



CITY OF MILWAUKIE

AGENDA

March 23, 2021

PLANNING COMMISSION

milwaukieoregon.gov

Zoom Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the Planning Commission will hold this meeting through Zoom video. The public is invited to watch the meeting online through the City of Milwaukie YouTube page (https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw) or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at planning@milwaukieoregon.gov. Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time.

To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-69>) and follow the Zoom webinar login instructions.

1.0 Call to Order - Procedural Matters — 6:30 PM

2.0 Planning Commission Minutes – Motion Needed

2.1 January 12, 2021

3.0 Information Items

4.0 Audience Participation — This is an opportunity for the public to comment on any item not on the agenda

5.0 Hearing Items

5.1 PD-2020-002 Hillside Master Plan

Summary: Hillside Preliminary Planned Development

Applicant: Housing Authority of Clackamas County

Address: 2889 SE Hillside Ct

File: PD-2020-002

Staff: Senior Planner Vera Koliias

6.0 Work Session Items

6.1 Summary: Central Milwaukie Bikeway Connection Update

Staff: Associate Planner Brett Kelver

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Committee Updates and Discussion Items — This is an opportunity for comment or discussion for items not on the agenda.

9.0 Forecast for Future Meetings

April 13, 2021 Hearing Items: Milwaukie High School Sign Variance; Hillside Preliminary Planned Development continued (tentative)
Work Session Items: Agenda for Joint NDA Meeting (tentative)

April 27, 2021 Hearing Item: Coho Point development – 11103 SE Main St (tentative)
Work Session Items: Comprehensive Plan Implementation – Draft Code / Map Amendments

May 11, 2021 Hearing Item: ADU Variance – 11503 SE Wood (tentative)

Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to planning@milwaukieoregon.gov.
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at www.milwaukieoregon.gov/meetings.
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and e-mail for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, any person may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

Milwaukie Planning Commission:

Lauren Loosveldt, Chair
Joseph Edge, Vice Chair
Greg Hemer
Robert Massey
Amy Erdt
Adam Khosroabadi
Jacob Sherman

Planning Department Staff:

Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Brett Kolver, Associate Planner
Mary Heberling, Assistant Planner
Janine Gates, Assistant Planner
Tempest Blanchard, Administrative Specialist II



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

January 12, 2021

Present: Robert Massey, Chair
Laura Loosveldt, Vice Chair
Joseph Edge
Amy Erdt
Greg Hemer
Adam Khosroabadi
Jacob Sherman

Staff: Laura Weigel, Planning Manger
Vera Koliás, Associate Planner
Justin Gericke, City Attorney
Steve Adams, City Engineer
Beth Brittel, Civil Engineer
Dalton Vodden, Associate Engineer

Absent:

(00:00:20)

1.0 Call to Order – Procedural Matters*

Chair Massey called the meeting to order at 6:30 pm and read the conduct of meeting format into the record.

Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

(00:01:21)

2.0 Planning Commission Minutes

2.1 **Chair Massey** asked the commission, did anyone have any corrections or suggestions to the November 24th meeting minutes?

Commissioner Sherman had a correction to the minutes, which were on page 12 the date was incorrect. It read at 202 and instead of 2021.

Commissioner Hemer recommended approval that the commission approve the minutes as amended from October 27, 2020. Commissioner Sherman seconded the motion. The commission approved the motion.

(00:04:17)

3.0 Information Items

3.1 No information was presented for this portion of the meeting.

(00:04:29)

4.0 Audience Participation

4.1 No information was presented for this portion of the meeting.

(00:05:14)

5.0 Public Hearings

(00:05:14)

5.1 Summary: The purpose of this continued hearing was to consider a proposal for a multi-family development consisting of four residential buildings, a community center with a swimming pool, and a community room built over three phases totaling 100 dwelling units. The proposed development was being submitted as a planned development (PD) application to provide more flexibility related to the development standards, such as building height and the Willamette Greenway Zone. A planned development included a zoning map amendment to add the PD designation to the subject property zoning designation. The purpose of this application was to request an approval of the planned development and Willamette Greenway conditional use application on property located at 10415 SE Waverly Court. The Applicant had the burden of proving the application was consistent with the City of Milwaukie Zoning Ordinance, Comprehensive Plan, and any applicable municipal code provisions. Staff concluded that the proposal conformed with all the City's applicable criteria. The Planning Commission closed the public testimony portion of the public hearing at the last hearing on December 8, 2020. During the hearing, the commissioners deliberated and made a recommendation to the City Council.

Vera Koliass, Senior Planner shared the applicable provisions of the Municipal Code, which were:

- Title 12: Street Sidewalks and Public Places
- Section 19.1007: Type IV Review
- Section 19.311: Planned Development Zone
- Section 19.302 Medium and High Density Residential Zones
- Title 17: Land Division
- Section 19.401: Willamette Greenway Zone
- Chapter 19.500: Supplementary Development Regulations
- Chapter 19.600: Off Street Parking and Loading
- Chapter 19.700 Public Facility Improvements
- Section 19.902 Amendments to Maps and Ordinances
- Section 19.905 Conditional Uses

Ms. Koliias presented the staff report. The overall process of the project thus far was public hearings on October 27, 2020 and December 8, 2020. On December 15, 2020, the Applicant submitted their final written argument. The public hearing and record were closed as of the December 8th meeting. In the record for this hearing was all of the application materials, staff reports, recommended findings, conditions, substantial public testimony (written and oral), the Applicant submittals and responses, including their final written argument. During this meeting, the task of the Planning Commission was to deliberate and vote for a recommendation to City Council. The proposal of the project was a Type IV Land Use Review. The Planning Commission was responsible for making a recommendation to City Council. City Council would be the final decision maker for a planned development application. The proposed development was an addition to the existing Waverly Greens Apartment Community. The Applicant was proposing a total of 100 dwelling units as part of a three-phase development project. The entire application included a planned development review, a zoning map amendment, Willamette Greenway review because a portion of the site was located in the Willamette Green, a property line adjustment to move the property line so there were three lots, and a transportation facilities review (covered as part of the transportation impact study). The staff recommendation to the Planning Commission continued to be recommendation of approval to the City Council. The review process was as follows:

- December 8, 2020: Continued Planning Commission hearing included written and oral testimony regarding the information submitted to date. The Planning Commission closed the public hearing was closed.
- December 15: Deadline for applicant's final written argument, which was submitted.
- January 12, 2021: Continued public hearing for Planning Commission deliberations.
- February 16, 2021 (tentative): City Council hearing. This public hearing was noticed, which meant a sign was posted on the property and mailers to the abutter properties and individuals who submitted written or oral testimony.

The 120-day deadline for this application was extended to February 18, 2021 to account for the hearing that was on February 16th.

Chair Massey invited the Planning Commission to ask clarifying questions.

Commissioner Hemer asked, there was a debate between a few people regarding if public benefit was defined in our code. Is public benefit defined in our code?

Justin Gericke, City Attorney, responded, he was unsure if there was a definition in the Milwaukie Municipal Code. There was a common understanding of public benefit, which was a general benefit to the public..

Chair Hemer wondered, if there was a difference between open space and forested space on the proposal?

Ms. Koliass responded, within the plan development of the code, open space was intended to be areas that are not developed. Meaning there were no buildings on the land. A forested area had the ability to be an open space.

The City did not receive any new correspondence regarding the Waverly Woods planned development.

Chair Massey invited the Planning Commissioner to deliberate.

Commissioner Hemer shared, he liked the proposal except for one thing. He did not like the use of public amenities. The open space and community room were not for the public and only for those who lived on the property. Public amenities were used to sell the development not for the public, but for the developer. He struggled with what public meant and assumed that City Council had the best intentions of public they created three goals, which were housing. This goal encouraged the private market to develop options that were affordable for Milwaukie. He wanted the developer to offer 10% of their units as subsidized housing. Goal two was climate change action. The Applicant had not committed to a zero-net building, solar panels, or a LEED certification. The Applicant shared that they are planning for it, but he wanted approval for the proposed development. Goal three was equity.. He wondered what benefit the public was receiving for the development. The one benefit he saw was tax dollars because the development would increase dollars to the city. He asked, if he would be able to take advantage of the new created amenities, such as the views of the river, a forested area, walking path, pool, or the community room? When previously asked, the Applicant said, the walking path was available to anyone. Later, the Applicant shared, only residents of Waverly Woods were allowed to use the walking path. For Hemer to accept the proposed development, the applicant needed to provide visitor parking for the public to access the walking path. He wanted the applicant to open the swimming pool to the residents of Milwaukie for swimming lessons or limited use or provide the community room as an affordable rental or allow the

community garden to be used by downtown residents. He believed the applicant needed to use solar panels to commit to excellence of the building and preserve those for the rest of the Milwaukie residents to use. He was unwilling to vote for the proposed development because the applicant's commitment to the word public was not for the general public, but only for residents living at the complex.

Commissioner Khosroabadi shared, while the applicant's attorney believed they were not asking for anything the guidelines did not allow, he believed that was incorrect.. He shared some sentiments with Commissioner Hemer. He shared, with the state of Covid, individuals in the future would experience evictions. With that being said, he wanted to see 20% of the units as affordable housing. Regarding climate change and the proposed development being in a greenway zone, he believed the applicant was not doing enough to combat the effects of the carbon footprint they were leaving. While the applicant was thinking about future developments, he wanted them to think about their current development. The applicant needed to consider the issues the commission addressed, such as the traffic issues and the D rating for the intersection. He was not willing to vote for the proposed development because there was not a public benefit to the residents of Milwaukie.

Commissioner Edge shared, the Planning Commissioner did not have any authority to require the applicant to do anything that was more than the City Code. The Planning Commission was not allowed to require a higher standard than what was defined in the city code. The applicant had sufficiently provided evidence of how the proposal accommodated and satisfied all of the relevant approval criteria and standards. This included the PD zone and the variances that were allowed.. Additionally, the Planning Commissioner did not have the ability to arbitrarily change the D grade of the traffic issue in the area or hold the applicant to a higher standard than the city required. He was perfectly satisfied with the application and believed the applicant met all of the relevant approval criteria. He was willing to recommend approval of the application to the City Council.. There were further opportunities for City Council to review the proposed development against the Comprehensive Plan, applicable standards, listen to further testimony, and converse with the applicant. He was comfortable with approving the proposed development to the City Council.

Commissioner Sherman shared, he agreed with Commissioner Edge. He also suggested changes to the conditions of approval. He hoped that the public viewing opportunity that was not part of the original proposal met the public benefits that Commissioner Hemer was looking forward to. He believed the applicant set a high bar for future development within the city by going above and beyond the code. With a couple of minor tweaks to the conditions, he was ready to move it forward. On page 50, 3B discussed tree protection measures and he wanted the applicant to follow the recommendations of the arborist.. Based on written feedback, he wanted

a new condition that impacted neighbors would receive a notice when earth moving activities occurred.

Commissioner Loosveldt shared, generally she found the application to be complete and consistent with the requirements. She shared concerns about public space and its definition. The concerns she had were not enough to overturn the application. She wanted additional housing given our current situation. The additional units were the greatest value of the project. The development and coordination of the project was significant, and they made attempts to adhere to the Planning Commission and the public questions and concerns.

Commissioner Erdt shared, she believed part of the public benefit was that the housing came with a community garden, and pool. Some development did not have this. While this was intended primarily for residents this was an opportunity for residents to share their space with non-residents. Overall, the project demonstrated compliance and met the applicable standards. She recommended approval.

Commissioner Loosveldt responded, that the definition Commissioner Erdt shared about public amenities was not implied by the applicant. The Planning Commission did not have the grounds to make that happen. She wanted the Planning Commission to work to strengthen the guidelines and requirements that they had jurisdiction over, such as the Comprehensive Plan and code revisions.

Commissioner Erdt responded, the project did not provide a public amenity. There was a public benefit. Overall, the project demonstrated compliance and met all the applicable standards.

Chair Massey wanted to understand what else was needed to be discussed prior to entertain a motion.

Commissioner Sherman shared, a potential amendment. He believed his amendment needed to be added to page 50 as 3.C. He wanted to add the following "prior to any earth disturbing activities that involved explosives or blasting public notification measures must be in place and maintained through construction. Notice must be given to all properties within 400 feet, which included a schedule of explosive activities and a website where people could learn more about the construction schedule."

Mr. Gericke shared, he did not have a problem with providing notice or requiring the applicant to provide notice of certain activities that generated as a result of their approval. However, he was unsure if the specifics of the proposed amendment were feasible from the developer's

standpoint. He did not know if the developer was planning to have a website for updates about the project. The state guidelines provide a window of time for construction.

Steve Adams, City Attorney shared the Oregon Department of Transportation had a policy written regarding how to handle blasting. If the Planning Commission wanted to add some amended language. It needed to reflect what the ODOT required.

Commissioner Edge asked Commissioner Sherman, was he willing to entertain a motion or amendment that read "any blasting had to be consistent with applicable state law or other regulation."

Commissioner Sherman agreed that was fine. He wanted to further discuss he recommendation for tree protections, which was on page 50, 3B of the proposal.

Ms. Kalias shared, this was possible and possible language to use was "fencing had to be maintained throughout the duration of the construction. Tree protection measures must be consistent with the arborist report that was submitted with the original application."

The commissioners had no objections.

Commissioner Hemer wanted to respond to the amendment regarding attachment two. He wondered if the Planning Commissioner could edit 4B on page 50 to say "at least 40% tree canopy would be maintained" since it is already an open area. This was to ensure the trees were preserved.

Chair Massey asked, 40% was the goal of the city. Was it appropriate to say what the city's tree canopy goal was and leave it like that? The city may change its goal to 50% or 60%.

Mr. Gericke shared, if the property was following the code requirement, he was comfortable with a condition requiring the tree canopy to be protected and maintained to the minimum standard required by the code.

Commissioner Hemer stated that the criteria did not meet the design element of public open space. Public open space of a development needed to provide sufficient open space for the purpose of outdoor recreation, scenic amenity, or shared outdoor space for people to gather. This development only allowed those who could afford to live there to enjoy the other space, not the general public. Commissioner Edge and Vice Chair Loosveldt shared, these criteria met the code.

Commissioner Hemer responded, he did not know where the exact guideline was and shared it was under the design guidelines of multi-family housing. He asked for assistance with finding the guidelines.

Ms. Kalias shared, the guideline Mr. Hemer was referring to was specific to the multi-family housing design guidelines. This guideline was not intended for the public open space to provide open space to the general public. This was intended for the individuals living at the development. She believed the finding he was talking about was This section addressed a public purpose and provided public benefits because this was directly tied to the development itself. The open space discussion within the plan development code did not talk about the open space specifically had to be open to the public. It talked about it broadly and the overall goal was for the planned development to address a public process and provided public benefits and/or amenities beyond that base zone requirement.

Commissioner Hemer said, he wanted some language stating that the open space was open to the public and not just Waverly's residents.

Commissioner Edge responded, the code required a public benefit or amenity and both are not required.

Commissioner Sherman shared that he with Commissioner Edge's point. The amount of the forest and trees that were being preserved exceed our tree canopy goals. This was a benefit to the wider community. This sufficed some of the criteria for a public benefit or amenity. He also wanted more, such as electric vehicle charging stations and solar panels. The Applicant

had indicated some intent and interested in offer that. but the code does not require it.. If changes were needed the code that should be discussed.

Commissioner Khosroabadi shared, he agreed with Commissioner Hemer, especially as it related to the public benefit. He understood Commissioners Edge's and Sherman's points. The benefit of the tree canopy did not go far enough for this to be stated as a public benefit.

Chair Massey shared what he heard from the other commissioner, which was there were two changes to the conditions of approval. The first one was to reference the State of Oregon's blasting regulations and maintain the existing tree canopy to comply with the existing Milwaukie Municipal Code. He asked if there was anything missing?

Commissioner Edge added, there was reference to following the arborist report.

Ms. Kalias summarized the proposal to include the three additions the Planning Commission came up with.

- There was a change to condition 3B. The final sentence needed to state, "tree protection measures must comply with the arborist report as submitted with the application."
- The Planning Commission created a new condition, which was 3C. "Any commencement of earth disturbing activities or any blasting activities must comply with the notice and other requirements in state law."
- The Planning Commission added a notation condition to 4B. The highlighted language in green remained the same. This was an addition "the protected forested open space must comply with the City of Milwaukie's tree canopy goals.

All of the commissioner agreed with the conditions as stated. He also wanted to know which commissioners wanted to go forward with the expanded public use. Commissioners Hemer and Khosroabadi raised their hands.

Commissioner Sherman asked if the Applicant would submit additional plans regarding public benefit and amenities activities prior to development, such as electric vehicle charges and solar panels.

Commissioner Khosroabadi was unsure if they were unable to require that.

Commissioner Edge added, previously, the commission included an accompanying correspondence to capture their conversation. Usually, these reflections were not included in the findings and conditions of approval. This allowed City Council to understand the commission thoughts and gave them an opportunity to ask the Applicant about future public benefits and amenities. He supported a motion to write a correspondence to Council.

Commissioner Hemer shared, the commission was unwilling to determine the public benefits and amenities beyond the base zone. In order to consider the proposed development a public benefit or providing a public amenity it needed to offer a 20% subsidized housing, climate responsive building, which included solar panels, a net zero building, or a LEED practice. Finally, these created amenities needed to be available to the public for use. There was no assurance that the walking path or view was designed for the public. These features and the building design served only the residents of the development. This development had nothing to do with public benefits. They were snowballing it and the building was being proposed for the site because it was too expensive to build to the right and dig out the bedrock. He wanted to see visitor parking for individuals who wanted to visit the site. By not providing parking the proposed development was not inviting the public to enjoy the benefits offered on the site. He liked the proposal and it did not go far enough in providing public benefits and amenities.

Chair Massey asked the Planning Department staff about ways to include some of the issues raised by Commissioner Hemer in their correspondence to City Council.

Ms. Koliass responded, when the staff submitted their staff report there was a section about the Planning Commission's discussion and hearings. In that section, this was an opportunity for City Council to consider other recommendations. It was possible to add the discussion points to the staff report and include them during the staff's presentation. Also, the City Councilors were known to watch the Planning Commission hearings before their hearing.

Commissioner Hemer shared, he wanted the recommendations in writing.

Ms. Koliass agreed to Commissioner Hemer's request.

Vice Chair Loosveldt shared, with respects to sustainability was it possible to require that the project demonstrated through measured compliance its ability to optimize energy efficiency through building orientation, passive and heating design, shading, daylighting, natural ventilation, and etc via a report? The applicant needed to provide documentation that they were meeting sustainability goals beyond the code.

Chair Massey responded, this was a fourth item to add to the comment section.

Ms. Kalias summarized the points which were affordable housing, sustainability, and access to public amenities.

Commissioner Edge recommended approval that the commission approve application PD-2020-001 for referral to City Council with Findings as provided in the staff report and Conditions of Approval as amended in the recording from the Planning Commissioner's meeting on January 12, 2021. Vice Chair Loosveldt seconded the motion. Chair Massey, Vice Chair Loosveldt, and the following Commissioners Edge, Erdt, Khosroabadi, and Sherman approved the motion. Commissioner Hemer opposed the motion.

(01:24:30)

5.2

Update to Title 18 – Flood Hazard Regulations

Summary: The purpose of the ZA-2020-002 hearing was to consider legislative amendments to Milwaukie Municipal Code Title 18 (Flood Hazard Regulations). The Planning Commission was being asked to make a recommendation to the City Council regarding whether the proposal conformed with the City's applicable criteria. Chair Massey invited staff to cite the zoning ordinance section(s) for the applicable criteria.

Brett Kolver, Associate Planner, cited the applicable provisions of the Municipal Code:

- Section 19.902: Amendments to Maps and Ordinances
- Section 19.1008: Type V Review

Mr. Kolver shared the staff presentation, following up last month's work session with the commission. The purpose of the proposed amendments was to keep the City compliant with the flood rules that are promoted by the Federal Emergency Management Agency (FEMA). This was a recommendation hearing, which meant the Commission's role was to review the proposed amendments and provide a recommendation to City Council. He shared an overview and summary from the last presentation on December 8, 2020.

The presentation ended with sharing the timeline of the project, including the next steps: a February 2nd worksession update to City Council and March 2nd target date for adoption by City Council. March 31st was the deadline for compliance with FEMA rules. This concluded Mr. Kelper's report.

Chair Massey asked whether the Planning staff received any correspondence on this matter.

Mr. Kelper reported that he did not receive any additional correspondence in the form of comments, except for what the commissioners received in their packets.

Chair Massey invited the public to testify.

Matt Gillis testified that he was against the proposed amendments and wanted more clarification. He had previously completed development projects in floodplain areas and had also purchased a home in a floodplain area in Lake Oswego. He believed the proposed amendments would affect a lot of homeowners in a negative way. The proposed policy to change the flood protection elevation by 2.4 ft meant homes that were in compliance with the code would no longer be in compliance due to the change. If a homeowner wanted to add a bathroom, it might not be allowed due to the proposed change. He also wanted to discuss the crawlspace restrictions and how they related to the building code. He believed that the proposed code changes would negatively impact property values. Lastly, he believed the Tilikum Crossing flow study needed to be discussed prior to sharing the proposed changes with City Council.

Commissioner Edge asked Mr. Gillis if he knew what the impact on property values would be for Milwaukie residents who would no longer be able to apply for flood insurance protections if the City no longer eligible to participate in the National Flood Insurance Program.

Mr. Gillis responded that he was unaware of the flood insurance program. His flood insurance was not through FEMA. It was through a private party insurance company. He shared that it was probably half the price of FEMA.

Mr. Kelper reiterated that there were no changes proposed to the flood maps themselves. The FEMA 100-year floodplain map was not changing;

neither was the boundary that was shown the City's maps of the 1996 flood areas. He clarified the impacts to property owners of the approximately 250 properties that had a flood hazard designation, including residential, commercial, manufacturing, and vacant/underdeveloped land. He noted that some of the properties were developed prior to the flood code and were already not in compliance with any flood standards. If these properties wanted to construct a bathroom they needed to come into compliance with the code. He asked the Engineering Department to discuss Mr. Gillis' comments regarding crawl space construction. The State building codes had been changed to ensure that greater flood hazard protections were in place, but this proposal did not change the building code.

Beth Britell, Civil Engineer explained that, of the 250 properties that are part of the floodplain map, 96 had structures within the 100-year floodplain or the 1996 flood areas. Of those 96 structures, 36 structures were within the 1996 flood area. Most of the properties were developed prior to the City's original floodplain regulations being adopted. A bathroom remodel did not trigger a need for full compliance. A home needed to be brought up to code when an owner wanted to make any changes that were 50% of their assessed value. She noted that the standards for a new home in the 1996 flood area was very similar to those for one in the 100-year floodplain. The difference was how high the structure needed to be. For example, any electrical wiring needed to be above the flood protection elevation.

The code required electrical and mechanical systems to be elevated in areas that were below the flood protection elevation. A basement was difficult to build in the floodplain. In Milwaukie, homeowners were not required by law to disclose they were in a floodplain. Developers were not allowed to build below-grade crawlspaces, such as crawlspaces that effectively created a trough or bucket. This change was necessary to decrease the possibility of water sitting and causing further damage to the structure; a minor change that was recommended by FEMA.

Mr. Gillis responded that Ms. Britell's response was helpful.

Chair Massey closed the public testimony on this hearing. He invited to commissioners to discuss the proposal.

Commissioner Edge responded that he wished there was more that could be done now to strengthen the regulations, but he understood the City needed more time for those discussions. He appreciated the policy and the

protection being offered to residential in the floodplain areas. He was ready to approve the policy.

Commissioner Erdt thanked Mr. Gillis for his comments and questions and the City's response. It was very insightful.

Chair Massey agreed with Commissioner Erdt. The presentation was very valuable.

Commissioner Sherman agreed with everything that was said. He wanted to entertain an amendment to the language to define the term "elevation certificate." The term was used in the code but was not defined. It was valuable to define the term, especially since it was critical for homeowners. He was also interested in a broader conversation regarding how to better inform those in the community that were buying properties in a floodplain. He understood it was a State issue and believed the City could maintain a list on the City's website of all the floodplain properties and elevation certificates.

Chair Massey noted that he heard two proposed amendments and wondered if Mr. Kolver had enough information to proceed.

Mr. Kolver clarified the suggestions he heard, which were to establish a definition of elevation certificate and consider how to improve methods of disclosing floodplain information in the future.

Chair Massey agreed that was correct.

Commissioner Edge recommended approval that the application ZA-2020-002 to be referred to City Council for approval with the amendment to include a definition of elevation certificate. Commissioner Khosroabadi seconded the motion. The commission approved the motion.

(02:06:28)

6.0 Work Session Items

(02:06:28)

6.1 Comprehensive Plan Implementation Project Update - Code Concepts

Ms. Kolas shared a continued update about the Comprehensive Plan Implementation efforts and the work of Comprehensive Plan Implementation Project (CPIC). The focus of this phase of the course implementation was housing. The City planned to have code drafted in the late spring or early summer. Activities completed thus far were the consultant submitted a code audit, the CPIC had a joint meeting with the Tree Board and Design and Landmarks Committee to discuss code concepts. The next steps were developing code concepts, planning the second public engagement, and residential parking study. The purpose of the code audit was to identify which zoning and other code provisions fall short of or prevent the City from meeting the goals of the Comprehensive Plan and by extension house bill 2001. Some of the key findings were permit more types of housing in low and medium density zone, consolidate residential zones, remove code and procedures that were barriers, prohibit requirements for middle housing that were more restrictive than for single detached dwellings. For trees the key findings were clear & objective standards for preservation and planting, preserve large trees, and the city had enforcement abilities of the requirements. For parking the key findings and recommendation was to reduce parking on-site to preserve trees, right-size parking requirements to ensure the same standards are being applied, and explore using on-street space as a way to meet the parking requirements for a particular development.

Commissioner Hemer suggested that the Committee play around with the parking was located. Maybe a home was allowed to move closer to the property and had their parking in the back of the home. His offered this suggestion as an avenue for not destroying the trees. His other comment was about electric vehicles and the opportunity for everyone to have their cord on the sidewalk. This meant children would trip over the code. He hoped individuals were developing solar panels on top that charged the batteries of the electric vehicles. He wanted to explore alternatives to electric vehicles besides adding the charger to one's home.

Commissioner Sherman shared, as the consultant considered on-street parking to think about mailboxes and prevent any possible conflicts. He wondered who was determining whether tree preservation was feasible or not. He also wondered about trees that needed to be removed. What was the replacement schedule or a fee in lieu? He wanted to the CPIC to think of and situation. He suggested that the tree needed to be replaced and few in lieu were needed as a means to disincentivize elimination of any large canopies.

(02:22:43)

6.2

Planning Commission Bylaws Update

Laura Weigel, Planning Manager shared, a bylaws update. The commission previously had a meeting on November 24th to discuss possible changes to the bylaws. The City Council requested the Planning Commission to be appointed as the Community Involvement Committee until an independent committee was funded to take on this role. The Planning Commission had questions and believed this should have been a standalone committee that focused on matters of public involvement and not just land use. The role and responsibilities of the committee were unclear. There were concerns about the interim status and the commission was concerned it may become a permanent role. There were some conflicts regarding the commission acting as the CIAC and the commission already had a heavy workload. In order to address the conflicts that were discussed, Ms. Weigel made a few changes to the bylaws. Those changes included a sunset clause through December 31, 2022.. This also gave City Council an opportunity to think about what the larger role of the CIAC was. She also changed F1 A to clarify the role and time commitment of the Planning Commission. It read as the Planning Commission reserved the time on every agenda to meet if needed as the CIAC and held an annual meeting to review the city involvement guidelines and programs as it related to land use..

Vice Chair Loosveldt wondered, how Ms. Weigel came up with the timeline.

Ms. Weigel shared, two years seemed like a good amount of time and a year was not enough time for City Council to determine next steps and the City Manager agreed.

Commissioner Hemer shared, he did not like that Planning Commission being the CIAC. He thought this was a reasonable compromise. He shared the Land Use chairs, Neighbor District Association leaders, and the Planning Commission had an opportunity to meet annually and talk about land use issues.

Vice Chair Loosveldt asked, who was responsible for setting the agenda or priorities of the meeting?

Ms. Weigel shared, staff was responsible. They needed to look at public involvement for land use, the goals in the Comprehensive Plan, and the goal one from the State. The City planned to draft an agenda and seek the Planning Commissioner's ideas.

Vice Chair Loosveldt asked, what time were the meetings? Was the goal to meet biannually, once a year, and between winter and spring? She wanted more clarification about the meeting times and how many meetings were required.

Ms. Weigel responded, there were conversations regarding if one meeting was enough. She shared two meetings may be a possibility depending on what the Committee needed to talk about or based on what the public wanted to talk about with the Committee. Hosting a second meeting was optional and only necessary if the meeting was needed.

Vice Chair Loosveldt shared, she had some conflict about the Planning Commissioner being the CIAC. Biannual meetings seemed more appropriate and gave the commission time to really address the issues and concerns of the committee and community.

Chair Massey shared, based on his recollection of the last discussion, the Planning Commission believed they needed to meet once as the CIAC and host a second meeting as needed.

Commissioner Edge shared, he was comfortable with the language in their packets. He appreciated the flexibility for the commissioners to add items to the agenda and discuss if an additional meeting was needed. He believed the commission had the ability to determine if an additional meeting was need. The bylaws didn't need to direct the commission to meet twice a year.

Ms. Weigel shared, she was going to change the bylaws to CIAC meeting at least once a year and more if determined needed.

Vice Chair Loosveldt shared, she preferred the bylaws to say twice. This ensured the next group met twice a year instead of once.

Commissioner Hemer shared, it did not matter to him if the CIAC met once or twice a year. He shared his concern that in the past groups did not meet according to the bylaws. He hoped that the commission accomplished what was written in the bylaws.

Ms. Weigel responded, she would ensure what was written in the bylaws was accomplished. She mentioned that the commissioner was supposed to have a joint meeting with the NDAs and this was very high on her agenda.

Chair Massey responded, that was the point raised by Commissioner Hemer. We kept kicking the can regarding the NDA meeting. He asked the commissioners their preference and most agreed with meeting once a year and as needed.

Ms. Weigel agreed to edit the bylaws with the commissioners' feedback prior to sharing them with City Council. Chair Massey requested that he no longer needed to sign off on the minutes. The Planning Department changed the bylaws to reflect that. The Planning Commission was still responsible for approving the minutes and then staff would sign them. The Planning Commission was fine with this.

Commissioner Sherman asked, was there was a discussion about hybrid formats and other opportunities for the meetings formats?

Ms. Weigel responded, there was an opportunity to discuss this in general. In a previous meeting, the commission was going to keep this at the top of their minds.

Commissioner Hemer suggested a hybrid option to set up at City Hall.

Ms. Weigel shared, this was a great time to have big ideas for the new building and hopefully, we had the budget to do so.

Vice Chair Loosveldt responded, offering a virtual opportunity for anyone and everyone needed to be a continued conversation.

(02:38:47)
7.0 **Planning Department Other Business/Updates**

There were no updates.

(02:38:47)
8.0 **Planning Commission Committee Updates and Discussion**

Commissioner Hemer announced, the Milwaukie History Society owners and operators of the Milwaukie Museum along with their partners the City of Milwaukie, Facebook group Milwaukie Chit Chat, Ledding Library, and Willamette Falls studio Celebrating Black Experience event on February 3rd at 6pm. The event included Libra Forde, Clackamas School District President and Counselor Desi Nikodemus.

Vice Chair Loosveldt encouraged individuals to spend time on Martin Luther King, JR. day in service and educate themselves about the holiday. Happy MLK Day!

Chair Massey reintroduced the conversation about selecting a new chair for the year.

Commissioner Hemer recommended a motion to approve Vice Chair Loosveldt to Chair and Commissioner Hemer to Vice Chair. Commissioner Sherman seconded the motion. The commission approved the motion.

(02:49:15)

9.0

Forecast for Future Meetings

February 16, 2021 Joint Meeting with City Council.

February 23, 2021 Hillside Development Planned Development

Meeting adjourned at approximately 9:00 PM.

Respectfully submitted,
N. Janine Gates
Assistant Planner

Robert Massey, Chair