

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, February 10, 2009  
6:30 PM**

**COMMISSIONERS PRESENT**

Jeff Klein, Chair  
Dick Newman, Vice Chair  
Scott Churchill  
Teresa Bresaw  
Lisa Batey  
Paulette Qutub  
Chris Wilson

**STAFF PRESENT**

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

**1.0 Call to Order – Procedural Matters**

Chair Klein called the meeting to order at 6:39 p.m. and read the conduct of meeting format into the record.

**2.0 Planning Commission Minutes**

2.1 December 9, 2008

**Vice Chair Newman moved to approve the December 9, 2008 Planning Commission meeting minutes as presented. Commissioner Bresaw seconded the motion, which passed 5 to 0 to 2 with Commissioners Batey and Wilson abstaining.**

**3.0 Information Items –None**

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

**5.0 Extension Request**

5.1 Extension of Conditional Use Mini-Storage Development Approval  
Applicant/Owner: Frank Walker/Hans Thygeson  
Address: 6011 & 5900 SE Harmony Rd.  
File: CU-07-02; TPR-07-12; WQR-07-01; VR-07-06; TAR-07-01  
Staff Person: Susan Shanks

**Susan Shanks, Senior Planner**, explained that as a conditional use application, CU-07-02 required substantial construction within six months of the approval date, which was approaching. The Milwaukie Municipal Code allowed for a one-year extension for such approvals, but required that the request return before the Planning Commission to decide whether to allow the applicant one year to comply with the conditions of approval.

- She clarified that the extension request was not a public hearing, but purely administrative. The conditions of approval could not be revisited.
- She briefly reviewed the application for the proposed mini-storage facility, noting that the extension was requested due to the scale and complexity of the project. The

engineering was just recently completed for the street improvements, as the consulting firm had experienced difficulties due to the economy.

- The applicant still proposed the same project and anticipated starting the project this spring or summer.
- Not many extension requests came before the Planning Commission, but the last four extension requests had been approved.
  - A recent extension request was for construction of a dock in the Willamette River due to regulatory timeframes and approvals required for building in the river. Another extension request was for completing improvements in the public right-of-way that would take longer than the six months allowed because of seasons.
- Staff recommended approval of this extension request.

There were no questions for staff.

**Commissioner Churchill** recused himself, stating that he knew the applicant and had real estate dealings with him in the past.

**Commissioner Bresaw** moved to approve the one-year extension of the land use approval of CU-07-02 to February 27, 2010. **Commission Qutub** seconded the motion, which passed 6 to 0.

**Katie Mangle, Planning Director**, introduced the new Planning Commissioner, Christopher Wilson.

## 6.0 Worksession Items

### ~~6.1~~ \*CANCELLED AND RESCHEDULED TO 2/24/09

South Ardenwald Master Plan – project briefing with staff from the Housing Authority of Clackamas County  
Staff Person: Katie Mangle

**Ms. Mangle** explained that the Ardenwald Neighborhood District Association (NDA) had requested that the worksession item be rescheduled.

- Trell Anderson, Executive Director of the Housing Authority Clackamas County, would join her at the next meeting to present the South Ardenwald Master Plan, which considered both the Housing Authority site on 32nd Ave and the vacant site to the south, known as the Murphy site. The Master Plan would be a heavy community involvement process.
- The Ardenwald NDA meetings conflicted with Planning Commission meetings, so she would work to avoid those time conflicts as much as possible. She had erred in scheduling the worksession for tonight's meeting.

### 6.2 Parking Code Update project briefing Staff Person: Ryan Marquardt

The Commission addressed Agenda Item 6.3 Title 4 Metro Code Compliance at this time. Agenda Item 6.2 Parking Code Update followed the Commission's recess (page 8 11).

### 6.3 Title 4 Metro Code Compliance briefing Staff Person: Katie Mangle

**Ms. Mangle** briefly reviewed the material and maps in the meeting packet regarding Title 4 Metro Code, noting the public hearing for the Code amendments would be February 24, 2009. She addressed preliminary questions from the Commission as follows:

- She explained the background regarding how Metro determined the criteria for Title 4. The City's M Manufacturing Zone requirements generally complied with Title 4. Changes were made to focus on precluding big box retail in industrial areas, which was the only change that required action by the City.
- The code change was developed about two-and-a-half years ago. When making changes, Metro had to obtain approval from the State Department of Land Conservation and Development, and then the cities had to come into compliance within two years afterward. The local city deadline for compliance was May 2009.
- The Code amendment would only affect the red area on the map and would actually state that in regionally designated Title 4 lands, the properties would not be allowed to have retail uses greater than 5,000 sq ft.
- She confirmed that Title 4 could be applied to all industrial areas, exceeding what was already approved.
- Bob's Red Mill was larger than 5,000 sq ft but was in the in BI Zone. Title 4 applied to part of M Zone areas like the Johnson Creek Blvd Industrial area and the North Industrial area.
- She believed part of the intent was to preclude WalMart and such stores, but was uncertain how Title 4 would affect areas like the WalMart site, which was partly in Portland, or the Pendleton site within the City. She did not know if that area was Title 4 land, but reminded that Title 4 lands could be extended and such changes could be considered or applied as part of the broader project.
- While the North Industrial area was not pretty, it had a high occupancy rate, and the area along Johnson Creek Blvd included Precision Cast Parts, one of two Oregon Fortune 500 Companies. She believed the North Industrial Land Use Study (NILUS) concluded that it was more vibrant than it looked.

**Commissioner Batey:**

- Understood the NILUS study found that the North Industrial area required protection from retail and that it needed to be maintained as industrial.
  - **Ms. Mangle** responded that she would ask Ms. Alligood to explain current protections on M Zone and the context regarding Title 4.
- Asked if either of the two businesses going into the Thomason sites were retail.
  - **Ryan Marquardt, Associate Planner** explained that the Thomason site on the east side of McLoughlin Blvd, where the building was recently demolished, was to be a maintenance and storage shop for Willamette Jet Boats. Across the way, D & R Masonry would have a sort of storage yard where stone-working would occur and then be installed offsite. The business would also have offices and a showroom in the front building located on the corner. He was not certain if the use would be retail, but some kind of commercial service would support the manufacturing use.

**Chair Klein:**

- Asked if it would hurt to expand the Title 4 areas into the upper Northern Industrial area.
  - **Ms. Mangle** replied no, adding she and Alex Campbell, Resource & Economic Development Specialist, had discussed it. The primary reason to do so was that

- regional funding would increasingly focus on implementing the 2040 Vision, which focused growth in town and regional centers, key corridors, and even key industrial areas. Areas that were not Title 4 properties or designated town centers would be less likely to receive funding for improvements in the future. Expanded Title 4 land was not really needed, because the City could be as protective as it wanted in terms of land use authority. Staff knew that area required a lot of transportation improvements to improve access and [designating it as Title 4 land] might make it more competitive for funding.
- Recalled discussions about development including big box stores across the street from Fantasy and other businesses. He preferred being in front of [development], adding Sellwood would probably appreciate the Commission's efforts to control growth.
    - **Ms. Mangle** said staff would include some of that context at the next meeting for the Commission's consideration.

**Chair Klein** invited new Planning Commissioner Chris Wilson to introduce himself.

**Commissioner Wilson** understood the Commission was not discussing the Ardenwald property. He distributed information he pulled from the Department of Environmental Quality (DEQ) website and noted that the property was on the DEQ list. A leaky underground storage tank was on the vacant Murphy site. He had contacted DEQ about the matter; however, the assigned project manager disappeared at Christmas and the new project manager did not know anything about the matter.

- He stated he was an environmental consultant and had moved from Orange County to the area in June 2006 to help the environmental and geotechnical engineering firm he worked for establish an Oregon presence.
- He lived in the Hector Campbell NDA with his wife and five children. He wanted to join the Planning Commission to learn how business was done in Milwaukie and to be involved. He appreciated the opportunity to serve the community.

The Commission next addressed Agenda Item 7.0 Other Business/Updates from Staff to allow Senior Planner Susan Shanks to discuss Ed Parecki's suggestions regarding public area requirements.

## **7.0 Other Business/Updates from Staff**

**Ms. Mangle** suggested continuing discussion about Ed Parecki's suggestions regarding public area requirements downtown, such as the City putting a moratorium on public area requirements.

**Commissioner Churchill** believed Mr. Parecki's ideas had merit. Rear-loading the charges would keep the development costs on the shell to a minimum. His public area impacts had not been incurred yet for his building on Monroe and Main, so a case could be drawn for that.

**Susan Shanks, Senior Planner**, said she had spoken with Mr. Parecki and then discussed with Kenny Asher, Katie Mangle, and Bill Monahan about when a change of use occurred and at what point the City could then require public area improvements. The discussion was beneficial in general in order to make the new Code language clear. The conclusion was that nothing would have necessarily been done any differently with

Mr. Parecki's project, specifically because of the change of use.

- The new Code was set up for downtown and non-downtown projects to avoid capturing projects with no impact to the transportation system.
  - If Mr. Parecki's project had just been a façade improvement without a change of use, it would have been evaluated under new Code language as having no impacts to the transportation system.
  - Mr. Parecki seemed to downplay the change of use, which triggered more transportation impacts and was the City's basis for the improvements.
  - Without a tenant, Mr. Parecki's improvements were speculative in some respects, but change of use was apparent because the area's zoning did not support the previous office use. The new use had to be retail because the project was on Main St in the Downtown Retail Storefront (DS) Zone.
  - The most conservative approach was used in evaluating the impacts of Mr. Parecki's application. Generic office versus generic retail impacts were considered, using the lowest possible trips for retail. Because of the difference between trips generated by the former use versus the new use, the City determined there would be more impacts.
- Public Area Requirements might seem strange or unfair because with no tenants there were no impacts, but the process was similar to that used in land divisions. It was common, typical, and legally defensible to require public improvements at the time that land was divided because that was considered the time of development. There were impacts in creating new lots. Even if the property was not improved for 5 or 10 years, the improvements were needed as soon as possible or the lots would have no improvements due to time passing, staff changes, et cetera. It was typical for cities to get the improvements when possible and when it made sense.
  - If Mr. Parecki's tenant made more impacts than the generic retail use used in evaluating impact, it was legally defensible for the City to say deficiencies still existed in the public improvements for the frontage and ask for more public improvements.
  - Incremental improvements could be obtained for any downtown or non-downtown project, because each project might trigger a portion of the public improvements until the full improvements were actually implemented. At that point, even if a project had more impacts, nothing more could be exacted because the frontage was already complete.
- There was debate about the design standards for the downtown improvements, which was why City Council directed staff to look at ways for the City to balance the scales by doing urban renewal, recognizing the design standards were higher for downtown.
  - **Bill Monahan, City Attorney**, pointed out that downtown businesses also benefit from the degree of public improvements that exist. The City was not asking for improvements from property owners who then received nothing in return. Property owners accrued benefit from the types of improvements already in downtown, including wider sidewalks, benches, trashcans, et cetera.
  - The City recognized that the standards were higher, but also that development benefited more from the higher standard of improvements.
- Changes of use were more subtle than new construction or land division, so staff was always conservative, but always completed an evaluation to determine whether there were more impacts. Staff would not approach an application as though there was a change of use, unless they were certain that a change of use would occur.
  - If the previous use for Mr. Parecki's building was retail and staff did not know who

- the new tenant would be, but the use had to be retail, staff would probably not exact any improvements because the future use was unknown. Staff would review it only when tenant improvements came in for the specific retail use and triggered more impacts.
- Staff knew there was a change of use for Mr. Parecki's property, so they exacted the improvements at that time.
  - If the Chopsticks or Dark Horse buildings wanted only façade improvements and continued to operate the business as is, there would be no impacts to the transportation system, so no public area requirements would apply.

**Chair Klein** requested that Ms. Shanks ask Mr. Parecki which businesses [were delaying improvements because of anticipated public area improvement requirement costs] because that might shed a different light on the possibility of them [making improvements to their buildings].

**Ms. Shanks** noted that the Chopsticks building might be under the old Code because it was value-based.

- She reported Mr. Parecki was actually pretty happy that the [public area improvements] process would be impact-based. His concern was that he did not yet have a tenant, so how could the City say there were impacts. In studying the issue carefully, she was able to say that it was because of the change of use. Just as during a land division, more development would follow so that was the time to get the improvements.

**Commissioner Churchill** believed there was still merit to the premise of considering when the impact actually happened, although he appreciated the land use division model as an example and that it was legally defensible.

- Staff would have a huge job tracking projects with public area improvements should the improvements not be done at the time development occurred. If the Monroe and Main Building was still not leased after three years, and staff might have changed and no one would remember that public area improvements had been required.
- **Ms. Shanks** agreed the timing issue was important. When a tenant came in years later, it would be difficult for staff to trace back and put all the requirements together to determine what should be improved to round out the project at that point.

**Chair Klein** said it was a strange dilemma because the City wanted improvements and to make improvements financially viable for the business owner. On the other hand, the City wanted businesses, so it did not work to drop the financial burden onto them. If Mr. Parecki was not required to do the improvements, he would have had to pass that on to whatever tenant eventually moved into his building.

**Commissioner Churchill:**

- Explained that landlords usually built improvements into their pro forma created for their lease rate. The owner of a property that sat for three years without a tenant had public area improvements that were aging for three years. Considering the present value of his capital to do it, the case could be made that there was benefit to waiting until later when the improvements would be fresher. However, the stronger case was probably that staff would be burdened with tracking the project.
  - **Ms. Shanks** cited the North Main Project and asked how this was any different from new construction, where improvements were required at the time of

- construction before there were tenants. Generally, it was understood and expected that when new construction occurred, it was expected that the new construction and public improvements would be seen before new tenants. A small, local developer who was redeveloping an existing building with existing improvements made it more complicated, but there was really no difference.
- It was not typical to wait for the tenants to come in and then require the developer to build all the improvements. Tenants did not expect to come in and build major improvements.
  - Noted build-to-suit sites, where the owner did not develop the site at all until there was a tenant.
    - **Ms. Shanks** agreed there were different models. Some projects were developed for a particular tenant, and others were speculative, and waited for a tenant. From the City's standpoint, she did not know if different standards or approaches could be developed for each different development approach.
      - The Panattoni site was speculative with the intersection and other public improvements required up front without knowing what tenants would go in.
    - She reiterated that the change of use had triggered public area requirements in Mr. Parecki's case. Without a known change of use, staff would not have gone there, and instead would have evaluated the project for impacts to the system when a tenant came in.

**Chair Klein:**

- Explored change in use and Code requirements about the types of businesses that could be in [downtown] buildings, by asking the following questions:
  - According to zoning, what could go into the Dark Horse building if they left and what would be the implications for [public improvements]? Which uses were nonconforming that would have to change with a new tenant, thus requiring public improvements?
  - **Ms. Shanks** explained that because of the change of zoning downtown in 2000, more nonconforming uses probably existed downtown than in other noncommercial areas, making downtown more challenging for those property owners.
- Stated that knowing the nonconforming uses would give a better understanding of who would be impacted and allow the City to provide solutions. If 5 of 20 downtown buildings had issues, something could be done, but that would be addressed differently if 15 of 20 were nonconforming uses.
  - **Ms. Shanks** agreed it would be good to identify buildings with nonconforming uses. When downtown was rezoned, it was bold and visionary in terms of separating uses into discrete geographic areas, allowing certain uses on certain streets. In the past, downtown zoning had been more generic.
- Suggested that building owners would then have a heads up and the Downtown Business Association could be notified about which business would be impacted, which may be helpful.

**Ms. Shanks** offered to talk with Alex Campbell about urban renewal and a general approach regarding how the City might help buildings identified with nonconforming uses and what that might mean overall for the City.

- She reported that about 20 to 30 attendees were present at the two Downtown Business Association meetings where she presented proposed changes to the public area requirements.

- She responded to a fair amount of questions at the first meeting as people tried to understand the Chapter 1400 Transportation Code Amendment (TCA) project and value- versus impact-based approach. At the second meeting, attendees were more familiar with the TCA project, but there was appreciation for the change, especially from the value- to impact- based approach and the extension of funds in lieu of construction to downtown property owners. Good, thoughtful comments were coming in from small developers and the realty community, basically focusing on refinements and big policy questions.
- She had also talked with developers outside of downtown, including Mike Wells, Bob Dant, Gene Derringer, and Ed Parecki, among others.
- She invited further questions and comments. Other than the design standards for downtown, downtown projects would be subject to the same level of evaluation as non-downtown projects, such as if there were impacts, what frontage or proportionality improvements would be required for that impact, etc. If there were no impacts or if they were not proportional, staff would not look for them.
- A worksession was scheduled for a more formal discussion on February 24, 2009, where the Commission would receive a list of people with whom staff had discussed the [proposed Code amendments].

The Commission took a brief recess, then reconvened at 7:40 p.m. and continued with Agenda Item 6.2 Parking Code update project briefing.

#### **6.0 Worksession Items (Continued)**

##### **6.2 Parking Code Update project briefing**

Staff Person: Ryan Marquardt

**Ryan Marquardt, Associate Planner**, reviewed the Parking Code Updates via PowerPoint, explaining why the Parking Code update was being addressed at this time. He noted that Ms. Shanks was working on the Transportation Code update while he and Ms. Mangle were working on the Parking Code update with consultants Winterbrook Planning. He responded to questions from the Commission and received feedback regarding the major policy changes being considered as follows:

- (1) Limit off-street (driveway) parking to one per dwelling unit to be in compliance with the Metro Functional Plan.

**Commissioner Batey** believed the change was a terrible idea. People in her neighborhood had four, five, or six cars, two boats, and an RV parked on their lawns. Code enforcement was not addressing the problem as it existed, so she did not see the logic in limiting off-street parking to one space per unit. It made sense with multifamily developments, but not for single-family housing.

- **Mr. Marquardt** clarified that the policy change did not prohibit more parking, but only limited what the City required.

**Vice Chair Newman** stated the same problem existed in his neighborhood because residents did not have enough off-street parking. He did not understand the concept behind reducing the number of off-street parking spaces.

- **Mr. Marquardt** explained that some on-street parking was probably available in most neighborhoods, so not requiring single-family homes to have two off-street parking spaces as currently required, assumes one car would be elsewhere, not on site.

- **Ms. Mangle** added that the idea stemmed from two goals of the project: to not require more pavement than needed, and to encourage alternative transportation choices as part of the Transportation System Plan (TSP). Some homes only had one car, but were still required to have two parking spaces.
    - This led to questions about the City's role in regulating parking spaces and whether the regulation should be set to the worst case scenario, i.e. for the house with five cars, or require a minimum and then allow developers and homeowners to build more if needed or if the market required.
- (2) Eliminate the requirement for a covered parking space.
- **Mr. Marquardt** explained that the Code currently required two off-street parking spaces for every single-family dwelling, and that at least one be a covered off-street parking space. If a house did not have a garage or carport, it was not necessarily a requirement to construct one, but if a dwelling had covered parking and the owner removed the covered parking, it had to be replaced.
  - The parking Code was developed in the 1960s and explained that staff was probing for which requirements were outdated and which still made sense.
  - **Chair Klein** commented that much of Milwaukie's post-war housing was built when no one believed anyone would have more than one car. People parked on the grass because no street parking was available; street boundaries were not really defined as often no curbs existed.

**Commissioner Batey** noted that permanent carports were better than the tent-type carports that were not typically permitted. Some garage conversions looked very bad, so the existing rule was sometimes a good way to prevent a conversion.

- Eliminating covered parking, but requiring less than two off-street spaces was a big problem.

**Chair Klein** asked if residents would be able to utilize off-street parking on the green streets being developed on Logus Rd.

- **Ms. Mangle** replied that some parking spaces were included, but not everywhere.
- **Mr. Marquardt** added that there was no plan for off-street parking along some arterials and collectors. Potential problems with on-street parking would depend on the design of each green street, specifically if they were narrowed.

**Mr. Marquardt** summarized the discussion by saying that the Commission was not interested in reducing the required parking to one space per dwelling unit, but might be willing to let go of the covered parking requirement.

Additional comments from the Commission included:

- One advantage of on-street parking was that it would slow down traffic.
- While not wanting to see a lot of cars parked in front, where places to park were unavailable, most houses had some setback that might allow for a tandem two-car garage. Smaller houses had less chance of having a lot of cars, but a large house might have four or five cars.

**Commissioner Batey** did not see a connection between the size of house and number of vehicles per home in her neighborhood.

- (3) Eliminate the extra parking space required for Accessory Dwelling Units (ADU).
- ADUs could be rented and were not just for elderly family members. The intent behind ADUs was to facilitate low-cost housing. It seemed counterproductive to reduce single-family off-street parking from two spaces to one, if an ADU existed that would no longer be required to have a parking space.

The Commission agreed that a single-family residence, even without an ADU, needed at least two parking spaces and that the required off-street ADU parking space should be retained.

- Flexibility should be available to install permeable paving to avoid paving over a large area and have a minimal impact.
  - Many green alternatives were available. Gravel was not a good choice for driveways because it left the site and grass grew in it. Grasscrete, described as latticework concrete that allowed grass to grow while providing a solid surface, was also suggested as well as installing two 1-ft wide strips of concrete.
- Wording such as 'encouraging' left a loophole and should not be used.

**Mr. Marquardt** asked if an existing house had two off-street parking spaces and wanted to add an ADU, should a third off-street space be required.

**Chair Klein** stated that if an existing residence with one off-street parking space wanted to add an ADU, a second parking space should be required. The minimum should be two parking spaces on each property. He did not know of too many residences that had fewer than two off-street parking spaces.

**Commissioner Batey** asked how the City evaluated current parking for each residence. Did the City tell a homeowner with six cars that they had to provide off-street parking for six cars?

- **Mr. Monahan** responded the City could not look at the use of the space or how many vehicles a property owner had. If the Code required two impervious surfaces, the City could determine if two impervious spaces were physically in places that met the dimensional requirements.
- **Mr. Marquardt** clarified that boat and RV parking was a separate issue as regulations existed for such parking in residential zones.

- (4) Limit parking to four uncovered parking spaces in the front yard area of residential uses.
- The draft defined a parking space as any accessible paved area at least 9-ft by 20-ft that was connected to an approved driveway approach, which extended to the right-of-way line. A very long driveway would be problematic.
    - Many lots had circular driveways that could allow four cars and sometimes looked nice. Lot size might be a factor.
  - An alternative was limiting the percentage of front yard that could be paved or the maximum number of parking spaces for residential uses.
  - Basing parking facilities on green space or the width of the frontage should be considered. A six-car driveway might be proportional if a lot of green space existed. Pictures would be helpful.

**Chair Klein** suggested tying the parking lot's size to the massing of a house, such as the square footage could not exceed the size of the largest house in the area by 15% or

20%, and tie that into the parking facilities. New residential construction should conform to surrounding houses, which might prevent big residential care facilities.

- He would consider using green space or frontage as a basis, if some sort of Code would prevent structures like the Balfour House.

**Commissioner Batey** said she liked the four-car limit as a general rule, but wanted an exception for larger lots.

**Mr. Monahan** said front parking could be limited with an allowance for additional parking in the rear on an oversized lot. A facility such as Balfour House would move the building up on the lot and some of the parking to the rear. This could impact properties to the rear, but have less impact on street appearance, looking less institutional.

**Chair Klein** wanted to prevent large parking areas, instead of shifting the emphasis back toward the neighbors' yard.

**Mr. Monahan** stated Code language could be added to limit the amount of impervious surfaces compared to the footprint of a large lot. However, an allowance would be needed to permit some parking in side or rear yards, rather than to force all of the parking to the front.

**Mr. Marquardt** summarized the discussion by saying the Commission was not interested in limiting the total number of parked cars, but having some sort of proportional tie-in to the front yard area and how much of that could be dedicated for parking.

**Commissioners Bresaw and Batey** offered to take pictures of parking areas in their neighborhoods to send to staff.

The Commission briefly discussed parking on lawns. The City had a current ordinance that forbids parking on lawns; however, it was difficult for Code Enforcement to uphold and enforce.

**Commissioner Batey** questioned why the parking requirement should change to fewer than two or even four parking spaces.

- Street parking was available in some areas, but owners preferred to park on their lawn either to have the car closer to the house or because street parking had a time limit that required moving the car periodically.

**Mr. Marquardt** clarified that the proposal under discussion was primarily for new construction, but in some nonconforming parking cases, residential properties undergoing a substantial remodel or addition were required to come closer into conformance.

**Commissioner Batey** compared the nonconforming parking requirements for existing residences to the discussion concerning the Transportation Code. Parking requirements would apply to a large expansion of an existing residence.

(5) Parking quantity and modification determinations.

**Mr. Marquardt** stated that the current parking Code was six pages of ratios and uses utilized when evaluating developments and land use proposals. While it did capture most proposed uses, the ratio table did not cover every circumstance. Parks, for instance, were not listed and staff had to conduct a parking determination.

- The proposed changes would combine modification and determination for unlisted uses into the same process. Clearer application and approval criteria were also proposed to enable applicants and staff to know what to ask for and what parking decisions were based on.
- Regarding site-specific parking determinations, the proposal stated that if a development required more than 50 parking spaces, the Planning Director or applicant could request an individual determination. If more than 100 parking spaces were called for, the applicant was required to do a specific parking determination.
  - For example, under the proposed changes, the King Road Shopping Center with more than 100 parking spaces would have had a traffic engineer or other appropriate professional prepare an estimation of the number of parking spaces based on square footages and types of uses proposed for a more refined parking estimation.
  - The existing Code table calculated the number of parking spaces per lineal bench feet for a church, but did not account for other multiple, concurrent uses. During the application process, the applicant could use the site-specific analysis to support that a specific number of spaces were needed. Currently there was no way to permit such an analysis.
- He clarified that the number of required parking spaces was determined first by the table, not by the applicant. Consistent results were not guaranteed. Some cases might result in more spaces than the parking ratio table, but hopefully the process would occasionally capture circumstances where fewer spaces and less paving were required.
- The Code amendment would enable the site-specific determination to be used for a broader range of proposals.

(6) Applicability of the Code to existing nonconforming parking areas to provide guidance to staff when evaluating applications.

**Mr. Marquardt** stated that currently when remodeling or changing use, the Code only stated that a nonconforming parking area must come closer to conformance.

- In the draft Code, required improvements could not exceed 10% of the development permit value. The proposed update also provided a priority list of improvements to give staff guidance about what to consider to bring parking areas closer to compliance.
- D & R Masonry estimated that its parking lot would cost about \$15,000 to \$20,000 and the overall permit value was about \$160,000. Staff was sensitive to the overall scale of development. If an applicant was doing a small project, staff tended to require small improvements; however, no real Code guidance was given. The closer-to-conformance standard was also the heart of the Park & Ride LUBA appeal.
- Up to 10% of the permit value could be required, but was not mandatory, so the percentage required for improvements could be negotiable.
- Generally, if an applicant's site plan was in the spirit of the Code and fell under the 10% permit value, staff typically considered it as acceptable. However, if other areas should be added, like a business that addressed pedestrian or bicycle traffic, improvements could be required.

**Chair Klein:**

- Favored the change as long as it fell within the 10%. He noted his concern about a business moving into a facility that did very few improvements, although the parking lot was real bad.
  - **Mr. Marquardt** agreed that staff would not require a high level of upgrades if the building was essentially used as is since the requirement was tied to the amount of improvements being done to the building.
  - He confirmed that the Code would specify that it was tied to the permit value.
  - **Ms. Mangle** clarified that the concept of proportionality with regard to public area improvements applied to onsite improvements, which was a little different.
  - **Mr. Monahan** agreed, noting the courts had not really addressed the onsite situation. It came down to how far a developer could be pushed for improvements. The benefit was that lending institutions might pressure the developer to make improvements to enhance the investment made on the property on which they were loaning, reducing resistance for offsite improvements that could be argued were the public's responsibility. That argument was not available on an individual property.
- Stated that as proposed, people could still weasel under the bar, but that had to be expected because a bar did have to be set.
  - **Ms. Mangle** explained that she had formerly done some parking lot developing for transit agencies. On the designing side, many times she asked cities what the requirements were so she could meet them. Many cities have requirements based on a percentage and people would try to negotiate out of it, although for bigger projects, it was typical for the applicant to just want to know what was required.

**Commissioner Bresaw** reiterated that if a business obtained a loan, the bank would want the property improved. However, there were cases where that pressure did not exist and the least possible improvements were done.

**Chair Klein** agreed, but reiterated that once the bar was set, the applicant could weasel under it, but it would not be worse than what currently existed.

**Mr. Marquardt** concluded by saying the minor policy changes were attached to the staff report. The proposal was under review by City staff. Public outreach and a City Council worksession would occur in early March or April, with the final draft proposed for adoption at the end of May.

- If the Commission was comfortable with the direction provided on the major policy changes and did not have comments on the minor policy changes, a second worksession might not be needed, but it was up to the Commission.

The Commission agreed to hold a second worksession to:

- Provide a clear definition about the distance of shared parking use.
- Consider RV and boat parking, an issue for many neighborhoods.
- Further discuss parking lot design and landscaping.

The Commission continued to Agenda Item 7.0 Other Business/Updates from Staff.

6.3 Title 4 Metro Code Compliance briefing

Staff Person: Katie Mangle

The Title 4 Metro Code Compliance briefing was addressed after Agenda Item 6.1.

### **7.0 Other Business/Updates from Staff (Continued)**

Staff's update regarding Ed Parecki's suggestions for public area requirements was provided and discussed prior to Agenda Item 6.2 Parking Code Update project briefing.

Two letters were distributed to the Commission that had been delivered to City Hall.

**Ms. Mangle** prompted discussion about consent agenda items by asking whether the Commission would consider the extension request scheduled for the February 24, 2009 meeting as a consent agenda item.

- Staff would put items as consent agenda items with a brief staff report, assuming a complete presentation was not required at the meeting.
- If a Commissioner wanted a presentation, she asked that staff be notified by the end of the day the Friday before the meeting to allow staff to prepare a presentation on Monday.
- If staff suspected an item might not meet the approval criteria, a full presentation would be prepared.

**Mr. Monahan** explained if the Commission was comfortable that such items were more procedural, they could be on a consent agenda for a vote since the Code states that a Planning Commission decision was required. The Commission could always pull an item from the consent agenda if it was of concern.

- He clarified that a member of the public could also request that an item be removed from the consent agenda, so it was important to be prepared. The applicant also needed to know that their item could possibly be pulled from the consent agenda. The applicant might decide not to attend the meeting and could request that the item be continued if it was pulled from the consent agenda.

**Mr. Monahan** suggested that the Commission condense the procedures into a Planning Commission rule to provide direction about the consent agenda and how to deal with removing an item, and so staff understood how it worked.

**Chair Klein** suggested that staff ask the Commission about an item for the consent agenda when doing the meetings' forecast, not when the meeting packet went out.

### **8.0 Planning Commission Discussion Items**

**Commissioner Batey** noted the Commission's long discussion with Ms. Shanks, when she was acting in charge, about the content of public notices, and recalled reaching an agreement that more details about impacts be included. She believed the public notices for the Pond House did not provide enough information. The notice in the newspaper could stay cursory, but the one delivered to the neighborhood should provide more details.

- She asked Ms. Mangle to discuss the issue with Ms. Shanks, and requested that she begin receiving notices in the meeting packets.

**Vice Chair Newman** praised staff for their meeting organization and presentations, which had greatly improved since the first meeting he had attended.

**Chair Klein** agreed staff was doing a very good job, adding he was surprised at how Ms. Alligood had jumped in and addressed two difficult issues. Mr. Marquardt was also great at Code details.

- He requested a hard 10:00 p.m. cap for future meetings. If the meeting could be wrapped up within a few minutes after 10:00 p.m., that was fine; otherwise he would request a continuation. He had resisted a cap in the past, but now understood its necessity.

#### **9.0 Forecast for Future Meetings:**

- February 24, 2009
1. ZA-09-01 Public hearing on Metro Code Compliance Title 4 – Industrial and Other Employment Areas
  2. HIE-08-04 Extension request for Home Improvement Exception Approval of 12115 SE Pennywood Court
  3. \*South Ardenwald Master Plan – project briefing with staff from the Housing Authority of Clackamas County

**Ms. Mangle** stated that HIE-08-04 would not be a consent agenda item and that a worksession would also be held on the TCA Code Amendments.

- March 10, 2009
1. ZA-09-02 Transportation Code Amendments – Public hearing for Recommendation to City Council
  2. CSU-08-06 Community Service Use – Public hearing for Johnson Creek Blvd. facility modular office

**Ms Mangle** quickly reviewed the future meeting items, adding that she would diligently review the forecast more regularly and encouraged Commissioners to voice their questions or concerns early, so staff could build them into the review. Speaking up earlier was better, so staff could ask the applicant questions.

**Commissioner Batey** asked why Johnson Creek Blvd facility was on the agenda again, suggesting that perhaps it should be on the consent agenda because it had no impact on any neighborhood.

- **Ms. Mangle** replied that although the issue did meet the minor modification criteria, it was a City facility with a Community Service Use (CSU), so the more conservative route was to schedule a public hearing for the approval. Once it was decided to take the minor quasijudicial approach, all rules had to be followed, so a full public hearing was required.

**Commissioner Bresaw** understood that poetry readings at the Pond House had been occurring for 12 to 18 months and commented if there were traffic impacts, the neighbors would have complained by now.

**Commissioner Batey** stated the Pond House was being used for poetry readings without approvals, so the neighbors were not told about the poetry meetings. The public notice posted on site blew down so neighbors were not informed that the meetings would be permanent and possibly more frequent.

**Chair Klein** requested that individual sections of the packet be stapled together. If an item was continued, it was easier to recycle the rest of the packet if the agenda items were separated. Bigger packets were also difficult to search through when stapled all

together.

**Ms. Mangle** requested that the Commissioners retain their packets for the South Ardenwald Master Plan.

Meeting adjourned at 9:06 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription for  
Alicia Stoutenburg, Administrative Specialist II



Jeff Klein, Chair