

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, November 25, 2014  
6:30 PM**

**COMMISSIONERS PRESENT**

Sine Bone, Chair  
Wilda Parks, Vice Chair  
Shannah Anderson  
Greg Hemer  
Shaun Lowcock  
Gabe Storm  
Scott Barbur

**STAFF PRESENT**

Denny Egner, Planning Director  
Li Alligood, Senior Planner  
Peter Watts, City Attorney

**1.0 Call to Order – Procedural Matters\***

**Chair Bone** called the meeting to order at 6:30 p.m. 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.ci.milwaukie.or.us/meetings>.*

**2.0 Planning Commission Minutes**

2.1 September 9, 2014

**It was moved by Vice Chair Parks and seconded by Commissioner Hemer to approve the September 9, 2014, Planning Commission minutes as presented. The motion passed unanimously.**

**3.0 Information Items**

**Denny Egner, Planning Director**, noted that a public workshop for the Monroe Street Neighborhood Greenway Concept Plan was scheduled for December 3, 2014, at the Public Safety Building.

**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**

5.1 Summary: 2<sup>nd</sup> Story Variance  
Applicant/Owner: Ron Woodruff/Perry Nordby  
Address: 9925 SE 37<sup>th</sup> Ave  
File: VR-14-02  
Staff: Li Alligood

**Chair Bone** called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

**Li Alligood, Senior Planner**, presented the staff report via PowerPoint. She oriented the Planning Commission to the site and zoning, and explained the proposal for a variance to the street side yard setback. She explained that R-7 zoning called for 20 ft side yard setback but this section of Harvey St required an additional setback to allow for future street-widening which resulted in a 25 ft setback to this property. The existing home encroached in the setback but was legal due to being built before these standards.

**Ms. Alligood** reviewed a previous variance request approved by the Commission that allowed for a reduction of the side yard setback to allow for the garage to come in line with the rest of the house. She displayed the previous drawings and site plans as submitted for approval and permits that included the single-story garage addition. However, the actual construction resulted in a second story addition and therefore was not substantially conforming to the approved plans. A stop work order had been placed on the project. The Planning Director determined that an additional Type III Variance Request application would be needed for the addition story.

**Ms. Alligood** added that the applicant had requested a total of three variances: extending the existing nonconformity by adding the second story, and two variances to the front yard and rear yard setback to construct a covered patio.

Staff did not identify any negative impacts of the proposed variance and no mitigation of any impacts was required. Staff recommended approval with the recommended findings and conditions of approval. Ms. Alligood reviewed the decision-making options.

**Vice Chair Parks** clarified that none of these variance requests would encroach more into the side yard setback.

**Commissioner Lowcock** asked why the need for the second story.

**Perry Nordy, Applicant**, noted that it would be for additional living space. He would have preferred to wait for approval of the second story by the City but the builder and architect built it anyway.

**Chair Bone** called for public testimony.

**David Vidan, Copacetic Construction, 3958 SE Wake St**, explained how it was decided to add a second story and felt that there was no negative impact to the neighbors. He acknowledged that the permitting process was gone about incorrectly but asked that they be allowed to proceed with the project.

**Stephanie and Daniel Nadue, 3503 SE Harvey St**, were in support of the project and felt that it improved the neighborhood.

**Chair Bone** closed public testimony.

**Commissioner Lowcock** thought that most of the issues were sorted out through the previous variance request. He wanted to see the project completed.

**Commissioner Storm** would like to have heard from the neighbor as a second story was impactful but acknowledged that they had the opportunity to comment and did not.

**The Commission** felt that the second story was in proportion and appealing.

**Commissioner Storm** noted that he was concerned of setting precedent for building first and asking for approval later.

**Commissioner Barbur** agreed but thought that the applicants learned their lesson.

**It was moved by Vice Chair Parks and seconded by Commissioner Hemer to approve the 2nd Story Variance application VR-14-02 for 9925 SE 37th Ave with the findings and conditions as presented.**

**Mr. Nordby** clarified if the project could now move forward.

**Mr. Egner** affirmed that given that all of the appropriate building permits were submitted and approved. However, this approval would have an appeal period and therefore moving forward may create risk if an appeal was submitted.

5.2 Summary: Commercial-Limited Zoning Amendment  
Applicant: City of Milwaukie  
File: ZA-14-03  
Staff: Denny Egner

**Chair Bone** called the hearing to order and read the conduct of legislative hearing format into the record.

**Denny Egner, Planning Director**, presented the staff report via PowerPoint. He had initiated the proposal at the interest of City Council. The proposal was to add “eating establishments” to the list of permitted uses for three properties in the Limited Commercial C-L zone along 32<sup>nd</sup> Ave. Initially the issue of adding “eating establishments” to the rest of the C-L zones would have been addressed through the Neighborhood Main Streets component of the Moving Forward Milwaukie project. However, due to the complexity of the downtown and central Milwaukie pieces of that project, the Neighborhood Main Streets work has been delayed until the spring of 2015. This proposal was initiated to address properties at the corner of 32<sup>nd</sup> Ave and Olsen St as an interim solution that was intended to rectify a problem with the existing nonconforming uses. He explained why this application was being reviewed as a Type III map amendment and reviewed the approving criteria including compatibility with the surrounding area and lack of alternative sites available.

**Mr. Egner** reviewed the staff recommendation for approval of the findings and text amendments with limitations on drive-through uses and size. He noted the decision-making options.

**Chair Bone** verified that this area could change again overall once the Moving Forward Milwaukie project covered this portion of the project.

**Mr. Egner** concurred and noted that there would need to be much thought and public outreach as part of that project to determine what the community wanted for that area.

**Mr. Watts** clarified that although the text for the zone was being changed under this application, it would only apply to three specific properties.

**Commissioner Hemer** asked if it would then be possible to remove these uses in the future.

**Mr. Egner** responded that that could happen but did not believe it would.

**Commissioner Hemer** noted that staff was making an assumption that eating and drinking establishments would indeed be allowed in the C-L zone.

**Mr. Egner** replied that was not necessarily the case and that was why staff limited this application to these few properties. However, he knew it would be part of the Moving Forward Milwaukie project and that there was interest by members of the Council to address the nonconforming uses in that area.

**Ms. Alligood** clarified that the basis of understanding was the Neighborhood Main Streets project in 2012 that addressed this area. Project participants expressed strong support for uses such as restaurants and coffee shops and other uses that were not currently allowed. Staff therefore felt that that supported this approach specific to eating establishments, not drinking establishments.

**Mr. Egner and Ms. Alligood** reminded the Commission that the trip generation estimate noted in the staff report was based on the ITE Manual which was based on a broad variety of scenarios across the country and so they believed overestimated the trips.

**Chair Bone** asked if there was any public comment received.

**Mr. Egner** noted one comment in support was received.

**Chair Bone** called for public testimony.

**Liz Martin, Liz's Creative Café, 9401 SE 32<sup>nd</sup> Ave**, thanked staff for their work on this application. She noted that the café was currently 1500 sq ft with no plan to expand. Her original plan for the café included hosting art and wine parties. However, since the land use compatibility statement to allow for alcohol was denied, she had to reconfigure her business plan. She had no intention of changing it into a bar; it was a family establishment with a kids play area, and hosted mom groups, etc. There had been a lot of community support for the café. She appreciated the Commission's consideration.

**Chair Bone** read a comment in support from April Ariel.

**Chair Bone** closed public testimony.

The Planning Commission deliberated.

**Commissioner Hemer** did not understand why the other two properties were included in this application. It was clear what the intent for one of the properties was, but the future of the other two properties was unknown.

**Mr. Watts** explained the implications of the scenarios under the zone change.

**The Commission** and staff verified that any change of use or expansion of these properties would trigger traffic impact and parking review.

**Chair Bone** called for a straw poll on the 3250 sf size limit. The majority of the Commissioners were in favor with Commissioners Storm and Barbur opposing.

**It was moved by Commissioner Lowcock and seconded by Commissioner Anderson to recommend approval to City Council of legislative application ZA-14-03, for amendments to the Commercial-Limited Zone to allow eating establishments, with the recommended findings and conditions as presented. The motion passed with Commissioner Hemer opposing.**

#### **6.0 Worksession Items**

#### **7.0 Planning Department Other Business/Updates**

**Vice Chair Parks** reminded the Commission of the Monroe Street Neighborhood Greenway project open house on December 3rd, 2014.

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

**Commissioner Lowcock** asked for an update on the Wine:30 parklet.

**Mr. Egnor** responded that it had been removed as part of the program's requirements. An extension had been requested but was denied by City Council. He noted it was a pilot program and would need to be reviewed again in order to make any changes that were found to be needed. He felt the program was a success but there had been concern about parking from some businesses.

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

- |                  |  |
|------------------|--|
| December 9, 2014 | 1. Public Hearing: ZA-14-03 Commercial-Limited Zoning Amendment <i>continued tentative</i> |
|                  | 2. Public Hearing: DR-14-07 Reliable Credit Parking Lot                                    |
|                  | 3. Worksession: CPA-14-02 Moving Forward Milwaukie Downtown Plan and Code Amendments       |
| January 13, 2014 | 1. Public Hearing: DR-14-07 Reliable Credit Parking Lot <i>continued tentative</i>         |
|                  | 2. Public Hearing: CPA-14-02 Moving Forward Milwaukie Downtown Plan and Code Amendments #1 |

Meeting adjourned at approximately 8:13 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

  
Sine Bone, Chair