



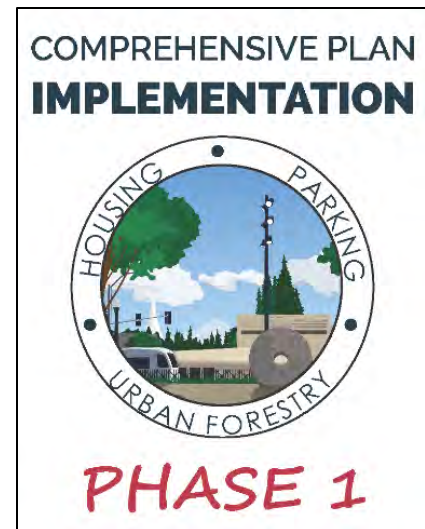
CITY OF MILWAUKIE

To: Neighborhood District Associations
Through: Laura Weigel, Planning Manager
From: Vera Kalias, Senior Planner
Date: March 1, 2021
Subject: Comprehensive Plan Implementation Project

This memo is an introduction to the Comprehensive Plan Implementation Project and serves as a cover memo for the attached packet of reading material in preparation for a series of meetings with each NDA in the city.

BACKGROUND INFORMATION

Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. On August 18, 2020, the City Council adopted a full update to the policies that make up the [Comprehensive Plan](#), a feat that hasn't been done in over 30 years. The update process took 2 ½ years to complete with countless staff and community member volunteer hours. 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. With this guidance the City is focused on creating more housing options throughout the City, with a focus on duplex, triplex, quadplex, townhouse, and cottage cluster development (middle housing) – the types of housing that fill the gap between single-unit housing and apartment or mixed-use buildings.

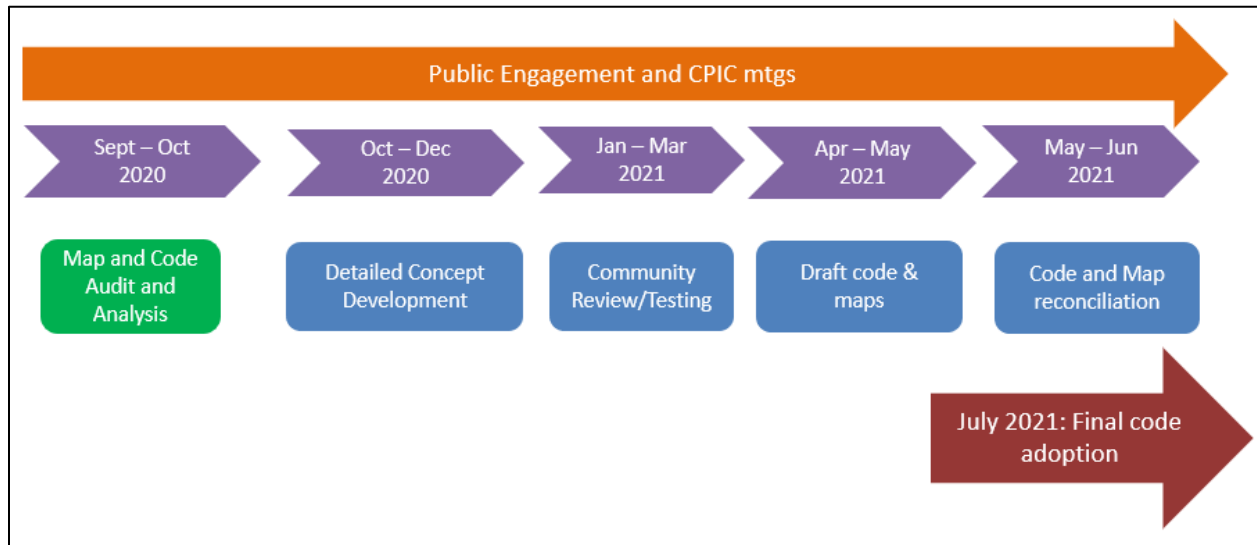


The Plan will take multiple years to implement and the focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land. The outcome will be municipal code amendments that achieve the city's goal for a 40% tree canopy and that create opportunities for different housing types throughout the City.

In August 2020 the City hired a consultant, Urbsworks, to assist with the first phase of the plan implementation. In addition to extensive community engagement throughout the project,

Urbsworks will be assisting staff in updating the residential designations on the plan map, making corresponding changes to the zoning map, and making changes to the zoning and land division ordinances related to housing, parking, and the protection and preservation of trees on private property and in the public right-of-way.

General Project Timeline



What is this project about and why is it important?

Changes to Milwaukie’s zoning are focused on a singular aspect of American cities from a certain era: single family zoning. Most western US cities and suburban areas developed after regulations were adopted in the mid-19th century that dictated the size of residential lots; the form and shape of dwellings; the types and numbers of households that could live in them; and requirements for providing parking on-site. In effect, single family zoning created large areas with only one kind of housing, which many Americans could not afford. These neighborhoods became monocultures of housing, and by extension, monocultures of people, segregated by age, race, income, and household type. Single family zoning enacts systemic exclusion that still exists today.

Milwaukie’s history in this regard is not unique; every metropolitan city in America had similar laws and practices in place. Milwaukie is unique, however, in setting a vision for a more diverse community and articulating policies to accomplish this vision in its Comprehensive Plan.

The Comprehensive Plan Implementation Project in Milwaukie is about choice. Today you typically pick your housing based on its price and the needs of your household. But you may not have much choice in the location as different types of housing are not available throughout all of Milwaukie. Given where you might find the type of housing you need, you may find that you do not have the access to schools, stores, parks, or other essential amenities that residents in other neighborhoods have. Through this project the City will look at how to increase the types of housing in different neighborhoods throughout Milwaukie, so residents have as many choices available as possible.

Demographics are shifting. Household sizes are shrinking and changing in composition. Households also evolve as their members pass through different phases of life, and housing should be adaptable. For example, many older Americans would like to stay in their community as long as they can – yet they can only find one size or type of housing in their community and that may not meet their needs.

Historically, neighborhoods throughout America were made up of many different types of housing all mixed together. This meant that both renters and owners from a wide variety of ages and family composition were able to live near the services they needed in the same neighborhoods. The City's Community Vision adopted in September 2017 is based on the idea that this will be true by 2040 (see Attachment 1).

This project looks at expanding housing options in Milwaukie so can we expand the meaning of what housing for everyone can be. This is especially important during this unique moment in time, when our homes are serving as more than just a place to live. They serve as our workplaces, our schools, and where we take care of our families and friends. They also may be our main financial investment.

Public Engagement

Community involvement and engagement is an essential element of this project including a particular emphasis on outreach to under-represented communities.

Work sessions and public hearings with the Planning Commission and City Council will be a critical component of this process. Public outreach in the form of virtual town halls, focus groups, stakeholder interviews, online surveys, and other forms of outreach to educate, inform, and receive feedback from the public on code concepts and plan and zoning map changes will be another key aspect of this process.

In addition to the general public engagement strategy it was determined that a **Comprehensive Plan Implementation Committee (CPIC)** should be formed to assist with the analysis of the project. The CPIC, who meets on a monthly basis, is responsible for reviewing code concepts with staff and providing input on proposed amendments to the Milwaukie Municipal Code (MMC). The CPIC webpage is here:

<https://www.milwaukieoregon.gov/planning/comprehensive-plan-advisory-committee-cpic>.

Code Audit

The purpose of the code audit is to identify which zoning and other code provisions fall short of, or prevent the city from, meeting the goals of Comprehensive Plan and, by extension, the requirements of HB 2001 (see Attachment 3 for the summary report). The code audit provides the basis for the development of the code concepts that will address the findings of the code audit.

Code Concepts

Types of Zoning Code Amendments and Associated Changes

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.

This list of concepts is based on the initial recommendations outlined in the Code Audit 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.
To comply with HB 2001, the code must permit duplexes 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. 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 is 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 would be after 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 clear and objective standards

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.

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.

Next Steps

CPIC

The Comprehensive Plan Implementation Committee (CPIC) met on [February 25](#) 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. However, in general, the implementation options that the committee discussed are summarized as follows:

- Simplify the number of residential zones
- Consider new minimum and/or maximum on-site parking requirements. Provide additional parking choices, i.e., for parking to be provided on the street, instead of on-site.
- 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.

Public Engagement Event #2

The City's focus is on the livability and the form and function of housing and associated amenities such as parking, trees and landscaping within a neighborhood, which vary greatly across the city. The next public engagement effort is focused on livability issues (<https://engage.milwaukieoregon.gov/>).

Think about where you live:

- How much space is used for your home, landscaping, parking, trees, etc.?
- If a duplex or a triplex is built on your street, what else would need to change in comparison to a single-unit dwelling?
 - The location of the parking?
 - The number of trees?
 - The amount of space between the home and the street, or between the homes and a neighbor? Or can the home be taller so there is the same amount of space for other features?

ATTACHMENTS

1. Community Vision
2. Milwaukie Housing Infographics
3. Code Audit Summary Report
4. Code and Map Concepts Memo
5. Project FAQs
6. Project Definitions and Acronyms

Milwaukie Community Vision

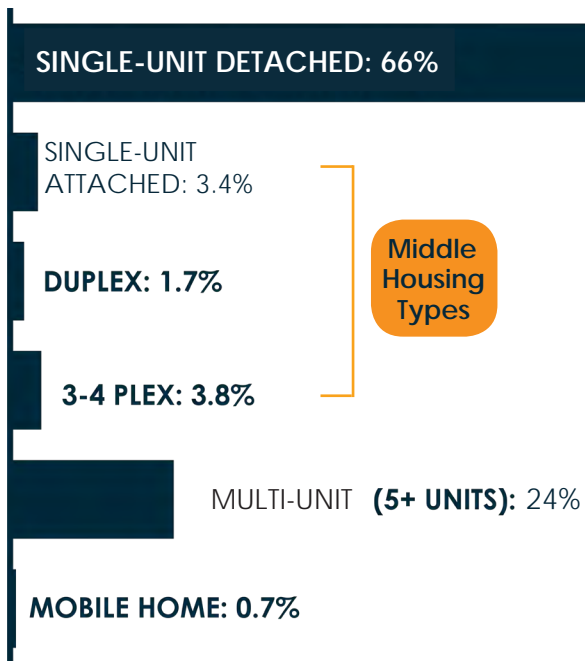
In 2040, Milwaukie is a flourishing city that is entirely equitable, delightfully livable, and completely sustainable. It is a safe and welcoming community whose residents enjoy secure and meaningful work, a comprehensive educational system, and affordable housing. A complete network of sidewalks, bike 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.

MILWAUKIE'S HOUSING SPREAD



Source: Milwaukie Housing Needs Analysis (2016)

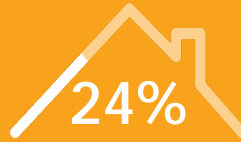
HOUSING COST BURDEN



Cost Burdened Households are households spending more than 30 percent of gross household income on monthly housing and utility expenses.



Increase in median home price in Milwaukie from 2012 to 2018



Increase in median sale price for a small multi-unit development in Milwaukie between 2012 and 2018



51% of renters are cost burdened according to the most recent Census data (2010)



32% of homeowners are cost burdened according to the most recent Census data (2010)

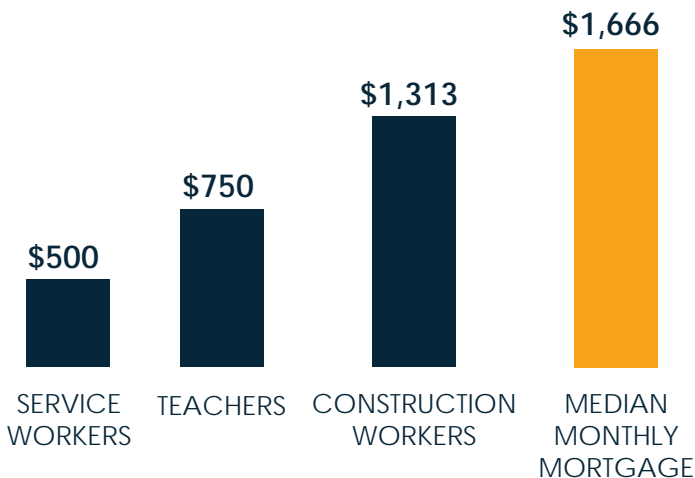
Source: Milwaukie Housing Affordability Strategy (MHAS) and Clackamas County Assessor Data (2012-2018)



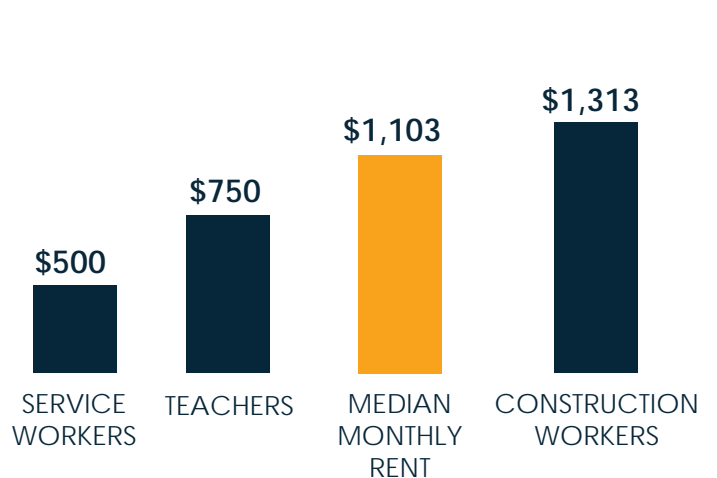
MEDIAN SALE PRICE OF HOMES IN 2020
\$395,200

Source: Zillow.com, 97222 Home Prices & Value

AVERAGE MORTGAGE AN INDIVIDUAL CAN AFFORD* IN MILWAUKIE



AVERAGE RENT AN INDIVIDUAL CAN AFFORD* IN MILWAUKIE



*Affordable = spending less than 30% of household income on monthly housing costs. Numbers are based on average salaries.

Source: 2018 American Community Survey (ACS) 5-year Estimate

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation – Code Audit Report

To: City of Milwaukie Project Management Team

From: Marcy McInnelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

CODE AUDIT SUMMARY REPORT

Introduction

Implementing the Comprehensive Plan

In 2015, as part of its project Milwaukie All Aboard, the city initiated a dialogue with the community to update its 20-year old vision statement and identify an Action Plan. Building on its visioning process, the city then spent two years working hand in hand with the community to update its Comprehensive Plan. Updating the Comprehensive Plan is a major undertaking that Oregon requires cities to complete on a periodic basis. An update can be conducted as a check-the-boxes exercise, or it can be used to bring a community together, to foster important conversation about the future, and to memorialize a compelling vision. The Milwaukie Comprehensive Plan adopted in August of 2020 is an example of the latter. Now that it is adopted, the Plan will guide decisions that shape Milwaukie for the next ten to twenty years.

The adoption of the Comprehensive Plan establishes a mandate for Milwaukie to update any lagging land use policies and practices that may be holding the city back from realizing its vision. One major area where current policies and practices need to be updated is the zoning code. The city made it an early priority to update the zoning code in single dwelling residential areas. These areas of the zoning code will need to be amended in order to achieve a number of Comprehensive Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency.

The effect of these zoning changes will be both very large and very slow. Very large in that the Milwaukie areas affected equal over 70% of the land within the City; very slow in that these changes will occur somewhat randomly, lot by lot, and gradually over a long period of time. While the changes are very important, they will not happen overnight. Making the changes does create a framework for addressing historic patterns of inequity.

Exclusion and lack of affordability

Changes to Milwaukie's zoning are focused on a singular aspect of American cities from a certain era: single family zoning. Most western US cities and suburban areas developed after regulations were adopted in the mid-19th century that dictated the size of residential lots; the form and shape of dwellings; the types and numbers of households that could live in them; and requirements for providing parking on-site. In effect, single family zoning created large areas with only one kind of housing, which many Americans could not afford. These neighborhoods became monocultures of housing, and by extension, monocultures of people, segregated by age, race, income, and household type.

The Comprehensive Plan touches on how Oregon, as a state, and areas in Milwaukie enacted "Exclusion Laws." These laws banned slavery but also prohibited Black people from settling or remaining in the territory, and later from owning property or entering into contracts. Exclusion was further enacted through specific discriminatory laws and housing practices, such as racist deed restrictions (only banned in 1948). More subtle forms of exclusion continued, largely through the mapping and designation of single family zoning over wide expanses of America cities, including Milwaukie. By the time of the 1968 passage of federal Fair Housing Laws, racial exclusion practices continued "de facto," through zoning.

Richard Rothstein, in "The Color of Law," details how even after all of the achievements of the civil rights movement—the desegregation of schools, swimming pools, water fountains, employment, and transportation—one remaining

form of segregation in neighborhoods remained: segregated zoning. Single family zoning enacts systemic exclusion that still exists today. By end of 1960s, the civil rights movement had persuaded much of the country that racial segregation was wrong, and harmful, to both Blacks and whites, and “incompatible with our self-conception as a constitutional democracy”—but zoning in cities was largely left untouched.

After decades of exclusion ranging from being denied home loans, having neighborhoods in which they lived “redlined” (when federal certifiers designated neighborhoods ineligible for loans), facing discrimination in employment, and receiving less pay, Black people were denied the opportunity to own a home. Unable to join the middle class and build generational wealth through homeownership, they were essentially excluded from the American dream which White people had access to for decades. Generations of denial have compounded to make it harder for Black people to buy single family homes today. Exclusion and segregation persists between Black and White people in neighborhoods zoned exclusively for single family homes.

Milwaukie’s history in this regard is not unique; every metropolitan city in America had similar laws and practices in place. Milwaukie is unique, however, in setting a vision for a more diverse community and articulating policies to accomplish this vision in its Comprehensive Plan.

Addressing a housing crisis, needs, and goals

Major generational and demographic shifts that affect housing supply and demand are taking place in Oregon and the country. Some of these affect the entire country and state—such as the recent Great Recession, new households forming, young people growing up, older people downsizing. Some of these affect Milwaukie in particular, such as the development of the MAX Orange Line light rail and increasing population. These national and local trends have combined to create a housing crisis; the supply of housing is not keeping up with the demand, and the need for affordable housing has reached a state of emergency.

The Oregon legislature recently passed House Bill 2001 (HB 2001) intended to address this crisis. Milwaukie, having declared a state of housing emergency since 2015, is ahead of other cities in Oregon. Using its vision and adopted Comprehensive Plan, Milwaukie is well prepared to address housing needs. The City has already made numerous incremental amendments that partially address the issues of housing choice and affordability and bring the zoning code closer in alignment with city goals. The purpose of this project is to think bigger and be bolder—to rethink the single-family neighborhood, and in the process, rethink the role of parking and how to codify the contribution of trees.

A policy mandate and how the current zoning code falls short

The purpose of this document is to explain which zoning provisions and procedures fall short of or prevent the city from meeting its Comprehensive Plan goals. A code audit is one of the first steps. In Milwaukie, the code audit is primarily targeting the zoning code, but there are many related documents that will need to be amended—either as a part of this project or future efforts.

A policy mandate

Adopted policy documents establish a clear policy mandate for this project, which can be summarized in three main themes: housing, tree canopy, and parking.

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

The code audit

In September the consultant team initiated the Milwaukie Comprehensive Plan Implementation Code Audit. The team audited existing policies and regulations to identify barriers preventing the city from achieving the goals of the Comprehensive Plan. Specifically, the team identified existing policies in the Comprehensive Plan and other policy documents that support the city’s goals and vision and reviewed regulations, including policy documents related to urban forestry, affordable housing, and House Bill 2001. The team then reviewed regulations including the zoning code, public works standards, and draft tree code to pinpoint requirements in conflict with identified policies that need to be changed. This memo summarizes key findings and recommendations to address identified obstacles.

FINDINGS AND ISSUES

Following is a summary by the three primary themes of the major findings of code regulations that fail to meet the project objectives identified through the code audit.

Policy Mandate 1: Increase the supply of middle and attainable housing and provide equitable access and housing choice for all

Goal 7 of the Comprehensive Plan recognizes that the shift to permit more forms of housing will require zoning and code changes in order to remove barriers. Additional housing types will need to be allowed in low and medium density zones. The scale and location of this new housing should be consistent with city goals of tree protection and complement the public realm. Further support for the development of denser forms of housing is found in the recent Housing Needs Analysis (HNA). The HNA notes a projected need for 1,150 additional new housing units by 2036, with 54% of these new units anticipated to be some form of attached housing. Both the Comprehensive Plan and Milwaukie Housing Affordability Strategy cite the need to enable equitable housing options that meet the needs of all residents, including in low and medium density zones.

Milwaukie’s Comprehensive Plan goals are aligned with the intent of Oregon’s Housing Choices Bill (HB 2001) to increase the amounts and types of housing available across Oregon. This will require establishing development standards that regulate size, shape, and form rather than focusing exclusively on density. Additional regulatory and maps changes will be needed in order for the City of Milwaukie to be compliant with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46, known as OAR 660-046.

Code amendments that will support this policy mandate are found in the following sections:

- Title 17 - Land Division – Sections regarding Application Procedure and Approval Criteria, Flag Lot Design and Development Standards
- Title 19 – Zoning (all sections)

Removing barriers to middle housing

Many sections of the land division and zoning code place requirements on developments with multiple units or multiple lots that single detached dwellings are not also required to meet. These types of requirements negatively affect the cost and feasibility of middle housing and are not required of detached single dwelling development. For example, land use review is required for Accessory Dwelling Units (ADUs) and duplexes, but not for single dwellings.

HB 2001 generally prohibits additional requirements for middle housing that are more restrictive or create a greater burden than are faced by single detached dwellings in the same zone. For example, the maximum height of a middle

housing-type dwelling cannot be lower than the maximum height allowed for single detached dwellings in the same zone, and setbacks cannot be greater.

Similarly, Title 17 land division requirements, particularly those in 17.12.020 - Application Procedure and Approval Criteria, create a greater burden on development with four or more lots by requiring a Type III review, which is a more difficult review procedure. This will negatively affect cottage cluster or townhouse developments.

Key Issues

- **Large number of undifferentiated residential zones that do not permit middle housing equitably**

While eight residential zones exist in Milwaukie, several of them are minimally used and are almost identical to other zones in terms of development standards and permitted uses. This creates a lack of clarity about the intent of each residential zone and how it meets stated Comprehensive Plan Goals. Also of note is that the large majority of residentially zoned lands are mapped in the R-10 and R-7 zones. These low-density zones only allow duplexes and ADUs through land use review, including a discretionary Type II review using subjective approval criteria; as a result the vast majority of the city does not meet the policy goal to provide opportunities for a wide range of rental and ownership housing choices and to remove barriers to development of these middle housing types. While the code does permit some middle housing types (duplexes, rowhouses, cottage clusters and ADUs) in some zones, not all types are defined and permitted as required by HB 2001. All middle housing types will need to be allowed in zones that permit single detached dwellings, with duplexes permitted on all lots and other middle housing types permitted in areas defined through this code update and engagement process.

- **Housing types are regulated using permitted land use table**

Currently each housing type is treated as a separate permitted use regulated in the permitted use tables and defined across base zones (Tables 19.301.2 and 19.302.2). This approach confuses housing types with the broader residential land use category. It would be more consistent with the Milwaukie vision to separate housing types from land uses so that the “uses allowed” table for residential zones only lists land uses (e.g., commercial). The categories of residential land uses should be limited (e.g. group living or household living). A separate housing types table would specify which housing types are permitted in which zones and how (e.g. permitted, not permitted, conditional).

- **Housing types confused with household types**

The zoning code uses terms for housing types that are in conflict with goals for equity, affordability, and also conflict with HB 2001 requirements. Definitions for housing types should be based on the building form and lot type rather than who lives in it; for example “single detached dwelling” refers to one house not attached to any other houses located on its own fee-simple lot whereas “single-family detached home” refers to both the building form and lot type but also who lives in the home. Who lives in a home is irrelevant. Definitions should be clearly defined to be consistent with the Milwaukie vision and implementation goals in order to truly promote a wide range of housing types for all types of households living in the city. Terms should be updated and used consistently in all applicable sections of the code (e.g. parking provisions, land use table, etc.).

- **Restrictive standards limit the development of certain housing types**

The middle housing types that are currently allowed are subject to further restrictive and subjective development standards (including in Section 19.500 Supplementary Development Regulations) that discourage their development. For example, cottage cluster housing is subject to standards for size, height, orientation, and required yards in addition to prescriptive design standards addressing individual units and the site. Another example is if a duplex is not allowed outright in a zone, it is required to be located so as “not to have substantial impact on the existing pattern of single-family detached dwellings within the general vicinity,” and its design must be “generally

consistent with surrounding development.” Similar restrictive development and design standards impact the potential development of ADUs, rowhouses, and flag lots.

- **Lack of equitable review processes for housing types**

Different housing types are subject to different review processes in the Milwaukie code. The current regulations need to be carefully evaluated to reduce or eliminate any procedural discrimination for certain housing types. For example, duplexes are currently subject to Type II review in the R-10 and R-7 zones when single dwelling detached homes are not subject to any land use review (Table 19.301.2). This difference in review creates a barrier to achieving the city’s goal of permitting the development of middle housing through new construction and conversions and promoting housing choice for all by creating a more difficult process for certain housing types and in certain zones.

- **Expensive street and frontage improvements**

Public facility improvements (including street, sidewalk, and planter strips) are required for an additional unit as well as an addition greater than 1,500 square feet to an existing home. This includes the development of ADUs and conversions of single units into duplexes. These improvements present barriers to development of these housing types by adding cost. In addition, a traditional curbed street improvement creates a potential conflict with existing established trees that may be in the right-of-way; the required width for new planter strip widths may not be generous enough to accommodate larger trees. More flexible options that allow for rural-character street design would reduce the burden of cost on new and converted middle housing units while maintaining an essential element of Milwaukie’s character. For example, the Island Station Neighborhood Greenway has street types with gravel shoulders and no planter strips. This could be a good model for certain contexts.

Recommendations

- Allow duplexes across all residential zones
- Amend permitted residential types to include triplexes, quadplexes, and townhouses (currently referred to as rowhouses)
- Review low density and moderate density zones to identify areas where triplexes, quadplexes, townhouses, and cottage clusters are a permitted use
- Consolidate residential zones and revise zoning map to expand the area in which middle housing types are permitted equitably across the entire city
- Decouple housing types from uses table and clean up definitions to remove confusions with household types
- Simplify and reduce the amount of design standards applicable to middle housing types and make them clear and objective so that all housing types, whether detached single units or larger number of attached units, are subject to the same standards
- Permit all middle housing types to be permitted using the same approval type as single family dwellings are subject to today
- Increase flexibility for street and frontage improvements and permit creative street designs to reduce the burden of cost on middle housing development

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees

Trees are key to Milwaukie’s quality of life. It is clear that trees are very important to Milwaukians and are a major contributor to the quality of life in Milwaukie, and, could be considered a signature feature of the city to be nurtured and protected. They contribute to property value and are also important to reducing stormwater runoff, improving residents’ health outcomes, helping the city meet its climate change goals and reducing heat island effect.

Because many of the most magnificent trees that contribute to Milwaukie are on private property, it is appropriate that there be greater protection of those trees in order to achieve the community's goals. This means trees on private property will be regulated differently than they have been in the past in order to preserve the existing and contribute to the future canopy of the city.

Changing the code to preserve trees on private property will have implications for city staff; there will be more applications to manage and a greater load on review boards. A culture shift may be required on the part of citizens, the development community, and city staff; one that promotes a collaborative approach to tree preservation and planting. The city established a Tree Board recently and the committed Public Works department views trees as another form of citywide infrastructure. If site and tree specific conversations occur early in the application process, there will be a much better understanding of goals and priorities by all parties.

Both broad and detailed support for preserving and increasing the tree canopy throughout Milwaukie is found in the Comprehensive Plan, Climate Action Plan, and Urban Forestry Management Plan. In Goal 3 of the Comprehensive Plan a target is established for a 40% tree canopy using a combination of development code and other strategies. Goals recognize that flexibility is needed in the siting and design of buildings and design standards in order to preserve existing large and old-growth trees while also increasing the tree canopy in areas that are currently deficient. The Urban Forestry Management Plan and Climate Action Plan bolster these objectives with possible implementation actions, but do not indicate which regulatory changes might contribute the most to achieving canopy goals. The Urban Forestry Management Plan further notes that the tree canopy is not equitable across the city and supports implementation actions that, while reducing barriers to affordable housing, also increase equitable access to trees and their benefits.

Code amendments that support this policy mandate are found in the following sections:

- Title 16 – Environment, 16.32 – Tree – Code (and related code section, Public Works Standards, 5.0030)
- 19.200 Definitions, Tree-related definitions
- 19.402 Natural Resource Overlay Zone
- 19.1200 Solar Access Protection
- Draft Tree Preservation Amendments

Other sections that were reviewed and for which amendments are recommended that are not part of this project:

- 19.401 Willamette Greenway Overlay Zone

Key Issues

- **Solar access requirements are potentially in conflict with tree canopy goals**
Understanding how solar access provisions are enforced over time, especially regarding tree planting, growth and future shading, will be important. The approved tree list should be updated to clarify which trees are preferred, noting which do not interfere with solar collection. A list of solar-friendly trees should also be listed on the city website.
- **Additional consideration should be given to native trees and other climate change suited species**
This should also include measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies to encourage the propagation of a diversity of species that increase forest resiliency.
- **Flexible standards for tree preservation, especially as it relates to middle housing development, should be further explored**
Standards for tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into larger patterns of the area. Included in this analysis should be consideration given to areas identified as

deficient in tree canopy in an effort to make tree plantings more equitable across the city. These standards should include protection measures during construction.

- **Consider enforcement of tree planting and preservation after development is completed**

Continued funding and staffing resources are needed for successful enforcement.

Recommendations

- Create more distinct code sections in Section 16.32-Tree Code for development and non-development related code criteria, and create standards for the preservation and planting of priority street tree species with development
- Reference desired tree species and conditions in updated public works standards and revised code for private residential property; ensure they include native trees , other climate change suited species and support canopy goals
- Ensure newly planted trees have access to adequate soil volumes that support their long term growth to maturity
- Create enforcement mechanisms to ensure newly planted trees become established and are properly managed for the long term as condition of permit approval
- For projects in which tree preservation on site is not feasible, explore fee-in-lieu programs, i.e., the property owner or developer pays into a fund

Policy Mandate 3: Manage parking to enable middle housing and protect trees

Goals 6 and 8 of the Comprehensive Plan, along with strategies identified in the Climate Action Plan and Milwaukie Housing Affordability Strategy, offer strong support for minimizing parking in new developments in order to reduce vehicle emissions and encourage the use of alternate transportation. There is a desire to create a more energy efficient land use pattern in Milwaukie. This includes infill development and neighborhood hubs that includes mixed-use development while providing a wider range of rental and ownership choices.

There is also a strong desire to create more housing opportunities for all income levels throughout Milwaukie, not just in areas where multi dwelling units are allowed. The Milwaukie Housing Affordability Strategy identifies right sizing parking requirements to user patterns as critical to achieving this. Right sizing parking can help provide flexibility and both reduce the cost of housing production and increase viability for a range of unit types. Appropriate management may also be necessary. Reducing the amount of parking provided will also preserve more trees.

Code amendments that support this policy mandate are found in the following sections:

- 19.200 Definitions, Parking-related definitions
- 19.505.4 Parking Spaces Location
- 19.600 Off-Street Parking and Loading

Other sections that were reviewed regarding to this policy mandate, and for which amendments are recommended but are not part of this project:

- Public works standards – 5.0110 Private Streets/Alleys

Key Issues

- **Ensure adequate parking**

While many Milwaukians still drive and own cars, the community has expressed a clear desire to increase its share of people who don't own cars, who own fewer cars, and who bike or walk for many of their needs. It will continue to be

important consider parking that allows people to store their cars at or near their homes for the foreseeable future. However, there are a number of strategies that can be put into place that can help the city achieve multiple objectives while still providing enough parking to meet most people’s needs. It does signal a major change in that parking will become the commodity it is and will no longer be as free or abundant. This change will happen over time, and hopefully in concert with other investments in transportation that provides people with more options to not drive.

- **Managing parking in residential zones (off-street)**

Parking requirements are another area where the current zoning code (Section 19.600 Off-Street Parking and Loading) places additional burdens on middle housing. Parking requirement can impact the affordability of housing in a number of ways. Currently the requirement for a minimum of one space per dwelling unit and 1.25 spaces for housing that includes 3 or more dwelling units that are over 800 square feet makes many forms of middle housing infeasible, financially and physically. In order to comply with HB 2001, only one parking space may be required for middle housing, and on-street parking may be allowed to count toward the requirement.

- **Managing parking in residential zones (on-street)**

Section 19.600 includes a purpose statement that generally supports many aspects of the policy mandate, such as “provide adequate, but not excessive, space for off-street parking. However, “avoid parking-related congestion on the streets,” may be problematic. It assumes that on-street parking causes congestion, and also assumes auto congestion is an issue. On local streets in particular, on-street parking can reduce auto speeds (congestion) and make streets safer. This language may preclude ideas about reprioritizing and rethinking local streets that have been brought up by the community. Likewise managing parking is an important way for the city to achieve housing affordability and tree canopy goals. There are opportunities throughout Milwaukie to use the on-street parking system to help offset onsite parking demand. This approach may require some form of residential parking management at some point in the future. In addition to addressing off-street parking requirement in the zoning code, public works standards for streets and implications for on-street parking, will also need to be addressed. Historically, most cities have not managed on street parking in residential zones, however new approaches to parking will be needed to balance housing and transportation needs.

- **Achieving greater flexibility for parking**

Currently Section 19.600 does not permit on-street parking to count toward meeting parking requirements for new development. This section also precludes unbundling of onsite parking from housing, and may prohibit parking spaces from being rented or sold separately from the dwelling unit. In future Milwaukie neighborhoods where managing parking and middle housing options are more prevalent, permitting the “unbundling” of parking from dwelling units can make middle housing more economically feasible and affordable. Additional design standards in Section 19.607 further regulate the location and design of parking and have an impact on the feasibility and cost of developing middle housing. For example, off-street parking is not permitted within the required front or side yard or within 15 feet of the front lot line. This requirement essentially requires two parking spaces for each unit as the parking cannot be provided in the first 15 feet of the driveway approach. This standard has been a barrier to the conversion of garages as ADUs and reduces the potential developable area for middle housing types.

- **Importance of on-street parking**

Permitting parking on the street to count against parking requirements can make a lot of sense if the goal is to reduce the cost of housing, since even a surface parking space adds cost to housing. And if the street is already paved (or planned to be paved or widened), it makes sense to use already-paved space for parking instead of adding additional paved area on private property. Any strategy to reduce overall paved area in the city will benefit natural resource protections and trees, and reduce stormwater runoff.

Recommendations

- Explore the feasibility of reducing parking minimums in light of use of on-street space and on-site design
- Tailor reduction of parking minimums in tandem with use of on-street space, and on-site design to neighborhood supply and demand
- Ensure parking minimums comply with HB 2001
- Consider the usefulness of technology (e.g., car stackers), and if appropriate ensure the code does not preclude their use
- Consider defining active transportation and how it can be required in a residential development to address goals for better connectivity, transit, etc. in the Plan
- Clarify those active transportation measures which can be addressed by development, as opposed to ones which require infrastructure investments commonly made by the public sector
- Employ data to quantify underused on-street space in affected neighborhoods and “calibrate” to real impacts of new development on existing supply
- Adjust code requirements to reflect true capacity
- A request for “reducing” a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed. Amend approval criteria to permit lowering the minimum requirement or locating parking off-site
- Eliminating current exemptions/reductions process and use requirements of the Transportation Demand Management (TDM) in 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements
- Consider building TDM measures in as options for developers along with lower parking minimums
- When considering stacker technology for parking solutions (see above), review height maximum of 8 feet for cottage cluster garages



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.

- 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

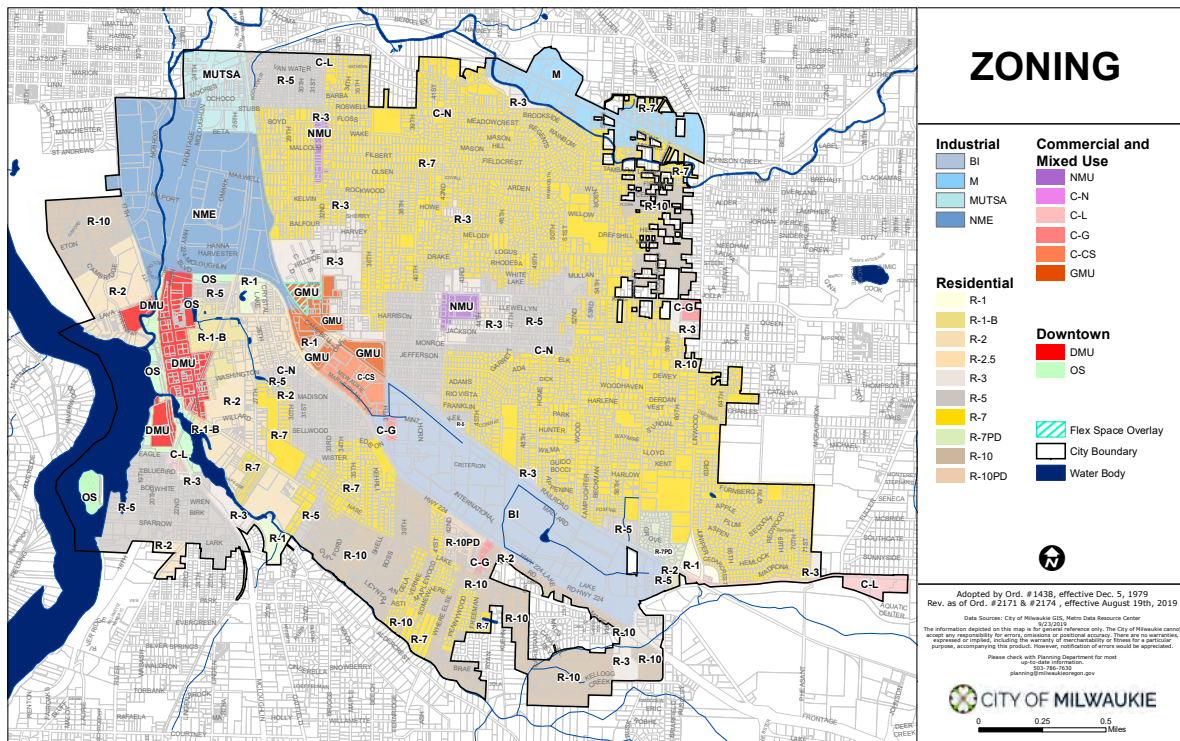
There are several policy and regulatory amendments that have been identified that are needed to support implementation of the Comprehensive Plan. These amendments are not part of this project and will occur in separate projects.

- 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.

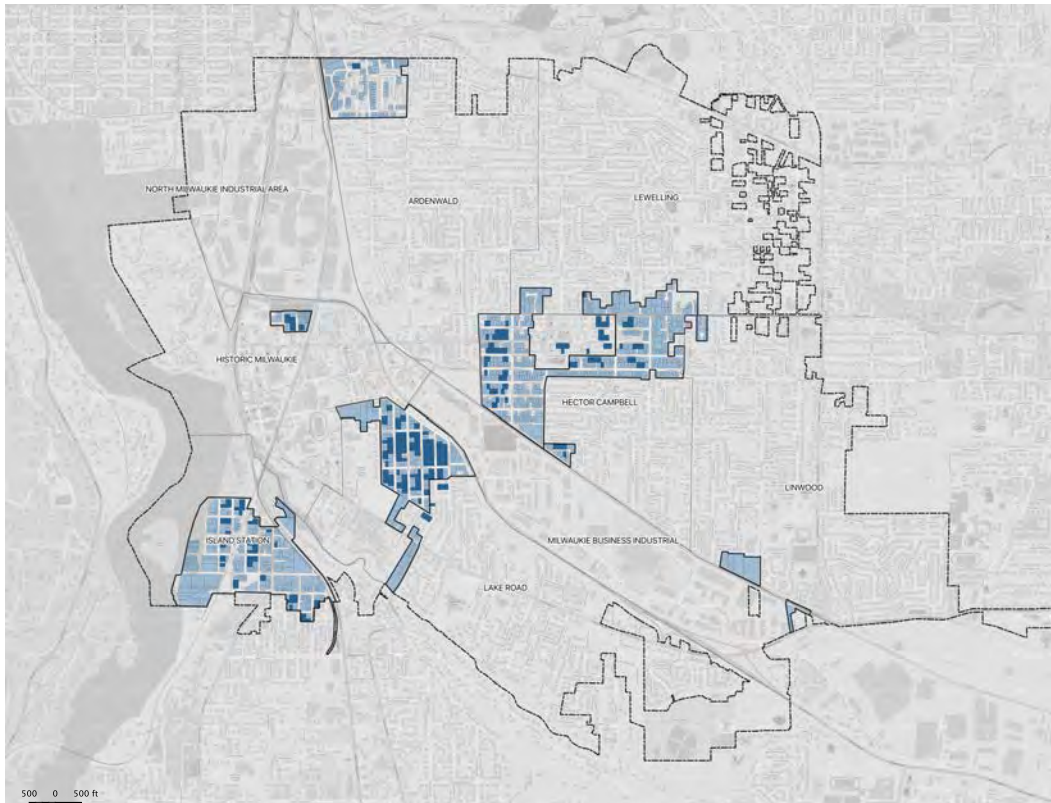
Figure 1: Milwaukie – Existing Zoning Map



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 Milwaukie, 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 Milwaukie 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.

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.



Comprehensive Plan Implementation Project – Definitions and Acronyms

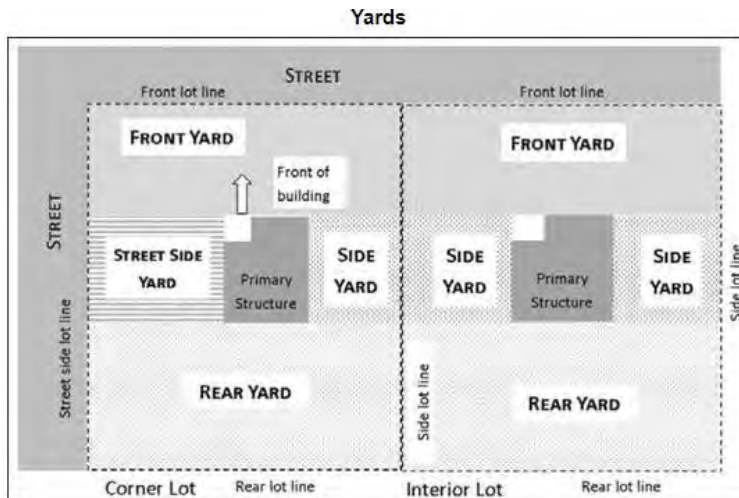
DEFINITIONS

Setbacks – a required distance that a building needs to be set back from the property line.

For example, a 5 ft setback means a building cannot be placed closer than 5 ft to a property line.

Front yard – the part of a property that is in front of the primary structure (such as a single-family home). It is between the front property line and the primary structure. See example below.

Yard - an open space on a lot which is unobstructed from the ground upward. A yard may include areas with grass, mulch, barkdust, shrubs, trees, garden plantings, gravel, pavement, or asphalt. See example below.



Variance – the act of wanting to vary a standard in the land use code.

For example, an applicant wants to reduce the required 5 ft setback to a 3 ft. They are asking for a variance to the required 5 ft setback.

Building Footprint – the area that a building covers the ground.

Dwelling Unit – A building, or portion of a building, that includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is

designed for residential occupancy by 1 or more people. Buildings with more than 1 set of cooking facilities are considered to contain multiple dwelling units.

Single-family residential (SFR) – A residential structure that has one dwelling unit within one building footprint. This term is also called “single-unit housing” or “single-unit residence.”

Accessory Dwelling Unit (ADU) – A dwelling unit that is smaller in size than a single-unit residence and is on the same property as a single-unit residence. It can be attached to the single-unit residence (such as a basement ADU) or detached (such as a separate building in the backyard). The term has also been called “mother-in-law apartments.”

Duplex – A residential structure that has two dwelling units within one building footprint.

Multi-family residential (MFR) – a residential building that has multiple dwelling units within one building footprint. In Milwaukie, a building with 3 or more dwelling units within one building footprint is considered multi-family. This term is also called “multi-unit housing” or “multi-unit residence.”

Rowhouse/Townhome – a residential building that is typically less wide and skinnier than other residential buildings and share a common wall with another rowhouse/townhome. These types of homes typically are clustered together in 3-4 rowhouse/townhomes but can be a single structure too. Each rowhouse/townhome is on a separate lot, even though walls are connected. See example below.



Figure 1: Common design look for historic rowhouses/townhomes.



Figure 2: Site design example of a rowhouse development. Notice that each rowhouse is on their own lot, but still share walls.

Cottage Cluster – a group of residential buildings clustered on one property, typically surrounding a shared open space. See example below.



Middle Housing – a term applies to housing types that fall between detached single-unit residences and large apartment complexes. They include duplexes, triplexes, quadplexes, townhouses, cottage clusters, and courtyard and garden apartment complexes. See example below.



Natural Resource – a term used to describe areas where extra restrictions are in place to preserve and mitigate impacts on existing natural habitats and waterways. These areas are mapped out in the City of Milwaukie.

Conditional Use (CU) – a land use that cannot be permitted outright. Extra review is required and will go before the Planning Commission for a decision.

Land Use Review – a review process that means an application must be reviewed by the planning staff before building permits and depending on the review type, will go before Planning Commission or City Council for a decision. There are 5 types of land use review. See table below.

| Type I | Type II | Type III | Type IV | Type V |
|------------------------------------|--|---|---|---|
| Decision made by Planning Manager. | Decision made by Planning Manager. A public notice required. | Decision made by Planning Commission. A public notice is required and a public hearing will be held at Planning Commission. | Decision made by City Council. The proposal will also go before Planning Commission, who will make a recommendation to City Council. A public notice is required and public hearings will be held at both Planning Commission and City Council. | Decision made by City Council. The proposal will also go before Planning Commission, who will make a recommendation to City Council. A public notice is required and public hearings will be held at both Planning Commission and City Council. This is usually a review for when you are updating municipal code and ordinances. Not typically for development proposals. <i>Example, the Comprehensive Plan update was a Type V Review.</i> |

Clear and Objective Standards – design and development standards within the land use code that is met through numbers and clear requirements.

Example – A 5 ft setback is a clear and objective standard. It is clear to know if you are meeting the standard or not. The required height of a structure is also an example. Required design elements, such as horizontal siding is another example.

Discretionary Standards – design and development standards that do not have a clear requirement. The standard can be interpreted in a variety of ways.

For example – A requirement could say an ADU must be compatible with surrounding development. What is compatible? Compatibility varies among different people based on opinions, likes/dislikes, etc.

ACRONYMS

ADU – Accessory Dwelling Unit

CPIC – Comprehensive Plan Implementation Committee

CU – Conditional Use

DLCD – Oregon Department of Land Conservation and Development

LCDC – Oregon Land Conservation and Development Commission

NCPRD – North Clackamas Parks and Recreation District

NCSD – North Clackamas School District

NDA – Neighborhood District Association

NR – Natural Resource

ODOT – Oregon Department of Transportation

SDC – System Development Charge

SFR – Single-family residence

MFR – Multi-family residence