

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, March 24, 2009
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman, Vice Chair
Lisa Batey
Teresa Bresaw
Paulette Qutub

STAFF PRESENT

Katie Mangle, Planning Director
Bill Monahan, City Attorney
Brett Kelper, Associate Planner
Ryan Marquardt, Associate Planner

COMMISSIONERS ABSENT

Scott Churchill
Chris Wilson

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:34 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

Minutes continued from March 10, 2009 (see previous packet)

2.1 January 13, 2009

Commissioner Bresaw moved to approve the January 13, 2009 meeting minutes as presented. Vice Chair Newman seconded the motion, which passed unanimously.

2.2 January 27, 2009

Commissioner Bresaw moved to approve the January 27, 2009 meeting minutes as presented. The motion was seconded by Vice Chair Newman and passed unanimously.

3.0 Information Items

Ms. Mangle confirmed which Commissioners needed the Parking Code material that was part of the prior meeting's packet.

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 Public Hearings –None

6.0 Worksession Items

6.1 Joint Session with Design and Landmarks Committee (DLC)

A. Comprehensive Plan Update project briefing
Staff Person: Katie Mangle

Design & Landmarks Committee Members Present:

Chair Patty Wisner
Becky Ives
Sarah Knaup

Siri Bernard
Greg Hemer

Katie Mangle, Planning Director, stated the Municipal Code required the Planning Commission and DLC to meet two times per year. During the joint session, the DLC would describe the training they had undergone to improve the design review process. The hand off between the DLC and Planning Commission was improving, but there was always room for more improvements, which could be discussed.

[Introductions were made.]

Ms. Mangle explained that the State required periodic review of the Comprehensive Plan. However, the City found out Monday that funding for the review had been lost due to budget cuts. Milwaukie had not yet started the review process, so the review requirement and project deadline were being delayed for one to two years. Money currently available for the program would help cities that had already started the periodic review process complete the project.

- Since funding was no longer available, the project briefing would not be discussed. Instead, she would discuss what both groups should know about implementing the Comprehensive Plan. The Comprehensive Plan Update would be done, but not in the near future.
- She briefly described the components of the Comprehensive Plan, which was the guiding document for many aspects of how the City worked, especially at the staff level. The Comprehensive Plan included several ancillary documents, such as parks master plans and the downtown plan documents.
- She responded to comments and questions as follows:
 - She explained that the Town Center Master Plan was originally named the Regional Center Master Plan, which referred to how Milwaukie was designated in Metro's Regional Map. She displayed the 2040 Diagram, Attachment 2 6.1A page 8, detailing the 2040 Vision for the entire region to further describe the difference. The vision for the Portland Metropolitan Area was to control sprawl, improve urban areas, and protect natural environment.
 - Originally, the Regional Center designation for Milwaukie was bigger until Milwaukie lobbied to be a Town Center, which was motivated by different expectations and intensity of the type of growth for Milwaukie.
 - Transportation funding decisions were made according to the Local Aspirations Diagram. She believed one concern about changing to a Town Center was that more transportation money was typically available to Regional Centers.

Chair Klein commented that if Milwaukie was designated a Town Center but had Regional Center transportation problems, then the City might have sold itself short. He understood density was a concern, but did not see the City tearing up whole neighborhoods and constructing high-density housing. Additional densification would be placed in logical areas anyway.

- **Ms. Mangle** said that the change happened under the previous Planning Director. Staff's concern at the time had been that the City would sell itself short as far as having access to some problem-solving tools.

DLC Chair Wisner added that the citizens were very concerned during the planning changes in the 1990s. The Regional Center boundaries were further out, quotas for adding density to Milwaukie were higher than Town Center status, and building height in downtown Milwaukie could increase to more than five stories. Milwaukie citizens at the time felt it was too ambitious and would ruin the small town feel. That drove the recall and then the new City Council members requested a scaling down to Town Center designation.

Ms. Mangle said other opportunities were available for funding that acknowledged the regional transportation routes on Hwy 99E and McLoughlin Blvd, among others.

- She utilized slides from a presentation for Neighborhood District Association (NDA) Land Use Committee (LUC) chairs, "Planning at Many Scales" to review the levels of planning at the city, state and federal levels.
 - Staff spent most of their time implementing the Comprehensive Plan by working with zoning, approving permits, reviewing projects, etc. The overarching policy was important because it was not just about reacting to each redevelopment, although Community Service Uses (CSUs) required case-by-case review by the Planning Commission.
 - The DLC members had a more direct connection with design review, which most directly implemented the downtown plans.
 - When reviewing projects, Code amendments or interpreting Code, it was helpful to look to the Comprehensive Plan for guidance.
- She reviewed some sorely outdated Comprehensive Plan items that would be addressed as the project moved forward.

Questions and comments from the meeting panel were addressed as follows:

Chair Klein:

- Asked about the South Downtown first floor restrictions that required retail rather than office space. Some businesses that would have located in Milwaukie did not do so because they could not have first floor office space. He understood the logic and desire to have first floor retail, but perhaps the policy should be revisited. He believed it was ridiculous to have vacant space while businesses wanting to locate in Milwaukie were turned down; especially since office businesses would not necessarily have the parking issues of retail businesses. Perhaps downtown was supposed to be a business location, rather than retail, with residential above.
 - **Ms. Mangle** replied that prohibiting office on the first floor was a good example of how the Code implemented the overarching goals that the City wanted, such as revitalizing downtown. If the Code was so specific that it did not allow good things to occur, then it could be said that the Code was not implementing the Comprehensive Plan goals. A big policy shift would not be required, but a Code amendment would allow the use of a different tool and could be discussed.
 - Other city planning directors were grappling with the same issue, trying to find the right mix of vision and market reality.
 - Planning tools change over time and zoning was not used today the same way it was 20 years ago, because of the changing market. Milwaukie could say they still wanted downtown to be private retail, but now the market was not there and may not be supportable for another 10 years. Some cities were saying the **base** should be designed with a height that allowed for retail, but perhaps should be more flexible regarding uses for the buildings. When the market was supportive,

it would fill with retail because it was ready for retail use, an approach that the current Code did not allow.

- Stated that existing non-retail businesses were throttled until the retail space became more viable and appealing to landowners who then might decide to switch out the occupants.

DLC Member Hemer added that rented buildings bring in developers. Empty spaces made developers wonder why they should build a building that could not be rented. The reality was that full buildings would bring retailers in to sell to those occupants, and office space would be lost overtime.

Commissioner Batey believed getting people to live downtown was more important to help the transition. Filling the area with more doctors' offices, which were too numerous already, would not bring in more residents, and then restaurants, etc.

Chair Klein noted plenty of residents already lived in North Main, but no more would move to the area until residential structures were built.

Ms. Mangle said the City had received a State TGM grant for a Code audit. For the project, she highlighted checking on downtown standards to ensure the goals were being implemented. She had not yet heard about the grant funding status.

DLC Chair Wisner believed any changes should be approached cautiously.

- In 1970, the Code was changed to make downtown service-oriented, causing the area to become stagnant for 30 years. In the 1990s, as the NDAs became more viable, they wanted retail brought to downtown. Some retail had occurred, but she was hesitant to return to just service-oriented businesses because all the money, time, and volunteer hours that went to make downtown more mixed-use would be defeated.
- The last nine years had not been the kind of robust economic environment that would bring retail to Milwaukie. She did not feel a knee-jerk reaction of rezoning back to service-oriented businesses was the way to go and preferred blending or mitigating instead. The right fit was needed for the market to bring in the right businesses.

DLC Member Bernard asked if a variance was possible.

- **Ms. Mangle** explained that obtaining use variances in Milwaukie was very difficult and financial impact was not a consideration. She agreed different tools might be available, such as a special variance for downtown use exceptions, instead of wholesale Code changes.

Chair Klein stated that Clackamas Town Center caused businesses to pull out of the downtown district. People decided to shop there rather than supporting downtown businesses. Safeway failed in the downtown district because Albertson's became the new store where everyone shopped. The City had been trolling for fish a long time, and it seems that new lures were needed.

Commissioner Batey agreed this was not the market to judge [what type of business would work]. Several restaurants and shops came to downtown in the last few years and most had survived. Before further discussion about [Code amendments], she wanted to know what incentives existed and what rental rates were for different types of

businesses because if property owners could get more per square foot for office use, that would drive out retail shops who could not afford higher rents. She noted the beauty shop on Main St recently closed.

B. DLC Update and Design Review coordination discussion
Staff Person: Brett Kolver

Brett Kolver, Associate Planner, stated the DLC now had a full committee and reviewed the discussion items outlined in his memorandum dated March 17, 2009.

DLC Vice Chair Ives presented the DLC's conclusions following the Committee's recent training from staff and Marcy McInelly of SERA Architects, and their efforts to improve the design review process as follows:

- Hold a worksession one week prior to the hearing, if possible, to allow for a site visit and to review possible questions and concerns.
- Implement a new (revised) checklist that included the name of the staff person who completed it. A blank copy would also be provided to each committee member.
 - Staff was more familiar with and could check off items in Section A, Development and Design Standards, and then make recommendations in Section B. Design Guidelines to review with the DLC.
- Have a consistent meeting schedule. Meetings without applications to review would be used for training and working on DLC projects.
 - For example, the DLC was involved in the wording of the Downtown Design Guidelines, but the photo examples of buildings and architecture inserted by the consultant were not reviewed by the Committee before being adopted by City Council. Subsequently, generic buildings were provided as examples to developers.
 - The DLC would be comparing pictures of old and new construction to understand why some structures fit within an area while others did not. The Committee wanted to become more fluent at recognizing building styles presented to the Committee and develop documentation to pass on to future Committee members.
- Build a reputation for being consistent and fair when reviewing projects.
- The training had also enabled DLC members to feel empowered about making decisions.
- The DLC was excited about having a full committee, historical references, and staff to help the Committee do things better.
- The DLC was very happy with the professional experience and architectural interest of the Committee's members. Holding worksessions would be important to help clarify any unfamiliar terms, materials, etc.
- She noted that committee members had commented on the generic design of the Immovable Foundation Church (IFC), which had resulted in the IFC completely changing their plans.

Ms. Mangle clarified that the building permit had been approved for the IFC project subject to DLC review. However, the project was not yet funded and probably would not be built soon. Construction would be done in phases, but she did not recall which phases had been permitted.

- The IFC project was now at a staff level review because it was first approved as a Community Service Use (CSU) by the Planning Commission and then had to go to

the DLC for design review as a condition of approval. In that instance, the DLC was advising the Planning Director, who was the decision maker at the building permit stage. The applicant feared the Planning Commission would deny the application, so volunteered to go through that process, which improved the quality of the building over what it otherwise would have been.

DLC Chair Wisner noted the Design Guidelines listed accepted or prohibited building materials to educate developers before they approached the planning department. If a project triggered a DLC design review, then staff's report informed the DLC if the developer was proposing prohibited materials or not. The DLC was committed to not allow prohibited materials. However, there were times when a variance was allowed, but only in downtown. She noted that Safeway was not reviewed by the DLC.

Commissioner Batey expressed concern that although Safeway looked good, no design guidelines existed for other areas of the City.

DLC Chair Wisner replied the DLC had discussed in the prior 2½ years whether the DLC should create design guidelines for other areas, such as smaller shopping centers and multifamily housing. The City should decide how to use the DLC and how far the scrutiny of design quality should go beyond the downtown area.

DLC Vice Chair Ives added that the DLC had also discussed fines and refusal of occupancy as possible consequences if a developer did not build an approved project as proposed to the DLC.

Chair Klein:

- Asked if Section B. Design Guidelines of the design review checklist were pass/fail items or if a particular scoring system was used.
 - **Mr. Kelver** clarified that two parts of Section A, Development Standards and Design Standards, were more objective, concerning issues like whether prohibited materials were used or not. Section B. Design Guidelines were more subjective and required the expertise of the DLC to assess how those items met the guidelines and then make a recommendation to the Planning Commission.
 - Applicants must present to the DLC how their project met the Design Guidelines. The DLC had to make subjective decisions regarding whether the applicant was using the best material possible, for example. The DLC's role of evaluating more subjective elements of the Design Guidelines was challenging because it was so subjective. The DLC could suggest to the Planning Commission that an application met all criteria, but could also recommend conditions of approval and leave the decision to the Planning Commission. The DLC needed to develop clear findings, particularly in controversial decisions.
- Asked if that approach had any teeth.
 - **Bill Monahan, City Attorney**, believed it did. Staff would analyze and indicate whether or not an application met the Development Standards criteria. In the land use context, using prohibited or allowed materials was black and white. An application using prohibited materials could not be approved. However, the applicant must convince the DLC that the proposal met the Design Guidelines, such as enhancing the community's sense of place or using materials more acceptable to the DLC.

- Unless changed, the guidelines established by the City had to be applied. The DLC could inform staff about updating the list of prohibitive materials as the Committee learned of market changes through the review process.
- Questioned the subjective portion, such as, "reinforces Milwaukie's sense of place."
 - **Mr. Monahan** replied that was where the DLC had the opportunity to apply its area of expertise. The Planning Commission would review a recommendation from the DLC and give credibility to the DLC's determination. As the relationship developed, the Planning Commission would trust the DLC to address the analysis.
 - **Ms. Mangle** explained that many Oregon laws oversaw the land use process. A section of the ORS specifically allowed cities to do design review. Some limits existed, such as it could not be imposed on residential development above the ground floor, but the applicant could volunteer to undergo design review. It was an acknowledged part of development review in Oregon that provided an opportunity to influence design in the City. Much of the subjective nature of the guidelines was aimed at empowering the DLC to influence that design.
 - **Mr. Monahan** added that while there was a lot of subjectivity, the DLC could enhance their ability to make decisions and communicate with applicants so they conform by being more specific regarding design expectations. As the Design Guidelines were developed, providing more information in the record, documents, and adopted bylaws about the DLC's expectations to applicants before they submitted their proposals would result in stronger DLC decisions that were more likely to be upheld.

DLC Chair Wisner recalled discussion in developing the Design Guidelines that a developer would have to meet at least 70% of the checklist or would be told to rework the plans.

Mr. Kelper did not believe such a Code standard existed.

Chair Klein:

- Commented that it seemed difficult as some checklist items were so subjective that 70% could be scored and the project still might not meet the DLC's design ideas.
 - **Ms. Mangle** clarified that the Code did not provide a numerical standard. The decision-making criteria strove for substantial compliance with the Design Guidelines; not a pass/fail test. The idea was to influence a project to be the best it could be in order to work best in the City. The DLC was empowered to push back if something did not work for Milwaukie, but hopefully it was more of a way to influence a project toward success, because design review was an important criterion for approval. Denial of the design review was denial of the project, which was not done lightly.
- Noted that two applicants could have the same number of positive check marks, but one could pass and one could fail because of the feeling that one seemed to meet the criteria and one did not.
 - **Mr. Kelper** noted that an intricate system of checks and balances existed in the design review process. Developers wanted to receive project approval without delays, and therefore would normally be responsive to what they felt the DLC would require to meet the subjective guidelines. Most developers would acknowledge the City's desire for the nicest building, but might request a compromise due to limited budgets. The relationships amongst the developer,

DLC, Planning Commission, and City Council influenced adjustments to projects during the approval process.

- Reviewing more projects would help the Committee develop consistency.
- Confirmed that DLC design reviews were on the 120-day land use clock.
- **Mr. Kveler** said the expectation was that after a hearing date was set with the Planning Commission, the DLC would review the application prior to that hearing date. He described how the 120-day clock worked.
- **Mr. Monahan** interjected that boards and committees were often concerned about the 120-day clock and viewed it was an absolute that removed flexibility. However, if an application did not meet criteria, the applicant could be told that more information was needed and asked to voluntarily extend the 120-day clock. The meeting could go into recess for the applicant to consult with staff or consultants, and then suggest how they would like to proceed.
- If the application simply did not meet criteria, it could be denied. The applicant could appeal and might be able to convince someone else it was approvable. A clear record had to be made regarding why the application was denied.

Mr. Kveler opened a discussion regarding Ed Parecki's application for improvements at 2025 SE Jefferson St. The application was presented to the DLC in August 2008 and moved on to the Planning Commission, who discussed whether to return it to the DLC. He appreciated the Planning Commission's desire to work with the DLC and their concerns that a DLC member was not present at that Planning Commission meeting.

Commissioner Batey agreed, adding her concerns were driven by the fact that there seemed to have been a case of bait and switch. Mr. Parecki's drawing had been reviewed by the DLC, but he presented a different drawing to the Planning Commission. Fortunately, the completed building was attractive, but the drawing was substantially different and she felt that what the DLC had approved was not what the Commission was asked to approve. She hoped it was not a recurring situation, and that applicants would be more pinned down about what was being submitted for approval.

- She noted that having a DLC member present to testify was useful in prior hearings.

DLC Chair Wisner stated that the DLC wanted to make it standard practice that one DLC member attend the Planning Commission meeting to answer questions regarding the DLC's recommendation.

Commissioner Qutub requested that the DLC also provide the Planning Commission a copy of the design approved and recommended by the DLC for comparison with the one presented to the Planning Commission by the applicant.

Mr. Kveler stated the DLC deliberated about whether to hold up the process and have Mr. Parecki return for a second hearing to provide more information or pass a recommendation to the Planning Commission with the condition that some elements needed to be clarified.

Chair Klein recalled that one drawing in Mr. Parecki's application was substantially different than the rendering shown in another area of the application. However, the DLC sent just three minor elements for the Planning Commission to consider, including the cornice material and color.

Commissioner Batey reiterated there was a major difference in details between the application approved by the DLC and what was presented to the Planning Commission.

DLC Vice Chair Ives stated the DLC struggled with whether to have Mr. Parecki return with more details, but finally asked that he bring samples to the Planning Commission. It was a learning curve item that showed the need for worksessions prior to the public hearing. The applicant and building tenants were present at the DLC meeting, asking that everything go smoothly. After the meeting, one Committee member pointed out that the upstairs apartments were shown as 6 small offices in the drawing.

- **Ms. Mangle** added that Mr. Parecki's application happened while she was on leave, but staff was also frustrated because they did not get what they wanted during staff review. Staff was not always able to obtain all information on behalf of the Commission and Committee, and having that conversation during a hearing was difficult. Worksessions would enable staff, the Commissioners, and the DLC to communicate openly about such information.

Commissioner Batey said the Commission had suggested that staff reports contain the letters sent to the applicant regarding deficiencies or missing items.

- **Mr. Monahan** clarified that the applicant had the opportunity to refuse to provide more information and demand that the process proceed. Supplying the letters regarding deficiencies would provide evidence to show that staff might not be satisfied with the application. The aura was that if an application came to the Planning Commission, it must be approvable, but that was not necessarily the case and so the letter would be critical.

Chair Klein added it was also important to state that the applicant had requested that the application be deemed complete, but staff disagreed. He reiterated that in Mr. Parecki's application, there were just a few minute issues to deal with, including paint color and cornice material.

Commissioner Batey responded that the DLC told the applicant to bring minute items to the Commission, but reiterated that the drawing the DLC reviewed was not the drawing Mr. Parecki presented to the Planning Commission.

Chair Klein stated that the drawing presented to the DLC and the drawing in the submitted packet was the same.

- **Mr. Kelper** said one problem was that Mr. Parecki had multiple drawings in his original packet.

Commissioner Qutub asked if the Commission should specify color palettes to eliminate confusion. Were specific colors not acceptable?

DLC Chair Wisner replied that the Design Guidelines did not specify an approved palette for the downtown area. She was not against the idea, but the consultant did not stress that a palette was necessary. The DLC was concerned about the colors Mr. Parecki would choose and the lack of samples. After Mr. Parecki's project, the DLC communicated to staff that applicants should bring samples to the DLC and Planning Commission meetings.

- She recalled the North Main review that had a professional architectural staff. The developer brought sample boards at the appropriate time for the DLC to

- check colors and materials. She appreciated when that happened, and noted that it should happen consistently.
- She added the DLC did not really have anything to tangibly approve or disapprove in Mr. Parecki's application, so the DLC communicated to staff that applicants should always bring samples to the DLC and Planning Commission meetings.
 - **Mr. Kelper** said that was part of the relationship building for better understanding between staff, the DLC, and Planning Commission. Staff could prepare an applicant regarding the need to provide samples to the DLC in order for the process to be less difficult. As more experience and consistency developed, staff would be able to do that, relying on the DLC to be predictable in positive ways. If the information was still not presented to the DLC, the applicant should not expect smooth sailing although they had provided enough information.

Mr. Monahan noted comments made about having a DLC representative come to the Planning Commission, which was acceptable. He did not know of anything in the Code that said an individual member could not come to another hearing. However, it was important that the person be designated by the Committee, so the Planning Commission knew who was representing the DLC as a whole and not be challenged. Once established, that process would build consistency, providing staff more direction to then give the applicant. The applicant could then decide whether or not to risk delay or denial by the DLC.

DLC Member Hemer:

- Said downtown developers might prefer having a list of items the DLC would want and an acceptable color palette for downtown to avoid having to fight through the process.
 - **Mr. Kelper** stated that suggestion tied into a best practices idea to develop resources that would preserve the community's history by identifying landmarks no longer in the City and some elements of good buildings in the community that would provide developers direction. The looseness of the guidelines also allowed developers flexibility to meet the guidelines, but the DLC was considering how to provide a little more direction.
- Asked if an applicant could propose an idea to the DLC and request recommendations before submitting an application.
 - **Ms. Mangle** responded that the Town Center project had begun in a similar manner. The City of Portland had a predesign review process that she liked. A partial fee was collected to cover some expenses and a meeting was scheduled for advisory design review, but no decisions were made.

DLC Chair Wisner recalled that Tom Kemper and the Myrhe Group, LLC were one of three applicants that showed designs at an open house for Town Center and North Main. She inquired whether City Council had to initiate a work plan item for a color palette.

- **Ms. Mangle** replied no, but a long list of good ideas existed for projects in Milwaukie that should be prioritized, including design review for areas outside of downtown, design standards for commercial buildings, and residential design standards. Material samples were required, so perhaps color was covered and just required clarification.

Commissioner Batey believed color was a subjective discussion. She would like Cha Cha Cha to be able to paint their building with similar bright colors of their other buildings, but they were unable to do so because it was an historic building.

Chair Klein stated that he did not want color to be a discussion at the Planning Commission level and preferred it be a discussion by the DLC.

DLC Vice Chair Ives confirmed that the Jefferson St building was not finished. She recalled that there was supposed to be tile, but the building was entirely stucco.

Commissioner Batey responded that was part of the bait and switch. She asked if the building would have awnings.

DLC Chair Wisner believed awnings would be hung.

Chair Klein clarified that to keep Planning Commission meetings on topic, decisions regarding cornices and color, for example, were best made by the DLC, not forwarded to the Commission. If an item required continuation, perhaps the applicant could be informed that the DLC needed the information. The DLC could approve an application, but require samples of the color and materials ahead of time, and perhaps comments could be sent by email and included in the Planning Commission's packet.

DLC Vice Chair Ives stated that after having the training, the DLC would work hard to avoid a situation similar to what occurred with the Jefferson St project. She added the Committee also felt pressured by the 120-day clock.

Chair Klein agreed the Planning Commission was up against the 120-day clock as well. He called for further comments from other Commissioners and Committee members.

DLC Member Bernard appreciated comments made about delegating tasks and agreed the DLC needed to make decisions about colors and other items before sending an application on to the Planning Commission.

DLC Chair Wisner noted that reinforced the desire that worksessions become normal practice for the DLC prior to hearings.

DLC Member Knaup agreed, stating a big question at recent DLC meetings was about what empowerment the DLC had when making a recommendation to the Planning Commission. Knowing the Planning Commission was looking to support the DLC recommendations as much as possible was good to hear.

Commissioner Batey commented that if Chair Klein held to his comment, the Commission would be sending more applications back to the DLC.

Vice Chair Newman said he enjoyed the meeting. The Jefferson St application with two different pictures was a good example of a quandary both the Planning Commission and DLC were in. Under the circumstances, it was easy to see how that could happen.

Chair Klein added that having a DLC representative present was important because the Planning Commission was only allowed to review a few things and did not have the

Committee's interpretation as to whether the DLC understood the bait and switch situation.

DLC Member Knaup responded that the Jefferson St application served a purpose as a great learning tool that prompted the Committee to study, revise, and improve the checklist, which had empowered the group as well.

Mr. Monahan noted a question about the legality of whether it looked right came down to the fact that there was not much specificity from the DLC to the Planning Commission that the real reviewer of whether it complied rested with the Planning Commission on that particular application. However, it appeared the DLC would be more specific in their decisions, so the Committee would be the final decision-makers on that in the future.

- If an applicant was not in compliance, occupancy permits would be held up until the obligations were met. No fine process currently existed.
- The DLC could hold worksessions but public hearing laws must be followed. Anyone could be invited to the worksessions, but there could be no deliberation toward a decision. However, direction and some consensus could be given, using phrases such as, "This looks like it could be approvable if it came back like this," or "We'd be inclined to...", or "It seems to meet our expectations," etc.

DLC Chair Wisner confirmed that the owner was also present at the hearing for the Jefferson St application.

The DLC and Planning Commission joint session ended and both groups continued their meetings separately. The Planning Commission reconvened at 8:30 p.m. and addressed Agenda Item 6.2 Parking Code Amendments.

C. Scheduling annual meetings with City Council
Staff Person: Katie Mangle

Ms. Mangle stated she would send an email with possible dates for both the Planning Commission and DLC to meet with City Council.

Chair Klein suggested that the meeting occur after the election.

6.2 Parking Code Amendments *continued from March 10, 2009 (see previous packet)*
Staff Person: Ryan Marquardt

Ryan Marquardt, Associate Planner, reviewed the minor policy changes of the Parking Code update presented in the meeting materials. He described the proposed amendments and provided examples of the changes using sites around the city.

The Commission and staff discussed elements of the policy changes as follows:

A) Parking ratio table:

- School parking ratios would be based on the number of classrooms rather than the number of students, which was more easily measured by staff. Staff would talk to the school district about the changes. The district knew that one school parking ratio was backward in the current table.
 - While 1 space per classroom seemed low, #5 on 6.1 page 11 of the old Parking Code ratio table indicated school parking requirements for Portland, Clackamas, Metro, etc.

- Milwaukie High School did not have enough parking, which was why a shared parking agreement was needed with St. John the Baptist Church. The school would not be in conformance with the proposed amendments.
- MMC Section 19.502 Applicability of provisions of the Parking Code would be triggered by a development review, such as if the school was adding more classrooms. Staff would then consider whether the school was in conformance. If no improvements were made, the schools would not have to comply based only on the change in numbers.
- Because the schools were largely over-parked, the compromise was to allow the schools to replace parking spaces lost due to an expansion, but not to increase the number of spaces.
- The district could also conduct a parking determination study to establish minimum and maximum parking ratios for a specific development if they disagreed with the provided ratio.
- Gas Stations, #5 of Section E on 6.1 page 8 indicated no minimum parking requirement, but showed 1.25 spaces per 4 pumps; whether the term "pump" referred to the structures or nozzles was unknown and would be researched.
 - The Safeway fuel station was the most recent implementation of the parking ratio. The Code did not differentiate gas stations with mini marts, though mini marts would be listed as convenience stores given the multiple uses.
- The Residential Uses section on 6.1 page 10 section indicated a flag lot needed 1 less parking space than single-family or mobile homes, and was corrected to state, "2 parking spaces per dwelling unit."

Chair Klein believed stand-alone gas stations needed parking spaces for their employees.

Commissioner Bresaw voiced concern about the 1 parking space maximum allowed per bed for residential, group, and assisted living homes, which might easily contain 5 beds or more. If no off-street parking was available, group homes might pave the front yard to provide adequate parking. The Annie Ross House was a good example to study how many people and beds were in a group home.

- **Ms. Mangle** explained that having a maximum ensured enough parking was available for residents and employees.
- **Mr. Marquardt** stated that staff would provide updated definitions regarding the different types of care homes for clarity in the final draft. For example, the term "nursing home" was becoming obsolete.

B) Multiple uses on the same site:

- Parking would be reduced when a secondary use was on the same site to account for that shared use. The parking calculation method was described and was a common provision of codes in other jurisdictions.

C) Shared parking distance:

- Changes specified that shared parking be accessible via a pedestrian accessible route and that the distance be increased from 300 ft to $\frac{1}{4}$ mi or 1,320 ft, a distance specified in other jurisdictions' code. Increasing the shared parking distance radius would increase the number of shared parking sites available. Shared parking was an important tool in reducing the amount of area that must be paved and effectively allowed development without requiring the construction of additional parking.
 - Currently, the Code measured the distance from the entrance of the primary use

- on the site, which could remain unchanged if there were no objections.
- The distance change would be citywide, not just for downtown. The ¼ mi suggestion was based on transit studies, which indicated a ¼ mi was the upper distance people were willing to walk to a transit station or bus stop. The rule of thumb was ¼ mi to a bus stop and ½ mi to light rail.
- In other jurisdictions, ¼ mi or 1,000 ft was typical; some did not specify a maximum distance for shared parking.

Chair Klein did not have an issue expanding the distance, but believed the distance should be designated, whether as the crow flies, a radius, a logical pathway, etc.

Commissioner Bresaw believed it was the shortest legal route available to pedestrians.

Commissioner Batey believed the language should encourage a closer distance when feasible. The best distance would depend on the use and who was walking. Walking ¼ mi to a baseball field was probably fine, but ¼ mi walk to church in high heels was too much.

- Distance was probably not a big issue in downtown where good pedestrian routes existed, but could be an issue in other areas. She suggested a condition that the distance be ¼ mi when sidewalks existed.

The Commission consented that the increased distance was acceptable.

D) Parking Dimensions:

- Current Code allowed for up to half of a project's parking spaces to be compact spaces. The library might have installed only small parking spaces.
- The Commission agreed with eliminating compact parking spaces and only having regular size parking spaces.
- Drive aisle widths would decrease from 24 ft to 22 ft at widest, and narrow as parking angles increased.

E) Parking lot design:

- The proposed Code would require commercial and residential gates along higher classification streets to be set back at least 20 ft so cars could get out of traffic and avoid being a safety hazard.
 - Bob's Red Mill gate might not be 20 ft back from the road.
 - Staff was not as concerned about gates being opened by a motion detection system.
 - Gates should not be located in the public right-of-way (ROW).
- The Code currently did not give authority to regulate or review parking lot design and circulation. The proposed Code would not provide specific design standards, but would grant broad authority to review how a parking lot should function and that it was constructed to operate accordingly, such as using striping to indicate circulation patterns or curbing to ensure traffic flow direction.
- Having driveway accesses adjacent to public ROWs encouraged extra wide paved surfaces at driveway entrances. Staff proposed that the pavement or driving surface on a site could not expand wider than the approved driveway width within 10 ft of the property line. The intent was to be sure owners were accessing the site correctly.
 - All required maneuvering and standing areas for residential parking must be paved, but gravel really could not be prohibited.
- The proposed Code changes would only apply to new development and would not

address existing situations.

F) Lighting standards:

- The proposed Code amendments would be more specific about directing light downward and limiting foot-candle levels of light trespass.
- Streetlights would not be addressed by these Code amendments.

G) Loading spaces:

- If a developer thought only one loading dock was needed and the use later changed, the permit would be reviewed under MMC Chapter 19.502 Applicability of Provisions. The issue was less clear if the same business needed an extra truck. Addressing such changes would be important to consider.
- Current Code was very prescriptive and presumed one particular kind of freight loading. In the past, businesses used semi-trucks for deliveries. Today most deliveries were from a FedEx van, which did not require a separate loading space. Staff wanted something less regulatory that focused on making sure loading activities did not occur in the street.
- Disabled parking area compliance with ADA standards was reviewed by Tom Larsen, the Building Official. The number of spaces required was a ratio of the required spaces and based on federal law.
- The current Code exempted loading spaces downtown.
 - If a residence had a change of use, there would be some building activity, so staff would review any parking changes.
 - In the downtown area, if a business needed a loading space, the owner would need to talk with the City and apply to change the on-street signage to provide a loading zone on the street. There were currently 7 on-street loading spaces in downtown that were shared by nearby businesses.

H) Boat/RV/Commercial parking in residential zones:

- Current Code language read, "On lots less than 1 acre, only 1 recreational vehicle or private pleasure craft, which is not located in an enclosed structure, such as a garage, shall be allowed per residential lot. Canoes and other crafts less than 12 ft in length shall be exempt from this requirement."
 - Lots larger than 1 acre did not currently have a cap on the number of recreational vehicles stored. Tim suggested allowing one additional uncovered RV or boat for each ½ acre more than 1 acre. The change would not apply to many City properties because few were larger than 1 acre.
- The current Code regarding commercial vehicles was very strict and the proposed language loosened restrictions to a more reasonable level.
 - The commercial vehicle definition was proposed to read as "Any vehicle designed to use primarily for commercial purposes that are over 9-ft tall and have a gross vehicle weight of 8,000 pounds or more shall not be permitted to be parked or stored in residential zones." The definition was worded to specify vehicles designed or used primarily for commercial purposes as well as imposing height and weight restrictions.
 - Staff and Commissioners discussed various examples of commercial vehicles that would meet the height and weight restrictions. Staff would research and provide vehicle examples to help the Commission visualize and determine what commercial vehicles should be allowed to park in residential areas.
 - It could be argued that any vehicle could have a family purpose.
 - One suggested provision was that recreational vehicles not used for profit were

not considered commercial vehicles. The intent of the proposed Code language was to address commercial vehicles, not personal vehicles occasionally used for business.

I) Downtown Parking:

- If a supermarket was constructed in downtown Milwaukie, the 2.5 maximum parking spaces allowed per 1,000 sq ft of commercial floor area would be the applied standard. If the applicant or staff believed a business should be required to have more parking, a special site specific use study could be required.
 - Traffic studies in the downtown area had to assume a higher mode split than in other areas. If everyone drove to a supermarket downtown, traffic studies would fail.
 - If the same number of parking stalls were required downtown as for the King Road Shopping Center, 2 blocks of development would have to be cleared for parking lots. The downtown parking policy was about reinforcing the building form policy for downtown, so if a development required that much parking, it probably did not belong downtown.
 - Grocery stores for downtown should be appropriately scaled and smaller, such as a Trader Joe's that required 30 or 50 parking spaces, not 150 to 200. A larger grocery store could also be in a mixed-use development so parking was in a structure with no restrictions.

Chair Klein understood that if a public parking structure were built downtown with residential above, the number of parking spaces on that site would be limited to 2 spaces per unit maximum.

J) Parking Structures:

- Current Code criteria would remain, but parking structures would require a Planning Commission review, as would any structures proposed in downtown. The proposed amendment would include structures outside of the downtown area.
- A size threshold for parking lots or number of spaces could be included.

Mr. Marquardt stated that this was the last worksession for Parking Code Amendments. The application for the Code amendments would probably come before the Commission in late spring/early summer. Meanwhile, more public outreach and a City Council worksession were planned.

7.0 Planning Department Other Business/Updates

- 7.1 Transportation Code Amendments: Fees In Lieu of Construction (FILOC) Revisions
Staff Person: Katie Mangle (for Susan Shanks)

Ms. Mangle stated the key comment about the Transportation Code Amendments regarded adding more detail about how the City tracked the FILOC collected in the historic neighborhood and downtown.

- Attachment 1 showed the changes staff had crafted in response to questions and comments received from the Commission and was the language proposed to forward to City Council.
- She had not heard any feedback from Commissioner Churchill, but would check with him.

Chair Klein said he was comfortable with the changes, but did not know if Commissioner Churchill would feel the same. He had tried to contact Commissioner Churchill regarding the changes.

Ms. Mangle stated the overall Code amendment package, except for the revised language included in Attachment 1, was sent to all NDA and LUC chairs, but no comments had been received.

- She would check with Commissioner Churchill and share the newly revised language of Attachment 1 with him.

The Commission consented that the language was acceptable.

8.0 Planning Commission Discussion Items – This is an opportunity for comment or discussion for items not on the agenda.

Commissioner Bresaw asked if the \$3.5 million Southgate Transit Center was moving forward.

- **Ms. Mangle** replied yes, as approved by the Planning Commission and City Council. Kenny Asher, Community Development & Public Works Director, was sending a memorandum to the community to address the many questions regarding the project, including layovers, and how the project related to the Jackson St Improvement Project (Jackson St). The Planning Commission would also receive a copy of the memorandum.

Chair Klein:

- Asked for clarification regarding the stimulus money involved.
 - **Ms. Mangle** explained there were different packages. TriMet submitted the Jackson St funding package to Metro for Metro's funding portion. Southgate was TriMet's proposal to Oregon Department of Transportation (ODOT) and involved ODOT's second round of stimulus funding.
 - Staff was more certain the Jackson St project would be funded, but had been quite unsure that the park and ride would be funded by ODOT, although it had competed well and had to go out to bid by June 15, 2009.
 - A bathroom could not be added to the facility without the Planning Commission's approval. A break room would have been part of the layover facility, which the NDAs and City Council liked, but would have required a major modification to the Community Service Use (CSU).
 - The City's requirement was that a security camera be added within a year, but the camera would be included immediately because TriMet was committed to increasing the level of security to what the City originally asked, but not required.
 - She would bring information regarding both projects to the next meeting.
- Reported that he and Ms. Mangle attended a meeting for the South Ardenwald Master Plan with the NDA and Housing Authority of Clackamas County (HACC), along with community members as well as a County Commissioner. An open process was currently occurring with considerable outreach to the NDA. He reminded that he had been very critical of South Ardenwald and was skeptical regarding the timeline and the transparency to this point, but believed there was an understanding about what the neighborhood and City wanted, so he was cautiously optimistic.

Commissioner Batey restated her email request about doing something on urban

renewal as soon as possible.

- **Ms. Mangle** responded that Chair Klein had also requested more on urban renewal. She would not be working on the project until the Planning Commission did, but Alex Campbell, Resource & Economic Development Specialist, Li Alligood, and Kenny Asher wanted the consultant to come to Planning Commission for discussion. She hoped for a meeting in April, but it might be early May.

9.0 Forecast for Future Meetings:

- | | |
|----------------|-----------------------------------------------------------------------------------------------------|
| April 14, 2009 | 1. Worksession: NE Milwaukie Sewer Extension project briefing |
| | 2. Worksession: Planning Commission Bylaws review |
| April 28, 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 reviewed upcoming meeting topics, adding that she would also be providing some project updates.

Meeting adjourned at 10:00 p.m.

Respectfully submitted,

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



Jeff Klein, Chair