and noted that the maps provided by Alta showed a connection from 40th Ave to Railroad Ave, which he confirmed was roughly approximate to the trail.

Chair Massey asked about the meaning of dotted blue section of the option one trail on the railroad property.

Mr. Kelver responded that the City had some property or public right-of-way near the new stormwater facility at Railroad Ave and Oak St, which might be a space the route could use. The goal was to build something that was in the public right-of-way or create an access agreement with the railroad.

Chair Massey noted that the intersection at Railroad Ave and Oak St was confusing for individuals who are not familiar with the area. Oak St had the stop signs on either side. The intersection needs to be reconfigured.

Commissioner Hemer suggested the City should think about the future. If the Hillside site is redeveloped and doesn't trigger any improvement on 32nd Ave, he did not know what would. He believed a development at the Murphy site would certainly trigger a requirement for improvements. In his opinion, 32nd Ave had its challenges because of the nearby railroad crossing and traffic concerns. He was also concerned with the proposed crossing of Harrison St at 34th Ave because a speed van was often located there, and he believed that street was the most unsafe compared to the other streets. The proposed crossing is also near the fire station and is an area used heavily by our fire trucks.

Commissioner Erdt commented that when traffic backed up due to trains crossing Harrison St, cars often pulled out of line and turned around, which could create some dangerous situations for cyclists and pedestrians trying to cross Harrison St at 34th Ave. She believed there were a lot of tricky areas being proposed. She thought this may not be the best time to implement a new route because individuals were in more of a rush due to Covid-19. The City needed to pay attention to the trains and take that into consideration.

Commissioner Khosroabadi asked whether option three would involve any improvements to the road surface on Llewellyn St and 34th Ave, because they were pretty banged up. He asked if any of the other routes would see street improvements. It appeared to him that 32nd Ave had the safest infrastructure in place because there was a light and a crosswalk at Harrison St. If option three was going to be the route, he wondered how many individuals would use 32nd Ave to avoid going out of direction along Llewellyn St and down 34th Ave. If individuals planned to use the 32nd Ave route (option two), then that was the route where the City should make the necessary improvements.

Mr. Kelter responded that he was unsure what improvements were proposed in general for the area. He assumed that if the Providence site was developed at the corner of Lewellyn St and 34th Ave there would be at least some half-street improvements. If the Providence development didn't happen, the Planning Department would probably need to work with the Engineering Department to discuss street improvements for that part of the route. He thought Commissioner Khosroabadi's point about 32nd Ave's infrastructure was a great point. The City needed to think about it more and understand what it would take to ensure that route was safe if it was chosen.

Commissioner Sherman wondered whether there was an opportunity to think about the Urban Renewal Area and property acquisition to better organize development in the area. He believed 32nd Ave was scary to walk on—the sidewalk was narrow. He encouraged the City to consider making 32nd Ave a safer place for bicycles and pedestrians. He agreed that option three was maybe more feasible. The Alta report shared that Clackamas County advised against enhanced crossings using rapid flashing beacons within 300 ft of an intersection—he wanted to hone in on the word “advise” (rather than “require”) because with option three, if there was a rapid flashing beacon at Meek St to cross to the east side of 32nd Ave, there might be an opportunity to take advantage of existing facilities as well as new facilities built on Lewellyn St when the Providence site redevelops at the corner with 34th Ave. Further discussions with the County about their advice might be useful in working creatively to determine the safest route option.

Commissioner Erdt suggested that a roundabout may be a great option for the intersection of 32nd Ave and Harrison St because they are safer than a conventional intersection.

Commissioner Hemmer thought that crossing on the east side of the intersection of 32nd and Harrison was a lot safer than the west side, so maybe using beacons to cross people at Meek St and then keeping them on the east side of 32nd Ave all the way through the intersection with Harrison St would be a good way to go. Perhaps a double-lane bike path on the east side of the 32nd Ave was the safest.

Mr. Kelter noted that to do that the City would probably need to acquire some land to widen the right-of-way in front of Harrison Plaza, but the idea made a lot of sense.

Ms. Aman indicated that the City could discuss Commissioner Sherman's request about the Urban Renewal Area with the community advisory committee once it was formed.

(02:49:49)
6.2 **Mr. Kelter** closed by sharing the project's timeline. In December 2020 and January 2021 there would be more discussions with key stakeholders and an online community survey. From February to March 2021, the City planned to analyze the options, make a recommendation, provide estimates for implementation, follow up with key stakeholders, and check in with the Planning Commission and City Council. The goal was to have the City Council adopt the concept plan in April 2021.

Update to Title 18 – Flood Hazard Regulations

Summary: The purpose of the update was to discuss the flood hazard areas in the city. Part of downtown was on the Willamette River. Also, there was Johnson, Kellogg, and Mount Scott Creeks in the city. There was not a lot of flood area in the city and there were some flood areas in the city. Federal Emergency Management Agency (FEMA) mapped our flood areas in the country and there were a few concerns for Milwaukie. The goal of the Flood Hazard Regulations was to preserve flood storage capacity, limit impacts to other properties, participate in FEMA's National Flood Insurance Program, the code was last updated in 2008. In 2019, FEMA prepared a model ordinance that they were encouraging communities to implement. The Title 18 Regulations the City had currently were based on an earlier model and changes were needed in order to stay in compliance with the updated code. The proposed changes were administrative, which included changing some of the definitions and numbering within the Milwaukie Municipal Code to make it less bulky. The City wanted to follow the model ordinance that was provided by the DLCD. The City was proposing to the Commission the minimum that was needed to continue to participate in the FEMA's National Flood Insurance Program. The Planning Department did not want this to be a more complex project because there were other code amendments projects the City was working on. The City planned to conduct public outreach and propose other changes later when the City and Community had more capacity. Currently, the City and Community were working through other code amendments from the Comprehensive Plan. The project timeline was outlined and in December 2020, the City shared an update with the Planning Commission and began the public notification process. On January 12, 2021, the Planning Commission held hearing on the amendments. On February 2, 2021, there was work session update to City Council. The Planning Department's goal was to have City Council adopt the updates on March 2, 2021.

Mr. Kelter invited the Commissioners to provide feedback or ask questions to help them move forward with recommending the code amendments to City Council.

Chair Massey wondered, when was the City and Council going to discuss the floodplains and additional policy changes?

Mr. Kelter responded, there were two options he believed the City could work on. The first option was to have a larger policy discussion regarding if we wanted to require individuals to elevate their structures even higher or require individuals to not just balance cut and fill when they were dealing with the flood storage capacity. Maybe they needed to do 1.5 to 1 or something similar. The second option was to receive updated maps from FEMA to ensure we felt more confident in our updates. The Planning Department still needed to think about their capacity and balance other the other things they were trying to do. He asked if Laura Weigel, the Planning Manager, or Leila Aman, the Director of Community Development, had any suggestions.

Ms. Weigel shared, the last time the Commission and Planning staff met they discussed the floodplain updates. The floodplain activities were teed up with the natural resource's conversation. The Planning Department scheduled for the discussion for 2023 according to the workflow plan.

Chair Massey shared, he was unsure if we wanted to tackle mitigation and code changes about elevating structures and other activities until there was more knowledge about the floodplain areas. From his understanding, the federal government accepted locally developed floodplain plans in lieu of theirs. He did not believe FEMA would update their floodplain plans anytime soon and the City should not wait.

Commissioner Edge shared, the last update was 50 years ago.

Chair Massey said, he understood this was not easy to complete and wanted to City to implement a plan soon.

Mr. Kelter wondered, if there were grant opportunities the City could apply for to get the ball running and implement some policy changes.

Commissioner Edge wondered, if the floodplain assignments could go through the Comprehensive Plan Implementation Committee process as this is a safety concern. He believed 2023 was too far away. He wanted the City to keep in mind that FEMA and DLCDC were working together to implement a new model code for buy-off that was published a few years ago by the National Marine Fisheries Service over the jeopardy to salmon, killer whales, and other species in the area. There was a big settlement that came through FEMA about the implementation in Oregon and the impact on salmon and steelhead. There were more changes coming down the line and many of those changes he had been participating in. Many of ideas that were coming out of their plan were consistent with the policies that were adopted in our Comprehensive Plan. He mentioned that we may need to implement changes before the federal and state governments do so. Or hold off for a couple of years to understand what the scientist were recommending. Maybe in 2023 was a great time to do some code amendments around floodplains and it might be too early if we jumped in before that.

Ms. Weigel responded, we would look at DLCDC's and FEMA's schedule to understand how to proceed with the hopes that we cross paths at the same time. The City wanted to use their information and data to inform our code amendments and plans.

Commissioner Sherman informed, the Commission that he shared his comments with Ms. Weigel and Mr. Kelter earlier. He thought it was important to think about elevation certificates to better understand one's property relations to the floodplain areas. The process was a few thousand dollars. We needed to consider if property owners needed an elevation certificate when completing any development or when selling the property.

Mr. Kelter said, that the Engineering Department had met some of the FEMA DLCDC requirements by establishing standard operating procedures and a formal permit. When there was development in the city an elevation certificate was required. He planned to return to the Commission on January 12th to further discuss the plan.

Planning Commission Committee Updates and Discussion

(03:08:07)

7.0

Planning Department Other Business/Updates

There were no updates.

(03:08:07)

8.0 Planning Commission Committee Updates and Discussion

Commissioner Hemer shared the Blue Ribbon Committee Open House was still live online until December 22nd, 2020.

Commissioner Hemer encouraged the Commissioners to think if they would like to serve as a Chair.

(03:08:49)

9.0 Forecast for Future Meetings

- January 12, 2021: Hearing items are Waverly Woods Continued Public Hearing, Proposed Amendments to Title 18 (Flood Hazard Regulations) and worksession items were the Comprehensive Plan Implementation and Planning Commission Bylaws Update
- February 16, 2021: Joint meeting with City Council

Meeting adjourned at approximately 8:45 PM

Respectfully submitted,
N. Janine Gates
Assistant Planner

Robert Massey, Chair



CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager

From: Vera Kolias, Senior Planner

Date: February 16, 2021, for February 23, 2021, Worksession

Subject: Comp Plan Implementation Project Update – Code Concepts

ACTION REQUESTED

None. This is a briefing for discussion only.

ANALYSIS

This update relates to the initiation of the detailed code concepts discussion portion of the Comprehensive Plan implementation project (see detailed discussion below).

Project Background

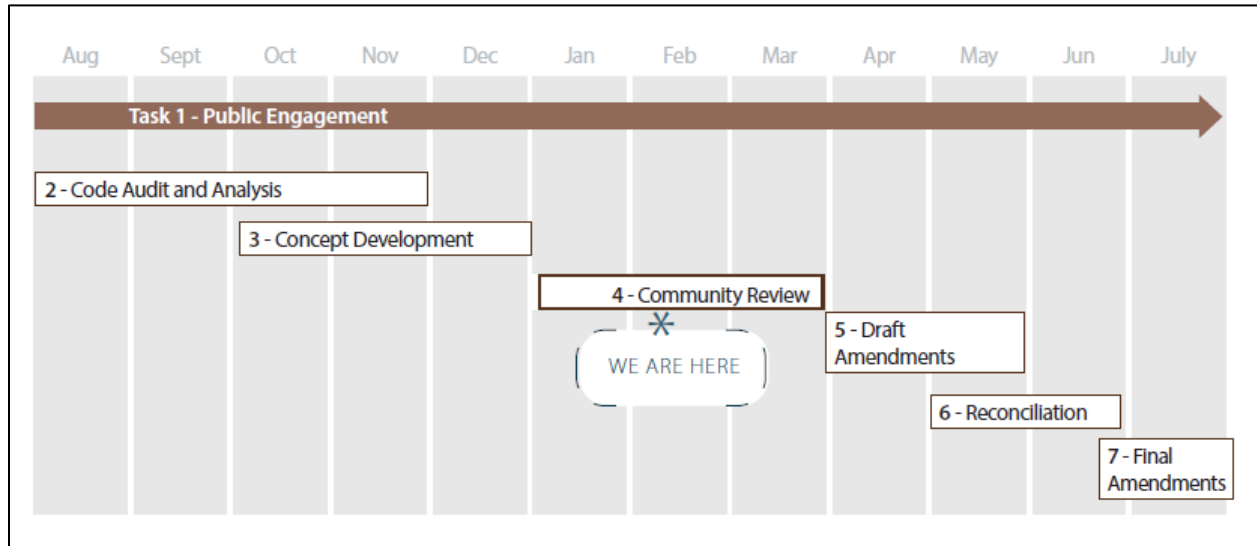
Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan (Plan) policies call for expanded housing opportunities throughout the city and House Bill 2001 (HB 2001), passed by the state legislature in July 2019, requires the expansion of middle housing options. In November 2019, Council discussed how to proceed with code amendments after the updated plan was adopted, setting the stage for the recently initiated implementation project.

The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land. The outcome will be code amendments that balance the city's goal for a 40% tree canopy and implementation of the housing policies outlined in the plan in compliance with HB 2001.

The scope of work for this project includes the following tasks:

1. Public Engagement
2. Map and Code Audit and Analysis
3. Detailed Concept Development
4. Community Review and Testing
5. Draft Code Changes and Map Amendments
6. Code and Map Review and Reconciliation
7. Final Code and Map Changes and Adoption

Project Schedule



Types of Zoning Code Amendments and Associated Changes

This list of concepts is based on the initial recommendations outlined in the Code Audit's and a number of questions that have been raised since the Code Audit was published. This list covers amendments of various kinds—from those that are structural, and are needed to enable the other amendments, to those that were identified in the Code Audit package. Some of these amendments will involve re-mapping zones, and some amendments involve projects outside of the scope of this project, such as public works standards. The list also includes amendments that will be needed to allow the code to be published by the city's online publishing contractor. Most of these amendments are interdependent, but they are listed here as discrete amendments.

1. Simplify the number of residential zones (from eight to three, or one)
This amendment is not strictly needed to comply with HB 2001, but may help the city implement Comprehensive Plan goals for equitable distribution of housing choices. There are a few implementation options that go beyond HB 2001 compliance, and would implement the Comprehensive Plan.
2. Selectively apply existing development standards that currently provide additional building capacity ("bonuses") to duplexes.
Under HB 2001, duplexes must be permitted on all lots. Amend existing "bonus" allowances, e.g., the 20% additional lot coverage granted to duplexes, and instead of applying to all duplexes, grant these bonuses selectively to dwelling units within and around neighborhood hubs or other areas such as those served by transit. that are. Note that this project would amend the application of the "bonuses" but not identify where they apply. Identifying the areas that these bonuses would apply to would be defined and mapped in a separate project – the Neighborhood Hubs project.

3. Adopt a form-based approach for the code amendments.

- a. A form-based code approach focuses on the form of development (not the use), emphasizes the design of buildings, and uses illustrations to support the text of the regulation. It connects urban form and land use. The approach pays more attention to the buildings, which will last many years, instead of the uses, which change over time. This approach makes the code easier to understand, focuses on what the community wants and prioritizes, and can make the code more predictable. The city's code already uses this approach in a number of ways, such as maximum lot coverage and the side yard height plane standards.
- b. An example of this type of amendment would be to remove housing types from the land use table, and instead handle them in a development standards section of the zoning code. This would involve amending definitions and including a separate housing types table that is associated with the development standards, i.e. dimensional standards that specify minimum lot size, setbacks, height, and maximum lot coverage for each housing type. This amendment is needed to comply with HB 2001, and also enables other amendments that will implement the City's Comprehensive Plan.

4. Adopt a Tree Code applicable to private property in residential zones.

This amendment is not required for HB 2001 compliance but is required for Comprehensive Plan implementation and helps achieve the goals outlined in the Climate Action Plan and Urban Forest Management Plan. It will ensure that certain trees on private lots are handled in one of several ways: the tree is either subject to preservation, or its removal triggers replacement or payment of "in lieu" funds. This is after, through a clear and objective analysis, an existing tree is determined to be a tree that meets a Comprehensive Plan goal, e.g., contributes to the city's goal for increased tree canopy.

5. Amend (restrict) on-site parking requirements to one per dwelling unit. Provide additional parking choices, i.e., for parking to be provided on the street, instead of on-site.
6. Establish a pattern guide or menu illustrating how clear and objective standards can be responded to in different neighborhood contexts (see below).
7. Adopt an additional street standard for compliance with street improvements (the "lighter, greener, cheaper" option).
Note: The development and approval of this public works standard would occur in a separate project.
8. Structure zoning code figures, tables and text for online code publishing.

Community Testing and Review

The code concepts are potential ways to approach code amendments that will achieve the goals of the project and will be organized into a set of alternatives that can be evaluated and presented to the community for testing and review. At least one alternative will rely on the use of a form-based approach for the regulations to achieve housing goals. Alternatives related to

parking for various housing types and the city's tree canopy goals will be included. The results of community testing of the code concepts through a public engagement process will directly inform the development of specific code language for the code and map amendments.

Context Zones

Our approach to the code concepts is based on context zones. Similar to case studies, it is a way to illustrate the concepts in specific areas in the city with specific characteristics. There are five contexts whose characteristics are useful to compare and contrast, and whose characteristics will demand or require different approaches for housing, parking and trees. These are based on areas where the lots are zoned R-5, R-7, or R-10. In the two R-5 contexts, lots are frequently greater than the required minimum size.

- An R-5 zoned area with a mix of 5,000 through 7,000 square foot lots with mid-century era development pattern. The “mid-century” development pattern means low profile buildings that are typically one story, with larger building footprints.
- An R-5 zoned area with a mix of 5,000 through 7,000 square foot lots with pre-war development pattern. The “pre-war development pattern” means taller profile buildings that are typically two- to two-and-one-half stories, with smaller footprints.
- An R-7 zoned area with 7,000 square foot lots with mid-century era development pattern.
- An R-7 zoned area with 7,000 square foot lots with pre-war development pattern.
- An R-10 zoned area with 10,000 square foot lots

Comprehensive Plan Implementation Committee

The Comprehensive Plan Implementation Committee (CPIC) will be meeting on [February 18](#) to review and discuss the code concepts and implementation options. A series of interactive exercises in break-out groups will help the committee members work through the options to help finalize the concepts for the larger public participation event in March. At the writing of this staff report, the final materials for the meeting were not ready. However, in general, the implementation options that the committee will discuss are summarized as follows:

- Simplify the number of residential zones
 - Minimum compliance – no change in the zones.
 - Condense the number of residential zones from eight to just three: Large lot (R-10); Medium Lot (R-5 and R-7); small lot (R-3, R2.5, R-2, R-1.)
 - Condense residential zones to one; housing types are allowed to occupy lots that meet the minimum lot size requirement, wherever they occur.
- Amend (restrict) on-site parking requirements to one per dwelling unit. Provide additional parking choices, i.e., for parking to be provided on the street, instead of on-site.
 - Establish the maximum number of spaces to match up with the minimum off-street requirement, in essence limiting on-site parking to one per dwelling unit. Amend the code regarding the location of the required off-street parking space.

- Establish a higher allowed maximum number of off-street parking spaces to allow for conditions we may see as a result of the parking inventory and utilization studies (car ownership patterns combined with street conditions). For example, one off-street parking space would be required, but two or three would be allowed.
 - Permit on-street parking to count toward the minimum.
 - Establish no minimums, only a maximum.
- Establish a pattern guide or menu illustrating how clear and objective standards can be responded to in different contexts.
 - Adopt a form-based approach for the code amendments.

Next Steps

- Continue planning next public outreach event –on-line participation and “meeting in a box” with smaller facilitated groups.
- Begin planning next CPIC meeting and train facilitators for “meeting in a box” groups.
- Final synthesis report of recommended code concepts.
- Residential parking utilization study results – Rick Williams.

ATTACHMENTS

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

	PC Packet	Public Copies	Packet
1. February 18, 2021 CPIC meeting packet	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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 <https://www.milwaukieoregon.gov/bc-pc/planning-commission-67>.



MILWAUKIE COMPREHENSIVE PLAN IMPLEMENTATION COMMITTEE

MEETING PACKET #5

To: Milwaukie Comprehensive Plan Implementation Committee Members

From: Vera Kolias, Senior Planner

Subject: CPIC Meeting Packet #5

Hello Milwaukie Comprehensive Plan Implementation Committee members,

Thank you in advance for preparing for this Comprehensive Plan Implementation Committee (CPIC) Meeting. The fifth CPIC meeting is scheduled for February 18th, from 6 – 9 PM. Important Note: Due to public health concerns, this meeting will be held entirely over Zoom. Please do not plan to attend this meeting in person. City staff will send an email to you with your individual Zoom panelist link. Please log in to the meeting approximately 15 minutes early to avoid any potential technology issues.

Please note the change in the meeting duration from two hours to three hours. Please review the information provided in this packet thoroughly in advance of the meeting, including Attachment B: Project FAQ. We will have a full agenda and look forward to receiving your guidance on these topics.

Additionally, it may be helpful to keep a copy of this packet close by in the event that technology does not cooperate as we intend. We will reference packet page numbers when we are discussing specific items.

Request for Review and Comment on Meeting Packet Materials

In the spirit of working quickly and efficiently to meet our project deadlines, careful review of meeting packet materials is essential. It is expected that CPIC members come to each meeting prepared having read the materials and ready to discuss each topic in detail.

The primary objectives for CPIC #5 are to:

1. Share code concepts for input
2. Provide feedback on concepts;

Items to consider while looking over the memo and feedback needed in the meeting:

- a. Are these the right concepts? Are we missing anything?
- b. Do you understand them? Could you explain them to others in your community and/or during the upcoming “meeting-in-a-box” engagement sessions?
3. Opportunity to ask project-related questions. These questions could stem from the FAQ document or the need to better understand anything related to the project.
4. Learn about next steps in the project

CPIC Meeting Packet #5 Materials List

Number	Packet Item
1	Agenda (this document)
2	Attachment A: Approach to Public Engagement Round 2
3	Attachment B: FAQ sheet (developed from your questions sent to staff)
4	Attachment C: Code and Map Concepts Memo

If you have any questions on the materials in this packet, please feel free to contact me via phone or email, my information is listed below. We are grateful for your participation in this important work.

Thank you,

Vera Kolas, Senior Planner

koliasv@milwaukieoregon.gov

503-786-7653

Milwaukie Community Vision

In 2040, Milwaukie is a flourishing city that is entirely equitable, delightfully livable, and completely sustainable. It is a safe and welcoming community whose residents enjoy secure and meaningful work, a comprehensive educational system, and affordable housing. A complete network of sidewalks, bike lanes, and paths along with well-maintained streets and a robust transit system connect our neighborhood centers. Art and creativity are woven into the fabric of the city.

Milwaukie's neighborhoods are the centers of daily life, with each containing amenities and community-minded local businesses that meet residents' needs. Our industrial areas are magnets for innovation, and models for environmentally-sensitive manufacturing and high wage jobs.

Our residents can easily access the training and education needed to win those jobs. Milwaukie nurtures a verdant canopy of beneficial trees, promotes sustainable development, and is a net-zero energy city. The Willamette River, Johnson Creek, and Kellogg Creek are free flowing, and accessible. Their ecosystems are protected by a robust stormwater treatment system and enhanced by appropriate riparian vegetation. Milwaukie is a resilient community, adaptive to the realities of a changing climate, and prepared for emergencies, such as the Cascadia Event.

Milwaukie's government is transparent and accessible, and is committed to promoting tolerance and inclusion and eliminating disparities. It strongly encourages engagement and participation by all and nurtures a deep sense of community through celebrations and collective action. Residents have the resources necessary to access the help they need. In this great city, we strive to reach our full potential in the areas of education, environmental stewardship, commerce, culture, and recreation; and are proud to call it home.

Comprehensive Plan Implementation Committee Charge

The CPIC will support the City by helping to involve a variety of different stakeholders in the decision-making process, offering feedback on a code audit and draft code concepts and ensuring that the diverse interests of the Milwaukie community are reflected in the code and map amendments.

The CPIC are the primary liaisons to the Milwaukie community, and are expected to provide feedback on public involvement efforts, code concepts and amendments, and advance recommendations to the Planning Commission and City Council.

The CPIC will interact with City of Milwaukie staff, particularly the Planning Division and its consultant team. The CPIC will meet monthly throughout the code amendment process, with adoption of the final code package plan targeted for early Summer 2021. Subcommittees may also be established to work on specific tasks and will hold meetings as necessary. CPIC members are also encouraged to help facilitate meetings with their neighborhood district associations and other community organizations. The CPIC is encouraged to promote opportunities for public involvement, disperse information to the Milwaukie community, and solicit feedback concerning the Comprehensive Plan Implementation project.

MILWAUKIE COMPREHENSIVE PLAN IMPLEMENTATION | ATTENDEES

CPIC Members

Joel Bergman

Micah Meskel

Nicole Zdeb

Renee Moog

Sharon Johnson

Celestina DiMauro

Daniel Eisenbeis

Matthew Bibeau

Stephan Lashbrook

Ada Gonzalez

Dominique Rossi

Eugene Zaharie

Jennifer Dillan

Councilor Lisa Batey – City Council Liaison

Joseph Edge – Planning Commission Liaison

City Staff

Vera Kolias, Senior Planner

Laura Weigel, Planning Manager

Leila Aman, Community Development Director

Mary Heberling, Assistant Planner

Peter Passarelli, Public Works Director

Natalie Rogers, Climate Action and Sustainability Coordinator

Consultant Team

Marcy McNelly, Urbsworks, Inc.

Kimi Sloop, Barney and Worth, Inc.

Keith Liden, Land Use Planner

Rick Williams, Rick Williams Consulting

Todd Prager, Teragan

Milwaukie Comprehensive Plan Implementation Committee Virtual Meeting (CPIC #5)

February 18, 2020; 6:00 pm – 9:00 pm

By Zoom Web Conference

This meeting will be recorded and posted to the city website.

Public comment: Members of the public that wish to make a public comment should submit their written comment to koliasv@milwaukieoregon.gov.

Comprehensive Plan Implementation Committee Meeting #5 - Agenda		
Time	Topic	Who
5:45 – 6:00 pm	Login to Webinar and Conference Line	CPIC members
5 minutes 6:00 – 6:05 pm	<ul style="list-style-type: none"> Meeting protocol and introductions Overview of process – where we are, where we’re going 	Vera Kolias
30 minutes 6:05 – 6:35 pm	Overview of Code Concepts	Marcy McInnelly
10 minutes 6:35 – 6:45 pm	Questions – Code Concepts	Kimi Sloop, Marcy McInnelly
105 minutes 6:45 – 8:30 pm	CPIC input on Code Concepts - Interactive Exercise	Marcy McInnelly
75 minutes 6:45 – 8:00	<ul style="list-style-type: none"> Break out groups 	CPIC members
30 minutes 8:00 – 8:30	<ul style="list-style-type: none"> Report out from break out groups and discussion 	CPIC members
10 minutes 8:30 – 8:40 PM	Summary of Code Concepts discussion	Marcy McInnelly
20 minutes 8:40 – 9:00 PM	Next Steps <ul style="list-style-type: none"> Public Engagement Refined Code Concepts 	Kimi Sloop
9:00 PM	Adjourn	

Project Memorandum

February 10, 2021

To: Milwaukie CPIC

From: Kimi Sloop, Barney & Worth, Inc.
Marcy McInelly, Urbsworks

Re: Public Engagement Round Two

Purpose

The purpose of the second round of public engagement is to share and seek feedback on the code concepts being considered to implement the Comprehensive Plan policies and HB 2001 requirements. The specific topics to probe with the public are still being determined.

Elements of Engagement

This round of public engagement will include both 1) a virtual open house and community survey (using Engage Milwaukie) that individuals can do on their own time and 2) a series of “meetings-in-a-box” (a.k.a., small group discussions/focus groups) that will be facilitated by City staff and CPIC members. Two versions of meeting-in-a-box will be created. A short version (approximately 15 minutes) will provide an overview of the project and direct people to the Engage Milwaukie portal to participate in the virtual open house and provide feedback. A longer version (approximately 60 minutes) will engage meeting participants in discussion. The format of the longer meeting-in-a-box will follow the virtual open house: facilitators will walk the group through the open house stations, and then lead a discussion using the same, or similar, questions from the community survey. The proposed engagement elements, and initial thoughts of what they will look like, are listed below.

Outreach component	Notes
Project information fliers	<ul style="list-style-type: none">Advertises the event. Same format as round 1. Extent of distribution TBD, depending on COVID reopening phase.
Engage Milwaukie virtual open house	<ul style="list-style-type: none">Similar to round 1, with lessons learned applied. Likely includes a video/taped presentation to introduce the open house.
Community survey	<ul style="list-style-type: none">No more than six questions, including at least one open ended question and an opportunity to provide general comments. Ideally, questions will focus

	heavily on graphics – have people look at choice responses or “other” to help get at what is important to them.
Project fact sheets	<ul style="list-style-type: none"> Information the same as in the virtual open house, plus FAQ. Project fact sheets are intended for those who do not have access to the digital version/prefer a paper copy. City staff will distribute materials upon request.
“Meetings-in-a-box” materials to enable community groups to hold their own discussions	<ul style="list-style-type: none"> Two versions of the presentation will be created: a long and short version. The long version follows the same outline as the virtual open house. The facilitator will walk the group through the open house stations and lead the group discussion using the same or similar survey questions. The short version will provide an overview of the project and direct people to the Engage Milwaukie portal to provide feedback. A facilitator’s guide will be developed so the format is the same for all meetings. Facilitators are assumed to be City staff with CPIC member assistance. At least one session provided in Spanish.
Email blasts and website updates	<ul style="list-style-type: none"> City-staff leads
Project bookmark distribution	<ul style="list-style-type: none"> City-staff leads
Translation into Spanish	<ul style="list-style-type: none"> Similar to round 1, with lessons learned applied.

Target Audience

We will seek input from all residents in Milwaukie, with targeted outreach to:

- BIPOC community
- Spanish speakers
- Renters
- Low-income residents

We have set two goals for outreach:

1. Increase participation, including the number of survey responses, over the round one participation. No specific number has been identified.
2. Twelve percent of all survey responses from people of color, consistent with the overall demographics of the city.

We are seeking assistance from the City’s Equity Manager and Communications Staff to identify various groups and methods to engage the targeted audiences.

CPIC Role – Meetings-in-a-Box

As part of the second round of public engagement, we will be holding small group discussions with interested groups around Milwaukie. We are asking CPIC members to help us with these small group discussions in one of three ways:

1. Assist staff with meeting facilitation/note taking for a meeting that is scheduled by City staff.
2. Attend a small group discussion to listen to what the public has to say.
3. “Host” a meeting by inviting your friends and neighbors to a virtual meeting facilitated by City staff. Note the number of these meetings will be determined based on staff capacity.

The organization of the meetings-in-a-box discussions will follow that of the virtual open house. A facilitator’s guide will be developed to provide a script to lead the discussion. The February 16 CPIC #5 meeting will introduce the code concepts to be presented in meetings-in-a-box and solicit feedback on how to make materials more understandable to the public. In addition, the March 18 CPIC #6 meeting will serve as a dry run of the small group discussions so that CPIC members can be part of the “audience” of a small group discussion.

The meetings-in-a-box discussions are starting to be scheduled. The short version of the meeting-in-a-box, which provides an overview of the project and directs people to the Engage Milwaukie portal to participate in the virtual open house, will be given to most groups. The longer meeting format, where the facilitator walks the group through the virtual open house and facilitates a group discussion, will be given to groups that represent our target audience described above. Examples of groups that will be contacted by City staff to gauge interest in a meeting-in-a-box presentation include:

- Neighborhood District Associations, homeowner associations and apartment complexes
- Social groups - book clubs and coffee clubs
- Schools and churches – church fellowship groups and Parent Teacher Organizations
- Neighbors – residential and business

Schedule

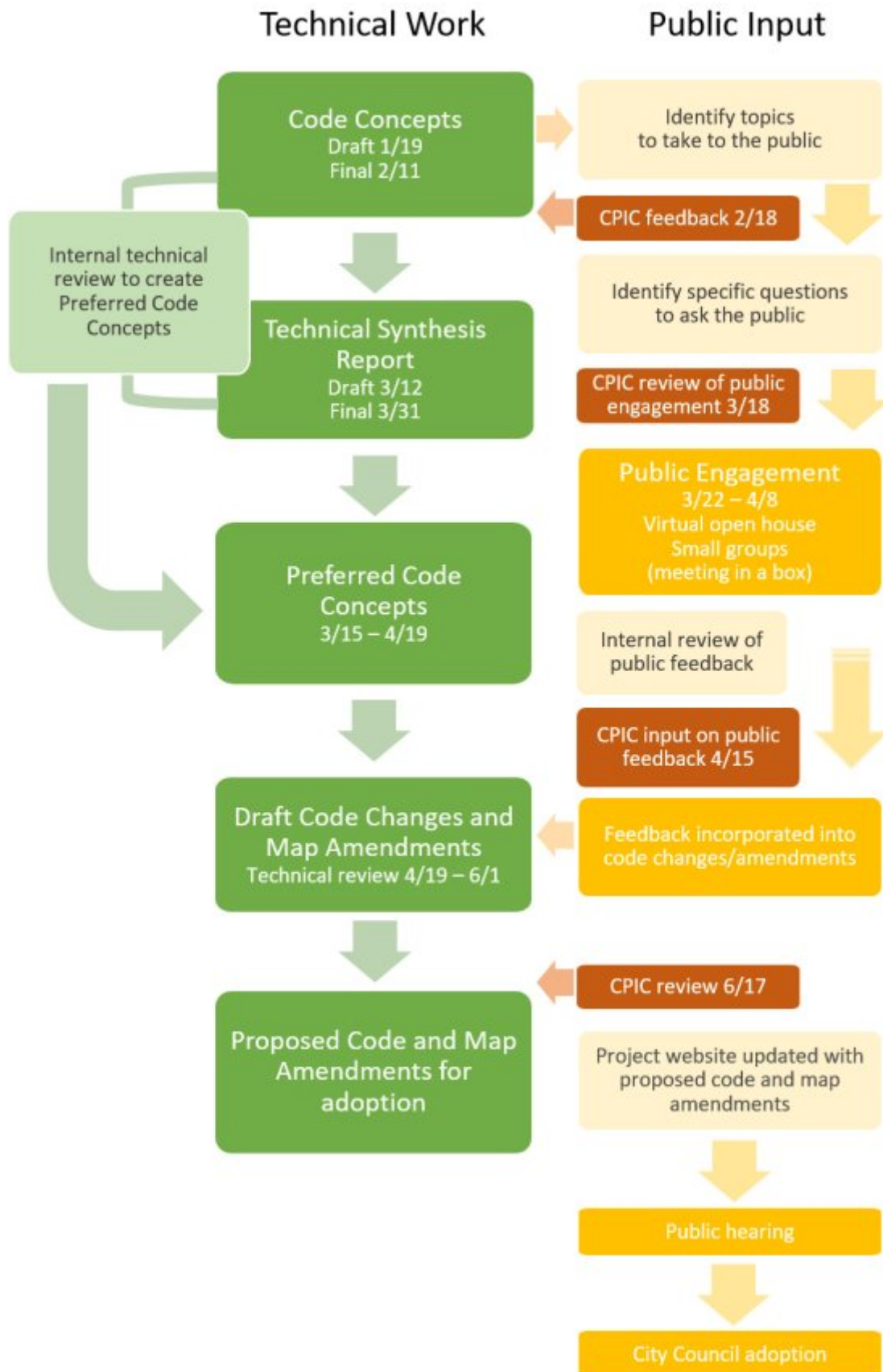
Round two of public engagement will occur in late March to early April. Key dates are:

- Development of outreach/meeting/open house materials: now – March 4
- Scheduling of small group meetings: now – March 23
- Facilitator agenda available for small group discussions: March 15
- CPIC dry run of the open house/small groups: March 18 (CPIC meeting)
- Virtual open house opens: March 22
- Small group discussions/meeting in box: March 23 – April 8

- Virtual open house closes: April 8
- Feedback summarized/presented to CPIC: April 15 (CPIC meeting)

Outreach for the remainder of the project will include Engage Milwaukie updates and articles in the Milwaukie Pilot. Before the public hearing on the proposed code and map amendments is held, the Engage Milwaukie project page will be updated with the proposed code and map amendments for public review. The public will also be encouraged to provide feedback through the public hearing process.

The graphic on the following page illustrates how the technical work and the public engagement work are integrated through the rest of the project.



Attachment B
Comprehensive Plan Implementation Project
FAQs

1. Would "upzoning" every parcel of single-family residential increase property values?

A search of articles and analysis reveals that upzoning of exclusively single-family residential land is a relatively new phenomenon and land markets and regulations differ from city to city, so there are few studies that analyze the effects on property values. The basic premise is that by increasing the number of dwellings that can be built on each private parcel, upzoning lowers the cost of land per unit, which can increase housing choices. However, it can also make the property more valuable if a private property owner can do more with it. The price of land, the cost to build or renovate a home, and what the market is willing to pay for a home all combine to drive a property owner's math.

2. What tools do we have to keep development affordable?

The City has several tools either in progress or in place to incentivize the development of more housing units, including more affordable (income restricted) units. Those include:

- *Vertical Housing Development Zone: This is a 10-year partial tax exemption on the value of new construction or rehabilitation for 20 percent per eligible floors up to 80 percent, available to qualifying developments within the city's approved vertical housing zone: <https://www.milwaukieoregon.gov/verticalhousing>. This zone near the downtown core incentivizes higher density, mixed-use and transit-oriented development in our core to help increase supply of affordable housing and expansion of retail and business opportunities.*
- *Upcoming in 2021: Affordable Housing Construction Excise Tax grant program to support the development of income-restricted residential housing units. Staff are in the process of developing the program guidelines, application, legal agreements, and compliance processes to kick this program off in 2021, ideally when the new housing code from this project is adopted. A community-based oversight group was convened to set criteria for this program. The preferred criteria include preference for middle housing types, housing located near transit, and financial need. Income levels served are between 0-120% of Area Median Income. More information can be found here: <https://www.milwaukieoregon.gov/communitydevelopment/milwaukie-construction-excise-tax-cet>.*

- *Affordable Housing Construction Excise Tax (CET) Exemption Program: Developers building multi family housing who elect to provide income restricted units may apply for an exemption to the City's CET if they can demonstrate that they have provided income restricted housing where the foregone revenue for holding those units as income restricted is at least 2 times that of the CET. The intent is to incentivize income restricted units in market rate apartment buildings.*
- *Nonprofit Low-Income Housing Tax Exemption. The City has supported a case by case approval for exemptions for non-profits providing income restricted housing. Currently Northwest Housing Alternatives (Walsh Commons in South Downtown) has been approved for an exemption for a 28-unit low income housing development through the state program. NHA applies for a renewal annual in Milwaukie to help maintain affordability.*
- *Downtown Mixed Use (DMU) and General Mixed Use (GMU) zones both offer residential housing density bonuses.*

3. What tools do we have to encourage more multifamily and middle housing units as ownership units versus rentals? How can we get more condos than apartments?

- *Middle housing options that will become more available because of the HB 2001 code amendments include new dwellings on small, fee simple lots, such as townhouses. Small, fee simple lots will provide homeownership options that do not currently exist.*
- *Developers have not been building condominiums in Oregon in recent years due to builders' exposure to lawsuits over construction defects. There has been an attempt in the state legislature to manage developer liability, but none have passed*
- *The ADU waiver pilot program that waived SDCs for ten (10) ADUs in the city supported the development of middle housing. This program wasn't restricted based on whether units were for ownership or rentals.*
- *A list of general homeownership resources is available on the city website at: www.milwaukieoregon.gov/housingaffordability/homeownership-resources.*
- *In general, increased homeownership is not a goal expressed in the Comprehensive Plan. However, the city can provide the opportunity to develop all types of housing that can be owned or rented, but the market will determine whether units are renter or owner occupied. Staff will be mindful of how the code is written to ensure that it does not contain barriers to potential homeownership of middle housing dwellings.*

4. Through this process the idea of a form based code has been discussed. What are the advantages of FBC? HB 2001 requires, to some degree, that we revisit lot sizes and number of units, but not necessarily that we adopt form-based code, right? So why is FBC preferable? Are there examples of how FCB has worked in other cities? Please provide examples of how FBC would work in Milwaukie.

We are proposing a form based approach for the city's code. It is important to note that the city already uses a form based approach for many of its existing standards for single unit dwellings such as lot coverage and side yard height plane. Using a form based approach involves clear and objective requirements, usually expressed in feet and inches, square footage area, or a percentage, that regulate the shape, size, and location of buildings and other items on a lot (parking, landscaping, open space). These standards are outlined in tables and supported with graphics; they are visual and easier to understand. A form based approach also allows for standards tailored to fit a specific neighborhood context or condition. For example, through this project additional study of context zones will identify different tradeoffs for housing, parking, and trees. The resulting code amendments will respond to the Comprehensive Plan Goal of creating complete neighborhoods that offer a range of housing types and enhance local identity and character. A form based approach is more responsive to the unique conditions on the ground in Milwaukie and will result in better outcomes than a blanket approach where one size fits all of amending the code according to HB 2001 requirements.

5. Should we rezone widely/everywhere, or rezone around transit corridors and neighborhood hubs where greater density is appropriate? Is there a way to incentivize/encourage density in certain locations (such as on streets with frequent transit or higher traffic streets)?

One way to do this could be regulatory incentives (using the code to incentivize these locations). An example would be to increase lot coverage or off-street parking reduction requirements/bonuses in specific areas in the city where development is desired. The current code already has some regulatory bonuses, like increased lot coverage for duplexes and by-right off-street parking reductions in certain areas. Code amendments from this project could include these kinds of incentives to encourage certain housing types in certain areas that meet specific criteria.

6. What are "residential designations?" Are "residential zone districts" different from "residential zones?" Is "residential land" a zoning designation or a description?

All of these terms, for the purposes of this project, are intended to refer to residential zones: R-10, R-7, R-5, R-3, R-2, R-2.5, R-1, and R-1-B. Going forward, we will be more consistent in referring to these areas as "residential zones."

7. Is there a definition of “cottage cluster?” I have seen the term applied to vastly different size developments.

A common definition of cottage cluster is small, single-level, detached units, often on their own lots and sometimes clustered around pockets of shared open space. A cottage is typically under 1,000 square feet in footprint. For the purposes of this project, we will primarily be referring to the two definitions below.

- *HB 2001 defines a cottage cluster as: a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet that includes a common courtyard. They can be located on a single lot or parcel, or on individual lots or parcels.*
- *The Milwaukie Municipal Code 19.201 Definitions sections states “Cottage” means a structure containing 1 dwelling unit on 1 lot within an area that was divided to create a cottage cluster development, per Subsection 19.505.4.*

8. Clarify the use of the terms “permitted” and “allowed” regarding uses. Is there a difference?

When used in code discussions, they are interchangeable. A permitted use is an allowed use. It does not refer to a use that requires a permit.

9. How many people who use other transportation modes don’t actually own a car?

This is a hard question to answer, because it varies by area. There is a high relationship between car ownership and access to alternative modes, however there is not a lot of detailed data at the neighborhood level. One study finds that about 14% of Portlanders do not own cars. See <https://www.governing.com/archive/gov-car-free-households-cities.html>

10. Have other neighborhoods that have built housing without parking actually reduced the number of vehicles?

In neighborhoods that charge for parking on the street or parking on the site, people own fewer cars per dwelling unit than neighborhoods that have no limit and do not charge for parking. When people pay for parking, they make different choices about how many cars to own, whether to have a car, or whether to store a car on site. In neighborhoods that charge for parking on the street or on the site, we see fewer cars per unit than in neighborhoods that have unlimited, free parking.

11. Terms used in the comprehensive plan include: “tree canopy”, “canopy tree”, “urban forestry”, “street/private/public trees”. What are the distinctions?

It is important to note that these are terms used in the Comprehensive Plan, which is a policy document, but they are not likely to be the same ones used in the regulatory tree code. For the purposes of the plan document, the following are the generally accepted definitions:

- **Tree canopy** is the top portion of a tree comprised of branches and leaves or needles.
- A **canopy tree** is a tree that has a large canopy or provides a large amount of shade. In a forest, these trees make up the highest layer of leaf coverings and consist of the largest and oldest trees.
- **Urban forestry** is the care and management of trees in urban settings for the purpose of improving the urban environment. The urban forest is the collective trees, including street, private, and public trees, within an urban setting.
- A **street tree** is any tree that is growing in the City right-of-way, whether in improved (between the sidewalk and the curb) or unimproved (no sidewalk and/or curb) right-of-way. A **private tree** is a tree located on private property, while a **public tree** is located on public property like a park or greenway.

In the current tree code for public property (a regulatory document) are the following definitions (http://www.qcode.us/codes/milwaukie/view.php?topic=16-16_32&frames=off):

- **Street tree** means a tree, shrub, or other woody vegetation on land within the right-of-way.
- **Public tree** means a tree, shrub, or other woody vegetation on land owned or maintained by the City, but does not include a tree, shrub, or other woody vegetation in the right-of-way.
- **Tree** means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.
- **Shrub** means any plant with multiple woody stems that does not have a defined crown and does not grow taller than a height of 16 feet.

12. Is the city proposing any mechanisms to support existing homeowners with new tree plantings?

The city is growing its urban forest program. The city currently hosts multiple tree giveaways to provide free trees to residents, and partners with community organizations like Friends of Trees, North Clackamas Watershed Council, and Johnson Creek Watershed Council for tree planting events. Watch the city’s event calendar and social media pages for updates on future tree giveaways and planting events!

13. Is the city only implementing tree code for new developments?

The city recently adopted new code for public trees in November. For phase 1 of the comprehensive plan implementation process, the city is looking at developing tree code applicable to residential development. The new code would apply to new development and existing properties (i.e. tree removal not related to development). Commercial and industrial development will be handled in a subsequent phase of comprehensive plan implementation.

Date 09 February 2021

Subject Milwaukie Comprehensive Plan Implementation Project

To Comprehensive Plan Implementation Committee (CPIC)

From Marcy McInelly, Urbsworks Inc.

ATTACHMENT C | CODE AND MAP CONCEPTS MEMO

Contents

- Schedule for Code Concepts and project timeline
- Introduction to the Code Concepts
- Needed code updates (amendments)
- *A Livability Code* for Milwaukie
- Context zones for detailed siting studies
- Implementation options

Schedule for Code Concepts

FEBRUARY	MARCH	APRIL	MAY	JUNE
Draft Code Concepts	Refined Code Concepts	Draft Amendments	Adoption-ready Amendments	
<ul style="list-style-type: none"> · Review at CPIC #5 · Incorporate technical feedback from staff · Refine code concepts for staff review · Tree Board review · PC and CC briefings 	<ul style="list-style-type: none"> · Staff meetings: technical and administrative review · Public engagement via meeting in a box and website · PC and CC briefings 	<ul style="list-style-type: none"> · CPIC #6 · PC and CC briefings · CPIC #7 	<ul style="list-style-type: none"> · CPIC #8 (Reconciliation) · PC and CC briefings* 	

* Adoption process hearings begin in July 2021, will involve Planning Commission (PC) and City Council (CC)

Introduction to the Code Concepts

Where we are, where we are going, where we have been

We are entering the middle phase of the Milwaukie Comprehensive Plan Implementation project, Code Concepts, which will take place between now and mid-April. This phase will inform the code amendments that are scheduled to be ready for adoption beginning in mid-June.

Through this project, the City will implement the goals that the Milwaukie community memorialized in its Comprehensive Plan. The resulting code amendments will provide the framework for the community to realize its stated future vision. At the same time, the project will make sure that the updated Milwaukie zoning code complies with state legislation for middle housing (HB 2001).

As noted in the Code Audit, there are several areas of the community vision that will be impossible to realize unless the current zoning code is updated. The Code Audit identified *policy mandates* that guide code amendments. They are:

- Policy Mandate 1: Increase the supply of middle and attainable housing and provide equitable access and housing choice for all
- Policy Mandate 2: Increase the tree canopy and preserve existing trees
- Policy Mandate 3: Manage parking to enable middle housing and protect trees

Needed code updates (amendments)

In this Code Concepts phase, we will be looking at some new ways of structuring the zoning code and writing needed code updates, e.g., amendments. The Code Concepts seek to implement the policy mandates. Six (6) Draft Code Concepts have been identified. They encapsulate big picture thinking about how the City should re-structure its code to foster the vision for Milwaukie.

1. **Simplify the number of residential zones**
This amendment is not strictly needed to comply with HB 2001, but may help the city implement Comprehensive Plan goals for equitable distribution of housing choices. There are a few implementation options or choices (from eight to three, or one; see Implementation Options). These options go beyond HB 2001 compliance, and would implement the City's Comprehensive Plan.
2. Adopt a **form based approach** for the code amendments
An example of this type of amendment is to remove housing types from the land use table, and instead handle them in development standards section of the zoning code. This would involve amending definitions and in a separate housing types table that is associated with the development standards, i.e. dimensional standards that specify minimum lot size, setbacks, height, and maximum lot coverage. The City already uses a form based approach for many of these standards. This amendment is needed to comply with HB 2001, and also enables other amendments that will implement the City's Comprehensive Plan.
3. Selectively apply existing development standards that **provide additional building capacity ("bonuses") to duplexes**
Under HB 2001, duplexes must be permitted on all lots. The City has an existing "bonus" allowance granted to duplexes citywide (an additional 20% lot coverage is permitted). In order to implement the Comprehensive Plan vision of clustering activity in neighborhood hubs, this amendment would apply the existing "bonus" only to dwelling units within and around neighborhood hubs. This would incentivize the development of middle housing in areas of the City that already have or will have services and infrastructure to support more residents. This includes transportation infrastructure including light rail, bus lines, bike lanes, etc. This bonus could be applied to other areas described in the Comprehensive Plan as desirable for residential uses.
4. Adopt a **Tree Code applicable to private property in residential zones**
This amendment is not required for HB compliance but is required for Comprehensive Plan implementation. It would help achieve the goals outlined in the Climate Action Plan and Urban Forest Management Plan. It will ensure that certain trees on private lots are handled in one of several ways; If a tree is determined through a clear and objective process to be a tree that contributes to an increased tree canopy (Comprehensive Plan Goal), then the tree is either a) preserved or b) removed and either replaced or a payment "in lieu" is made to a city fund.
5. **Amend (restrict) on-site parking requirements** to one per dwelling unit. Provide additional parking choices, i.e., for parking to be provided on the street, instead of on-site. This amendment is needed to comply with HB 2001, and also enables implementation of the City's Comprehensive Plan.

6. Establish a **pattern guide or menu** illustrating how clear and objective standards can be responded to in different neighborhood contexts.

Additional policy and regulatory amendments

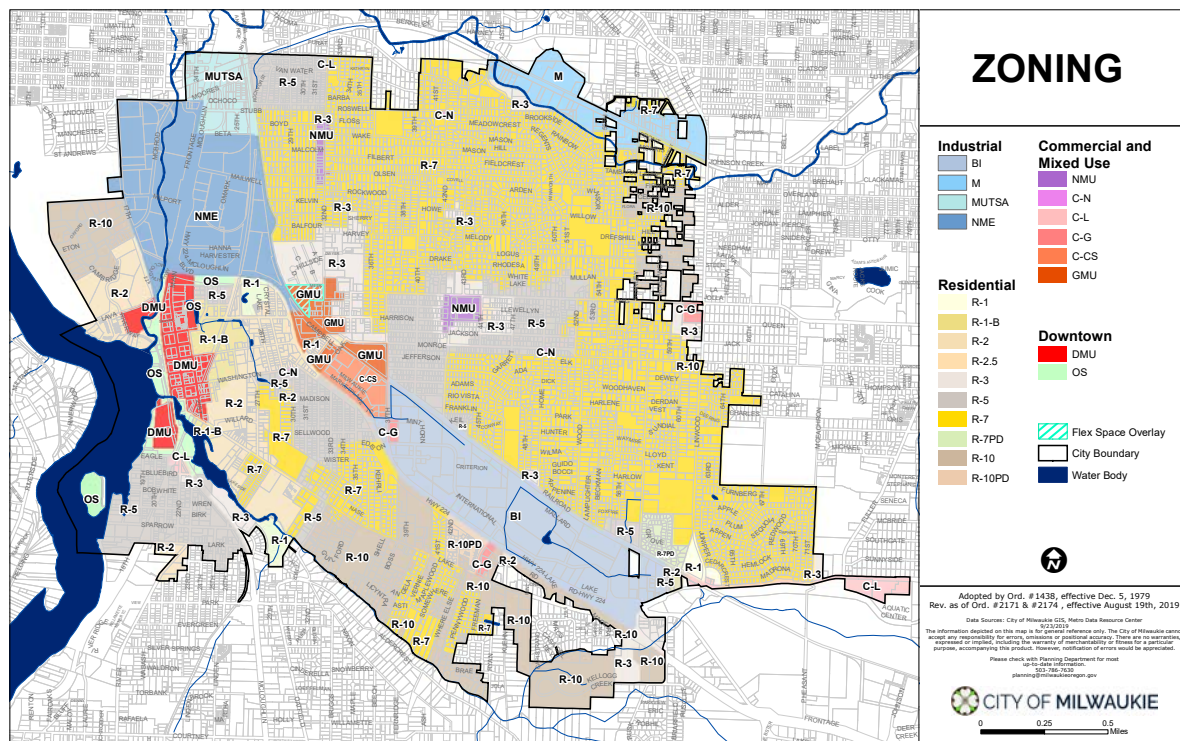
There are several policy and regulatory amendments that have been identified that are needed to support implementation of the Comprehensive Plan. These amendments are not part of this project and will occur in separate projects.

- Adopt an additional street standard for compliance with street improvements (the “lighter, greener, cheaper” option).
- Identify areas where density bonuses would be applied through Neighborhood Hubs project.

A Livability Code for Milwaukie

Land use zones are designated on the Milwaukie Zoning Map. Each land use zone corresponds to a list of permitted and prohibited land uses and specific development standards, such as minimum lot size. Several current land use zones, such as the R-5 (Residential, 5,000 square foot lots) Moderate Density Residential zone, need to be updated because they do not currently allow the middle housing types that HB 2001 requires. HB 2001 requires that middle housing types be permitted in any zone that also permits single detached homes. Middle housing types are permitted based on a minimum lot size. For example, triplexes—the term for three homes on one lot—will be allowed on any lot which is 5,000 square feet or greater in size. Quadplexes (four homes on one lot) will be allowed on any lots which are 7,000 square feet or greater in area.

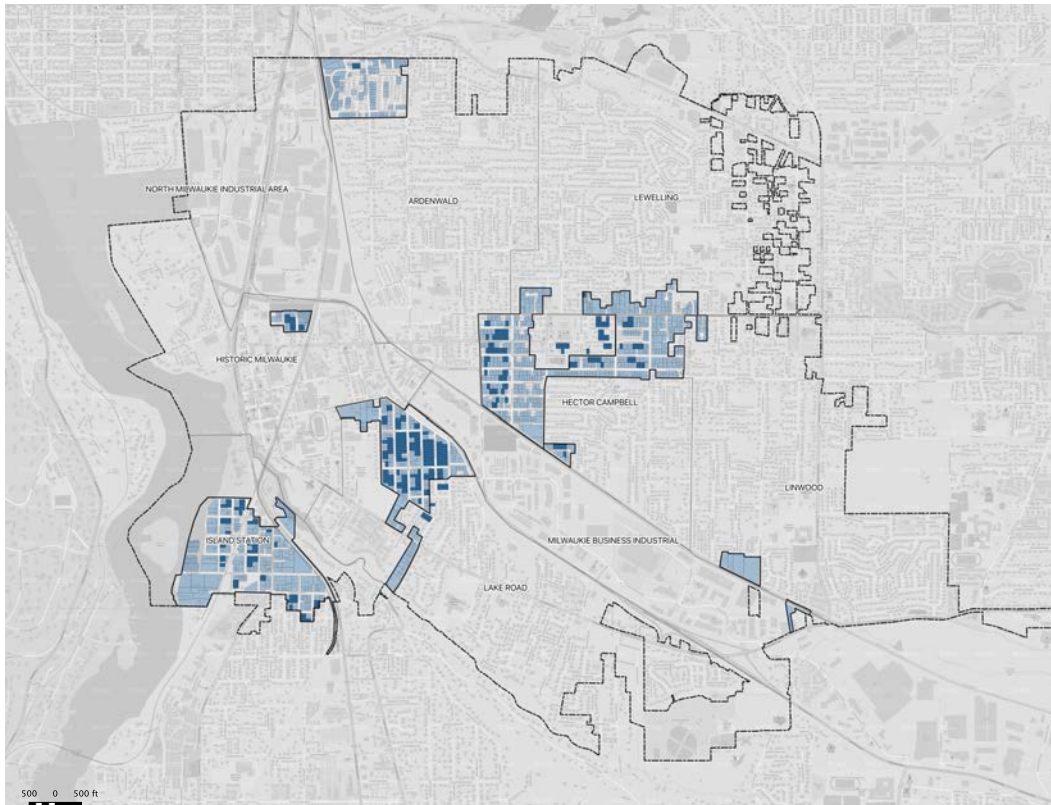
Figure 1: Milwaukie – Existing Zoning Map



5,000 square-foot lots generally occur in the R-5 zone. However, there are also lots in the R-5 zone that are bigger than the minimum lot size; some lots are 7,000 or 10,000 square feet in area. Figure 2 below shows lots that are 5,000 square feet in dark blue while lots that are larger than 5,000 square feet are noted in light blue. This same

phenomenon holds true across other residential land use zones. In other words, lot size does not exactly correspond to the zoning districts, yet housing types will be permitted wherever a suitably sized lot exists. Take for instance quadplexes; quadplexes will be permitted on any lot which provides the minimum lot area (7,000 square feet), no matter which zone it is in. But it should not be assumed that the resulting quadplexes will overwhelm the site. Their form will be regulated through standards addressing size, height, and yard setbacks. A new quadplex on a 7,000 square-foot lot will not be permitted to be any larger than a single dwelling has historically been permitted to be.

Figure 2: Sizes of Lots in R-5 Zones



This suggests a different approach to zoning: If development in the R-7 zone looks the same as in the R-5 in implementation then what does a zone mean? Should the zoning boundaries be modified, simplified, or even abolished? As described above in the example of a new quadplex, a zoning approach corresponding to the size, shape, siting, location, and configuration dictated by the lot size instead of by a mapped district outline might be more effective—particularly when one considers that the zoning boundaries were drawn more than fifty years ago and have not been updated since.

The city's zoning as it exists today doesn't implement the city's newly adopted goals. An improved zoning code would intentionally regulate form to optimize the policy mandates, and focus on the form, i.e., adopt a form-based approach. A form-based approach is not entirely foreign to Milwaukee, since the city's zoning code already employs a number of form-based approaches, such as setbacks, maximum height, diagonal planes, and lot coverage.

A "livability code" would be intentionally designed to provide more housing and more housing choices for people; to maximize the number of trees that can contribute to the tree canopy and the city's climate resiliency; and to minimize unnecessary paved surfaces for parking. Through this project Milwaukee has the opportunity to define a livability code that fits the context of its neighborhoods and is thoughtfully drafted to implement the vision.

Context zones for detailed siting studies

As opposed to a blanket approach to zoning, where one size fits all, a form-based zoning approach is able to respond to different contexts in order to get better outcomes. For that reason, several Milwaukie contexts have been identified. The unique combination of characteristics within each context zone will demand or require different a different set of tradeoffs for housing, parking, and trees. These studies will be documented as part of the Code Concepts refinement task.

The identified context zones are based on areas where the lots are zoned R-5, R-7, or R-10. These make up the primary residential land use patterns found in Milwaukie's current land use zones. By studying specific conditions which occur in different types of neighborhood contexts, we can better understand the issues identified in the prior section of this memo. An R-5 zoned area with a mix of 5,000 through 7,000 square foot lots with mid-century era development pattern. The "mid-century" development pattern means low profile buildings that are typically one story, with larger building footprints.

- A. An R-5 zoned area with a mix of 5,000 through 7,000 square foot lots with pre-war development pattern. The “pre-war development pattern” means taller profile buildings that are typically two- to two-and-one-half stories, with smaller footprints.
- B. An R-7 zoned area with 7,000 square foot lots with mid-century era development pattern.
- C. An R-7 zoned area with 7,000 square foot lots with pre-war development pattern.
- D. An R-10 zoned area with 10,000 square foot lots

Figure 3: Example Milwaukie Context Zones



Context zones have different lot sizes and lot patterns from very large and irregular to smaller and more regular. These aerial images show an array of different contexts throughout the city

Implementation Options

Two of the Code Concepts offer some choices for implementation. The tables below illustrate these. The choices are characterized as a) *minimal compliance with HB 2001* or b) *going beyond compliance* to fulfill the greater promise of the community vision and Comprehensive Plan.

Code Concept 1: Simplify the number of residential zones	
Currently there are eight different residential zones in the city. The code concept is to consolidate some or all of these residential zones into a smaller set of residential zones. The new consolidated zones would share the same development standards for setbacks, height, and site coverage. The boundaries of the current zoning districts would be remapped as a result.	
This amendment is needed to comply with HB 2001	No
This amendment is needed to implement Comprehensive Plan goals	Yes. The options listed below as “b)” and “c)” go beyond minimal compliance with HB 2001 to more fully implement the Comprehensive Plan.
Code Concept choices	a) Amend the code to permit housing types on eligible lots in order to comply with HB 2001, but maintain the current eight zones. This is the minimum compliance option.
	b) Condense the number of residential zones from eight to three: <ul style="list-style-type: none"> · Large lot (R-10) · R-5 and R-7 · R-3, R2.5, R-2, R-1
	c) Condense the number of residential zones from eight to one; housing types are allowed to occupy lots that meet the minimum lot size requirement, wherever they occur.

Code Concept 5: Amend (restrict) on-site parking requirements to one per dwelling unit.	
Provide additional parking choices, i.e., for parking to be provided on the street, instead of on-site.	
HB 2001 requires reducing parking requirements for middle housing. Dedicating site area and constructing parking adds to the cost of housing development and, in some cases, can render a project (especially smaller projects) economically infeasible. HB 2001 requires one off-street parking space per dwelling unit. Required parking can be provided on the street.	
This amendment is needed to comply with HB 2001	Yes

Code Concept 5: Amend (restrict) on-site parking requirements to one per dwelling unit.

Provide additional parking choices, i.e., for parking to be provided on the street, instead of on-site.

This amendment is needed to implement Comprehensive Plan goals

Yes, however, the option listed below as “b)” may not be consistent with goals of the Comprehensive Plan.

Code Concept choices

- a) Establish the maximum number of spaces to match up with the minimum off-street requirement, in essence limiting on-site parking to one per dwelling unit. Amend the current required location of the on-site space to allow in front yard setback. This would prevent a site from being dominated by parking spaces.
- b) Establish a higher allowed maximum number of off-street parking spaces to allow for conditions we may see as a result of the parking inventory and utilization studies (car ownership patterns combined with street conditions). For example, one off-street parking space would be required, but two or three would be allowed.
- c) Permit on-street parking to count toward the minimum.
- d) Establish no minimums, only a maximum.