



September 13, 2012

File(s): CSU-12-11, P-12-03

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on September 11, 2012.

Applicant(s): Teri Bankhead for the City of Milwaukie

Appellant (if applicable)

Location(s): 3200 SE Harrison St

Tax Lot(s): 11E36AB 03700

Application Type(s): Community Service Use, Parking Quantity Determination

Decision: Approved, with conditions

Review Criteria: Milwaukie Zoning Ordinance:

- Section 19.313 General Commercial Zone CG
- Subsection 19.504.6 Transition Area Measures
- Section 19.600 Off-Street Parking and Loading
- Section 19.904 Community Service Uses
- Chapter 19.1006 Type III Review

Neighborhood(s): Ardenwald-Johnson Creek

This notice is issued in accordance with Milwaukie Municipal Code Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Li Alligood, Associate Planner, at 503-786-7627 or alligoodl@ci.milwaukie.or.us, if you wish to view this case file.

Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council. The period during which an appeal can be filed expires on the date shown below. This decision becomes final on the date below if no appeal is filed during the appeal period.

Appeal period closes: 5:00 p.m., September 28, 2012

Appeals of Planning Commission decisions must follow the procedures of Milwaukie Municipal Code Section 19.1010 Appeals. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@ci.milwaukie.or.us.

Findings in Support of Approval

1. The applicant, Ed Murphy, Ed Murphy & Associates, for the City of Milwaukie, submitted two land use applications (the “application”) for approval of relocation of the City’s municipal court services from City Hall to the Public Safety Building (PSB). The applicant requests approval for a major modification of CSO-91-05, which approved construction of the PSB, and a determination of the minimum number of off-street parking spaces required to accommodate court activities. The application has been assigned the following file numbers and consists of the following application types:
 - CSU-12-11: Community Service Use
 - P-12-03: Parking Quantity Determination
2. The application materials were submitted on June 28 and July 27, 2012. The City deemed the application complete on July 27, 2012. The City has until November 23, 2012, to issue a final decision on the application.
3. The site is 3200 SE Harrison St, Tax Lot 11E36AB 03700. The site is currently developed with the Public Safety Building, surface parking, and a “pocket park” to the east. The site takes access from Harrison St and Railroad Ave. The surrounding development is a combination of commercial uses to the west and north, and residential uses to the south and east. The site is separated from the residential uses to the south by Railroad Ave and freight rail tracks.
4. The Public Safety Building site has a base zone designation of General Commercial (CG), and was approved with a Community Service Overlay (CSO) in 1992. As proposed, addition of the court services use is a major modification of the CSO, and is subject to Community Service Use and Parking Quantity Determination review.
5. The application is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC):
 - Section 19.313 General Commercial Zone CG
 - Subsection 19.504.6 Transition Area Measures
 - Section 19.600 Off-Street Parking and Loading
 - Section 19.904 Community Service Uses
 - Chapter 19.1006 Type III Review

Provisions not addressed in these findings are found to be not applicable to the decision on the application.

6. The application has been reviewed in compliance with the Type III review process described in MMC 19.1006.
 - A. The applicant attended a pre-application conference with the City on March 29, 2012.
 - B. The application materials were submitted on June 28 and July 27, 2012, and the application was deemed complete on July 27, 2012.
 - C. As required by MMC 19.1006.3.C, the application was referred to the City of Milwaukie Building, Engineering, and Community Development departments; Ardenwald and Historic Milwaukie neighborhood district associations (NDAs); Clackamas County Fire District #1; Clackamas County; and TriMet on August 2, 2012, within 7 days after the application was deemed complete.
 - D. As required by MMC 19.1006.3.D, mailed notice was mailed to surrounding property owners within 300 ft of the site on August 22, 2012, 20 days before the public hearing on the application.
 - E. As required by MMC 19.1006.3.D.E, public notice was posted on the subject property on August 28, 2012, 14 days before the public hearing on the application.
 - F. The Planning Commission evaluated the entire application at a public hearing on September 11, 2012.
7. MC 19.904 contains the criteria and standards for Community Service Uses.
 - A. MMC 19.904.2 Applicability

The proposal is a major modification to the uses of a government office building. This use is identified as an Institution and is subject to the provisions of this chapter.

The Planning Commission finds that the proposal is subject to the criteria and standards of MMC 19.904.
 - B. MMC 19.904.4 Approval Criteria
 - i) The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met.

The PSB building meets the standards of the CG zone. An existing transition area (the "pocket park") and 6 ft wall minimizes impacts to the adjacent residential areas to the east. The proposal does not include any exterior alterations to the building or site.

Applicant has proposed the relocation of court services to the PSB, and has requested a Parking Quantity Determination to identify the number of

necessary off-street parking spaces. See Finding #8 for a discussion of this request.

- ii) Specific standards for the proposed uses as found in MMC 19.904.7-11 are met.

The applicant is not proposing any changes in location, access, height, lighting, noise generation equipment, or hours of operation of the site. These standards are not applicable.

- iii) The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.

The surrounding uses are a mixture of commercial uses to the north and west, vacant property to the south, and residential uses to the east. Currently, the PSB is in use during business hours as well as for regular evening meetings. The existing hours of operation are compatible with surrounding uses and will not be extended with the addition of court services to the site.

The proposal includes the following activities:

- *Court will be held one day a week, with trials in the mornings and arraignments in the afternoon. Generally, court is held on three out of four Wednesday each month, except when there is a fifth Wednesday, in which case a fourth court is held.*
- *During the school year, truancy court is held on Monday evenings from 6:00pm to 8:00pm.*
- *Year round, trials will be held on Wednesday mornings from 9:00am until noon, and arraignments are held in the afternoon between 2:00pm and 4:00pm.*

In the future, the applicant may opt to divide court between two weekdays or change the regular court day to another day of the week.

- iv) The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.

The City has identified PSB as the best site for relocation of court services. City Hall staff has stated that the location of court services at City Hall is problematic due to overcrowding on court days; lack of adequate security; adverse impact on the working environment; and unprofessional court decorum related to the lack of dedicated court facilities.

The City considered other locations for the court services, including the Wichita Elementary School building, the North Clackamas School District building at 4444 SE Lake Rd, and the fire bay at City Hall. The City contracted with an architectural firm to conduct a space assessment for

the court facility; the resulting memo concluded that the PSB was the best location for court services, as it was the best location and most efficient use of space and City finances.

The court services will use the existing Community Room at PSB and will not require permanent furnishings. The existing PSB lobby will be configured to allow for a waiting area and a payment area.

The public benefits resulting from the relocation of court services from City Hall to PSB include: improved customer service for court patrons due to more space and efficient movement; additional security due to the colocation of the court services and Police Department on site; improved environment for court patrons and City Hall staff; minimal cost for setup; and convenience and reduced travel time for officers attending court.

Potential negative impacts include increased off-street parking needs on days when court is in session, which could be further exacerbated by more limited transit options for court patrons. This could result in increased on-street parking in adjacent residential areas, as well as illegal on-street parking in the Union Pacific Railroad right-of-way along Railroad Ave.

The applicant has proposed to mitigate these impacts through a shared parking agreement with Providence Hospital for use of a nearby parking lot; the voluntary installation of an additional 6 bicycle parking spaces on site; and monitoring and management of off-street parking demands on court days. This shared parking agreement would provide 23 additional off-street parking spaces for use on court days. The applicant has stated that the shared parking lot is generally empty; additional parking utilization data will be required upon submittal of a Type I Shared Parking Agreement application. Per Finding #8, this number of vehicle and bicycle spaces is adequate for court services. A condition has been established to ensure these mitigating actions.

- v) The location is appropriate for the type of use proposed.

The Public Safety Building is located in a central location at the intersection of SE Harrison St, an arterial street with bus service, and 32nd and Railroad avenues, collector streets with convenient access to Hwy 224. It is currently occupied by Police and Fire Departments; City staff has identified the PSB as the ideal location for court services due to the proximity to the Police Department.

As conditioned, the Planning Commission finds that the proposal meets the criteria of MMC 19.904.4.

The Planning Commission finds that the proposal meets the criteria of MMC 19.904.

8. MMC 19.600 Off-Street Parking and Loading

- A. MMC 19.605 establishes off-street parking requirements for development based on anticipated parking needs. MMC 19.605.1 establishes minimum off-street parking requirements for listed uses. The proposed use, a court, is not a listed use, and off-street parking standards for a similar use cannot be applied. The request is eligible for a Parking Quantity Determination per MMC 19.605.2.A.
- B. MMC 19.605.2.B establishes review processes for Parking Quantity Determinations. The request is subject to Type II review per MMC 19.1005. Per MMC 19.1001.6.B.1, applications processed concurrently shall be processed according to the highest number review type. This application is being processed concurrently with a Type III application and is therefore subject to Type III review per MMC 19.1006.
- C. MMC 19.605.2.C establishes approval criteria for Parking Quantity Determination requests. Specifically, MMC 19.605.2.C.1 provides the following approval criterion for Parking Quantity Determinations:
- i) All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on:
- a) Existing parking demand for similar use in other locations

The existing use of the PSB site is a "government building." The addition of court services to the uses on the site will not change the use of the building. The court services will occupy approximately 1,000 sq ft of the building.

The applicant conducted a parking demand study at City Hall, where the municipal court services are currently provided, and identified the need for a total of 44 parking spaces on days when court was in session. Twenty-two on-site parking spaces are available at the PSB for court use; at least 22 additional spaces are needed to meet the additional demand associated with locating court uses to the PSB, for a total of 44 off-street parking spaces.

Per MMC 19.605.3.B.5, the minimum amount of required off-street parking may be reduced by 1 vehicle parking space for each 6 additional bicycle parking spaces installed. The applicant has proposed to install 6 bicycle parking spaces, which reduces the required number of additional off-street parking spaces to 21.

In order to provide the additional spaces, the applicant has proposed a shared parking agreement with Providence Hospital, which would provide an additional 23 off-street parking spaces on court days. In addition, the applicant proposes to install a new bicycle rack at the Harrison St entrance, which will provide 6 additional bicycle parking spaces. Finally, City staff will monitor and manage the PSB parking lot on court days in order to maximize the amount of on-site parking available for public use.

A condition has been established to ensure that at least 23 additional shared parking spaces and 6 bicycle spaces are provided, and that City staff monitor and manage the PSB off-street parking areas on court days.

- b) Parking quantity requirements for the use in other jurisdictions

The applicant reviewed the parking standards for several cities in Oregon, including Portland, Gresham, Beaverton, Tigard, Wilsonville, Oregon City, Salem, Eugene, Hillsboro, and Bend. None of the parking standards included "court" as a use.

- c) Professional literature about the parking demands of the proposed use

Relevant professional literature includes the Institute of Transportation Engineers (ITE) Trip Generation Manual, State of Oregon "Model Development and User's Guide for Small Cities" (Model Code) and American Planning Association (APA) "Shared Parking" publication.

The ITE manual assigns the use of "government building" to the site, and does not recognize an increase in parking demands with the addition of court services. The Model Code does not list "court" as a use. The APA Shared Parking publication does not list courtrooms or meeting rooms in the detailed table of contents.

The Planning Commission finds that the approval criterion for a Parking Quantity Determination, as provided in MMC 19.605.2.C.1, is met.

The Planning Commission finds that the proposed minimum off-street vehicle parking ratio of 0.4:1 and bicycle parking provision of 6 additional spaces, in combination with monitoring and management of off-street parking on court days, is appropriate per the standards of MMC 19.605.

9. Pursuant to MMC 19.1001.7.E.2, the time period within which the applicant must obtain any development permits for the court relocation is 2 years, and the time period within which the applicant must pass all final inspections is 4 years, from the date of the land use decision on this application.

Conditions of Approval

1. Final work shall be in substantial conformance with the plans and materials reviewed by the Planning Commission (PC) and date stamped by the City on June 28 and July 27, 2012. The plans shall be modified only as described in these conditions of approval or through a subsequent formal modification process.
2. Prior to issuance of any development permits for the court relocation, the applicant shall complete the following:

- A. Submit a Type I Shared Parking Agreement for at least 23 additional parking off-street parking spaces for use on court days. The shared parking agreement shall meet the standards of MMC 19.605.4.B.
3. Prior to final inspection of the court facilities, the applicant shall complete the following items to the satisfaction of the Planning Director:
 - A. Install 6 bicycle spaces at the Harrison St entrance.
 - B. Provide a plan to monitor and manage the Public Safety Building parking lot and shared parking areas on court days, including signage, visitor education, and/or other methods of management. The plan shall also provide for a periodic assessment of impacts on surrounding streets.
4. Pursuant to Subsection 19.1001.7.E.2, the time period within which the applicant must obtain any development permits for the court relocation is 2 years, and the time period within which the applicant must pass all final inspections is 4 years, from the date of the land use decision on this application.

Other requirements

1. Any signs on-site must comply with the standards of MMC 14.08.090 Conditional and Community Service Use Signs and MMC 14.12 Signs Prohibited or Exempt. Permanent or daily display signs require sign permits; permanent signs may require land use review.
2. The Planning Director can require that a nonconforming parking area be brought into conformance, or closer into conformance, with code standards, as per MMC 19.602.5, before it may be used for shared parking. Per MMC 19.602.5, these requirements could include paving and striping of parking areas, landscaping, or other requirements.
3. The Engineering Department finds that the southwest driveway (access from Railroad Ave) has a clear vision obstruction per MMC 12.24. A large retaining wall is obstructing the sight line from the driveway entrance looking east. The application does not trigger MMC 19.700, which would require bringing the driveway entrance into conformance with the City's clear vision standards, but it is identified as a safety issue and is currently noncompliant with City standards. The Engineering Department recommends that the driveway entrance be brought into conformance with the clear vision standards of MMC 12.24 in conjunction with any required development permits.



Scot Siegel
Interim Planning Director

cc: Applicant
Planning Commission
Kenny Asher, Community Development/Public Works Director
Scot Siegel, Interim Planning Director

Gary Parkin, Engineering Director
Brad Albert, Civil Engineer
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NDA(s): Ardenwald-Johnson Creek
Interested Persons
File(s): CSU-12-11, P-12-04