

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, May 26, 2009
6:30 PM**

COMMISSIONERS PRESENT

Dick Newman, Vice Chair
Teresa Bresaw
Paulette Qutub
Chris Wilson

STAFF PRESENT

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

COMMISSIONERS ABSENT

Jeff Klein, Chair
Scott Churchill
Lisa Batey

1.0 Call to Order – Procedural Matters

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

2.0 Planning Commission Minutes

2.1 April 14, 2009

Commissioner Bresaw moved to approve the April 14, 2009 meeting minutes as presented. Commissioner Qutub seconded the motion, which passed unanimously.

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 were no comments.

5.0 Public Hearings

5.1 Summary: Code Tables
Applicant: Katie Mangle/City of Milwaukie
File: ZA-09-03
Staff Person: Katie Mangle

Vice Chair Newman called the hearing to order and read the conduct of legislative hearing format into the record.

Katie Mangle, Planning Director, explained the proposed Milwaukie Municipal Code (MMC) table amendments were primarily housekeeping items to clean up the tables in MMC Titles 14, 17, and 19, and related to the republication of MMC Titles 1 through 19. Planning staff worked with Pat Duval, City Court Recorder, to set up the syntax, grammar, and formatting standards for the Code with the primary objective of making the document easier to read and work with.

- The Code was set up in an outline structure with special formatting including indents and spaces, which were difficult to maintain in the current two-column format. The Planning Department preferred a one-column format because copies were often

given to applicants, developers, and the public, and the two-column format was difficult to follow.

- Most of the proposed changes did not require legislative approval, but there was enough content change that staff wanted to be sure to cover their bases through the legislative process.
- She briefly named the key solutions proposed, noting that Attachment 1 Exhibit B, 5.1 page 8 of the packet, would be most helpful in terms of identifying the proposed changes.
- The amendments were important so that the cleaner table format was in place before the Planning Commission reviewed the upcoming Parking Code amendments.

Vice Chair Newman called for public testimony in favor of, opposed, and neutral to the application. There was none.

Commissioner Bresaw confirmed that the amendments would result in no policy changes at this time. The Code would simply be easier to understand and reference. Policy changes could still be made in the future.

Commissioner Bresaw moved to approve ZA-09-03 initiating the proposed Code amendments and recommending that City Council adopt the amendments to MMC Titles 14, 17, and 19 with the recommended findings in support of approval. Commissioner Wilson seconded the motion, which passed unanimously.

6.0 Worksession Items – None

7.0 Planning Department Other Business/Updates

7.1 Transportation Code Amendments—update prior to Council hearing on June 2

Ms. Mangle noted the Transportation Code Amendments (TCA) were on the City Council agenda for June 2, 2009. Susan Shanks would update the Commission about the TCA's status at Council and check who would represent the Planning Commission at the Council meeting and what their expectations might be.

Susan Shanks, Senior Planner, distributed a copy of the staff report provided to City Council at the April 21 worksession that focused on the TCA pertaining to single-family residential expansions.

- The Planning Commission recommended an incremental exaction approach that included 6 square footage categories: expansions of 0 sq ft to 199 sq ft were exempt; 200 sq ft to 449 sq ft were potentially required to complete one improvement. Essentially, as more square footage was added, more street improvements were required.
- The staff report described why staff and the Commission proposed the incremental exaction approach and how it would work. Real data was used to show how the proposed Code would apply under similar situations in the future.
 - The right hand table on the last page of the staff report noted the City building permits issued between July 1, 2006, and June 30, 2008. Of the 44 single-family expansion building permits issued, 6 would have been exempt, 17 would have had to provide one street improvement, etc.
- Feedback from City Council included support from Councilors Greg Chaimov and Deborah Barnes, who were concerned about safety, specifically regarding the lack of sidewalks. Councilors Susan Stone and Joe Loomis were opposed to exacting any

kind of transportation improvements from single-family residential expansions. The interim mayor at that time, Mayor Jeremy Ferguson, was unclear in his position. There was a general desire to have consensus on the issue, so staff was asked for alternatives.

- Staff discussed various alternatives, including exempting all single-family residential exactions and how that was reviewed and rejected by the Planning Commission. Another alternative was to lower the threshold below 200 sq ft, which was also rejected by the Commission. Another was to raise the threshold to 400 sq ft or 500 sq ft. And lastly, a non-incremental approach of all or nothing was presented, such that above a certain point, the owner paid for all street improvements, and below a certain point, the owner paid for no street improvements.
- After discussion, Council determined that the threshold needed to be reworked as possibly an all-or-nothing approach. Staff revised the proposal for the May 5 hearing, which was continued because Councilor Stone would not be present and the Council wanted to think about the proposal and hopefully get more consensus.
- The revised proposal provided via email by the Planning Director was to exempt single-family expansions of less than 200 sq ft, and require right-of-way dedications, if needed, for expansions of 200 sq ft to 1,499 sq ft. Expansions greater than 1,500 sq ft would be required to provide full street improvements, if needed.
 - The Engineering Department made it clear that it was crucial to at least get right-of-way for future whole block improvements or Capital Improvement Program (CIP) projects. Right-of-way dedication could add a lot of cost and time to a project. Without right-of-way along certain property frontages, projects become more complicated because the right-of-way had to be acquired and/or condemned.
 - In the proposal recommended by the Planning Commission, any requirements were always contingent upon need. If a frontage already had a sidewalk, landscape strip, curb, and full road width, then nothing would be required because the frontage would be considered complete.
- Councilors Loomis and Stone still appeared opposed to the proposal, although she did not know what that meant in terms of a vote. Based on her conversations with Mayor Ferguson, and Councilors Chaimov and Barnes, they were likely to support the proposal.
- Staff hoped others, including the City's Code amendment consultant, Engineering Director, and City Attorney, would speak in support of the proposal because it also included the long-needed, full rewrite of the transportation regulations and other Code sections it affected.

Commissioner Bresaw offered to represent the Planning Commission and recalled that other cities such as Lake Oswego and Portland were not as aggressive in requiring transportation improvements for single-family expansions. The City of Portland had a lot of sidewalks, and Milwaukie needed sidewalks.

- **Ms. Shanks** agreed the amendment was generally tailored to Milwaukie. She believed that although Portland might not require the actual improvements, it did require fees in lieu of construction (FILOC). She offered to verify that information.
- She noted that following the worksession discussion, some Councilors expressed interest in developing a street improvement program for building sidewalks, curbs, or stormwater systems. They recognized the need for street improvements, not just street maintenance.

- Staff would clarify at the Council hearing that the proposed Code amendments were not the City's plan to improve Milwaukie's streets, but was the City's approach about what could be required of development so that the existing system did not become further deficient when more impacts were added.
- Guidelines were written into the proposed new Code addressing whether an improvement, such as curb and stormwater drainage improvements, was feasible or would create an unsafe situation. The Engineering Director would then determine if it was more appropriate to accept FILOC, which had to be voluntary.
- According to the past data shown in the table, the current proposal requiring full street improvements would only be applied to a very limited number of single-family home expansions.

Commissioner Wilson expressed some discomfort with the proposal, stating that he understood that for a single-family expansion, the owner would be forced to use one of the five proposals.

- **Ms. Shanks** explained that the Planning Commission's recommended proposal was revised after the City Council hearing. The current, revised proposal was available online. An owner would only be potentially required to fund or build street improvements along the frontage of their home if they added more than 1,500 sq ft.

Commissioner Qutub inquired whether a homeowner doing an expansion of more than 1,500 sq ft could opt to do FILOC or were the improvements required.

- **Ms. Shanks** clarified that FILOC had to be voluntary. If the proposed amendments were approved, and the Code was triggered by an expansion larger than 1,500 sq ft, the owner would have to request to pay FILOC versus actually building the improvement. The Engineering Director would evaluate whether or not the request was approvable based on guidelines now built into the Code.
- In general, City policy was, and continued to be under the proposed Code, that when it made sense, build the improvements. FILOC did not actually pay for what it really cost to pay for the improvements, so it was always better to require the developer to pay for the improvements. However, if not feasible based on specific language in the Code, the Engineering Director might determine it was appropriate to accept FILOC.

Bill Monahan, City Attorney, added that in the case of a last remaining section of sidewalk, the applicant really did not have an option because the Engineering Director would require the improvement.

Commissioner Bresaw inquired about the required dedicated right-of-way encroaching into a homeowner's 20-ft setback.

- **Ms. Shanks** clarified that the proposed Code gave the Engineering Director much more discretion in determining the appropriate right-of-way width. For example, the homes along the east side of 19th Ave in Island Station were very close to and sometimes encroached into the right-of-way. It did not make sense to be tied to a specific right-of-way width based solely on street classification.
- A range of what was appropriate for the existing built and natural environment was now provided, covering topography and water quality resource issues, etc., for more built-in flexibility.
- Many lots in Milwaukie had non-conforming setbacks, so not maintaining required setbacks was not unusual. If the street improvement was needed or extra roadway was needed, the goal of providing the facility might outweigh meeting a setback

requirement. Providing flexibility was necessary to avoid having the street too close to the house. Sidewalk width was also considered, as well as whether the sidewalk was on one side or both sides of the street.

Vice Chair Newman:

- Verified this was the last item holding up the TCA and could not be set aside because the street improvements were very integrated into the Code. As a recommending body, it was important that Council understood what the Planning Commission meant in its recommendation.
 - **Ms. Shanks** added staff had strategies to work through should the item become a sticking point, but hoped City Council would support the package as a whole. Though staff wanted one Planning Commission representative, all the Commissioners were welcome to speak at the Council hearing.

Commissioner Bresaw asked if obtaining right-of-way dedication was most important on minor arterials and collector streets because of the increased likelihood of those streets being improved as a CIP Project.

- **Ms. Shanks** clarified that right-of-way dedication had many layers of importance. Logus Rd was both a school and transit route and although not a collector, it was an important CIP project.

Vice Chair Newman assured that Commissioner Wilson's views were always welcomed and appreciated.

Commissioner Wilson understood that the Planning Commission had already voted on the TCA issue.

- **Ms. Shanks** replied that the proposal was revised based on City Council's direction, and the amendments were not yet finalized.

8.0 Planning Commission Discussion Items – This is an opportunity for comment or discussion for items not on the agenda. There were none.

9.0 Forecast for Future Meetings:

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|---------------|--|
| June 9, 2009 | 1. Worksession: Title 13 Nature in Neighborhoods update
<i>tentative</i> |
| June 23, 2009 | 1. Public Hearing: CSU-08-03 Trolley Trail <i>tentative</i>
2. Public Hearing: CSU-09-02 Portland Parks &
Recreation Maintenance Bldg <i>tentative</i> |

Ms. Mangle stated staff would not be ready to present the Title 13 Nature in Neighborhoods update on June 9. Staff was still determining what was required and what could be done if the overarching goal was to protect habitat in Milwaukie.

- She tentatively proposed canceling the June 9, 2009 meeting. The Commission's hearing schedule would become busier with the Trolley Trail and the Portland Parks and Recreation building's expansion of use hearings scheduled for June 23. Other projects, like Riverfront Park and the Wastewater Master Plan, were also expected to be reviewed this summer.
- She clarified that the flag lots application on Home Ave would only come before the Commission if appealed. She suggested Commissioner Wilson discuss flag lots with Ryan Marquardt, Associate Planner.

- She confirmed that the Jackson St. Improvement project was in the design phase and construction would not begin until next summer. The project was being funded by federal stimulus money, so certain milestones had to be met. Some work would begin by September.

Commissioner Bresaw moved to cancel the June 9, 2009 meeting. Commissioner Wilson seconded the motion, which passed unanimously.

Meeting adjourned at 7:12 p.m.

Respectfully submitted,

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



Jeff Klein, Chair