

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, January 27, 2015
6:30 PM**

COMMISSIONERS PRESENT

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

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.milwaukieoregon.gov/meetings>.

2.0 Planning Commission Minutes

2.1 October 28, 2014

It was moved by Commissioner Hemer and seconded by Vice Chair Parks to approve the October 28, 2014, Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

- **Denny Egner, Planning Director**, noted that the Medical Marijuana code amendments hearing was postponed to the February 24th meeting in order to provide better notice to the neighborhoods.
- Steve Butler, Community Development Director, was resigning from the City effective February 18, 2015.
- On February 18th, a group of University of Oregon students would be presenting their design and development ideas for the Cash Spot site, at McLoughlin Blvd and Washington St, and the Portland Waldorf School field. He noted the group was made up of 12 undergraduate architect students and 12 architects from Shanghai working with the students, and there was a focus on sustainable architecture.
- There would be a tour of the Kellogg Creek Waste Treatment Plant on February 10th with the City Council and was open to the Commission.

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

Sam Chapman, 3354 NE 75th Ave Portland OR, stated he was introducing himself to be a resource to the Commission regarding medical marijuana and the upcoming zoning regulations the Commission would be reviewing. He thanked the Commission on their pragmatic approach. He gave his background with regard to working on the medical marijuana legislation and distributed a memo to the Commission.

5.0 Public Hearings

- 5.1 Summary: Moving Forward Milwaukie Downtown Plan and Code Amendments #2 – continued from 1/13/15
Applicant: City of Milwaukie
File: CPA-14-02/ZA-14-02
Staff: Li Alligood and Denny Egner

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

Li Alligood, Senior Planner, introduced Serah Breakstone, with Angelo Planning Group.

Ms. Alligood presented the staff report via PowerPoint and noted that this was the second segment of the public hearings for this project and would focus on Permitted Uses. She reviewed the phases and the goals of the project.

Ms. Breakstone noted that what the consultant team found when they reviewed the City's existing downtown code was an unnecessarily complex and restrictive set of code provisions. She explained the number of zones within downtown, their allowed uses, provisions, restrictions, etc., were all potentially hindering development and the type of development Milwaukie wanted to see in its downtown. The recommended approach for updating the code was to consolidate the zones into one Mixed-Use zone, broaden the range of uses allowed, allow for the market to decide what and where, and lift restrictions with the hope that the additional flexibility would bring development to the downtown area.

Ms. Alligood explained that the existing code was adopted in 2000 to implement the vision of the Downtown and Riverfront Land Use Framework Plan (Framework Plan) but the feedback from those trying to use and apply the code was that it was very prescriptive and confusing. Minor revisions to the Public Area Requirements (PARs) were made in 2013 since the code for Main Street created a nonconforming situation for the existing businesses and expensive PARs were called for in order for those businesses to become conforming. This created a difficult situation and those revisions helped to ease this but the code overall needed to be amended.

Ms. Alligood outlined tonight's discussion to include the proposed new definitions for uses and development, the new Downtown Mixed-Use (DMU) zone; how to address and review the current nonconforming uses; the proposed review process; and the proposed new permitted uses and how they would apply on Main St.

Definitions:

- New definitions were necessary due to new standards and uses, including Awning, Canopy, Live/Work Unit, and Office with both Traditional and Production-related identified.

- The existing terms to be clarified included Abutting, Mixed Use, and Porch.
- **The Commission** discussed the Awning and Canopy section.
- **Chair Bone** reminded the Commission that the definition was to help everyone understand the intent of the code.
- **Peter Watts, City Attorney**, noted that regardless of the word used, the definition of that word as outlined in the code was what users of the code would look at.
- **Mr. Egner** noted that there would be some images later in the presentation to help clarify these items.
- The proposal for new code language regulating Live/Work Units would need to get worked out through the hearing process.

Downtown Mixed Use Zone:

- Currently, there were 4 commercial zones, 1 open space zone, and 2 overlay zones in downtown. The proposal was to combine the commercial zones into one Downtown Mixed-Use (DMU) zone, and revise the Downtown Open Space zone to be an Open Space zone that could be applied throughout the city in the future.
- The DMU would allow a broad range of commercial, residential, office, and retail uses.
- The Open Space zone would apply for parks, plazas, open space, and limited eating and drinking uses like refreshment stands, etc.

Nonconforming Situation Review:

- Currently, nonconforming uses and structures required Type III review for expansion or renovation. The proposal would adjust so that if the renovation or expansion brought the situation closer to conformance, a Type II review would be available.
- Once the new standards were adopted, many of the existing buildings in downtown would become nonconforming. With an adjustment to allow for Type II review for changes that would bring those buildings closer to conformance, it would reduce cost and uncertainty.
- **Commissioner Anderson** asked if the consultant had seen timelines and incentives in other jurisdictions for properties to become closer to conformance.
- **Ms. Alligood** and **Mr. Egner** referred to the sign code that had had a moratorium on signs to become compliant.
- **Mr. Egner** noted there were some approaches that were more stringent in order to not extend the life of the nonconforming situation; however, the proposed approach was more development-friendly although would take longer to reach the vision and bring nonconforming situations into conformance.

Permitted Uses (General):

- The goal was to increase flexibility and implement the South Downtown Concept Plan. An implementation plan had been adopted along with the Concept Plan, and had been implemented incrementally and incorporated into regulations.
- **Ms. Alligood** noted the expanded list of permitted uses included standalone residential, live/work units, two office types, indoor recreation, and boarding, lodging or rooming houses.
- Standalone residential would include multifamily buildings and rowhouses, and would be allowed throughout downtown but for along Main St.
- Traditional Office was service-oriented and generated foot traffic; Production-related Office was production-oriented and generated minimal foot traffic.
- Boarding, lodging or rooming houses (or micro-units) were an inexpensive housing option for visitors, employees, young adults, retirees, etc.

- **Ms. Alligood** noted the uses that would not be permitted on Main St included ground floor residential except north of North Main Village; live/work units; traditional office would be permitted on the ground floor but production-related offices would not.
 - A Director's Determination could be applied if there was a discrepancy over which 'box' a particular business would fall into.
- **Chair Bone** asked about Page 96 of the packet, Subsection C, and suggested that it may be clearer to show where ground floor commercial was not allowed, rather than where it was allowed.
- Currently parking facilities and retail uses were permitted. The proposal was for parking facilities (parking lots and structures) and retail uses larger than 20,000 sf be reviewed through a Type III Conditional Use process.

Ms. Alligood noted the key issues staff was seeking direction from the Commission on:

- Should the size limits be applied to all uses, not just retail?
 - Retail uses were limited to 20,000 sf; larger retail would require Type III review. The intent of this limit was to limit large-format retailers in downtown. Some examples of retailers that would fall below the 20,000 sf limit were Trader Joe's and Walgreens. Was this limit the right limit, and should it apply to all uses?
 - 20,000 sf would be about a half of one city block in Milwaukie, and the limit was per use on the ground floor.
- Should production-related office uses be prohibited in the ground floor in all of downtown rather than just along Main St. The intent was to limit office uses with minimal foot traffic on Main St.
 - Things to consider were that production-related offices would have the same transparency standards as other uses, and those offices may not contribute to the desired street life.

Ms. Alligood noted the comments received and staff recommendation that the Commission had agreed upon regarding pinning down certain aspects of the proposals. She noted the next steps.

Chair Bone asked a few clarifying questions.

- Why was City Hall not considered for the proposed build-to lines.
 - **Mr. Egner** explained that the intent was to not create code conflict with the historic character for buildings like City Hall, the Masonic Lodge, etc.

Chair Bone called for public testimony.

Support:

Jim Bernard, 10212 S New Era Rd, Canby, OR was a long-term business and property owner in Milwaukie, noted that he had concerns about the proposals. He stated he was Mayor during the adoption of Riverfront and Land Use Framework Plan and explained the intent was to create a mall-like feeling along Main St to draw pedestrians between the two ends of downtown, with retail, restaurants, etc. He was concerned about it becoming one zone, although he supported it generally. The height of the buildings should remain the same. He felt that the new zone was more restrictive, and the City should be increasing flexibility. He believed that lodging should include hotels.

David Aschenbrenner, 11501 SE Home Ave, Moving Forward Milwaukie Project Advisory Committee (PAC) member, asked about the plaza in the South Downtown Concept and if it would be zoned as open space.

- **Ms. Alligood** clarified it would be in the DMU zone where plazas were permitted, and that that plaza was in the right-of-way.

He asked about parking structures that would be attached to a commercial use, and questioned allowing a large-scale recreational facility on Main St.

Chair Bone asked for staff's rebuttal.

Ms. Alligood clarified that commercial lodging was listed as an allowed use in downtown. Measure 49 was no longer applicable.

Mr. Watts explained Measure 49 claims were if a governmental entity's zoning or code ordinance both lowered the allowed residential density and lowered the value of property post-2007, and the property owner would have to demonstrate both. If a claim was approved, the build-out would have to be completed in 10 years. He would do some analysis on the proposals to verify that Measure 49 would not apply.

Ms. Alligood noted that the 20,000 sf limit would only apply to retail uses, not recreational facilities or other types of uses. Regarding building height, as part of the project's analysis it was found that there was little difference between varying building heights in this market.

Mr. Egner, regarding parking, agreed that the proposals should capture parking as a part of a larger development. A situation he wanted to avoid was where a development occurred that was limited by parking requirements, and then developed an adjacent parking lot to accommodate the development, thus getting by parking restrictions.

Commissioner Anderson asked how staff came to a 20,000 sf size limit.

- **Ms. Alligood** responded that it was based on what seemed reasonable but not too small to accommodate a small grocery store and the like.
- **Mr. Egner** noted that they wanted to be able to accommodate a Trader Joe's or New Seasons type of retail.

Commissioner Hemer asked if staff and the Commission could explore why the proposed plaza on Adams St was not designated Open Space at the next meeting.

- **Ms. Alligood** explained that zoning would not implement the plaza. The plaza would need to be included in the Public Works Standard as well as the Capital Improvement Plan, and there would need to be funding for it. Because it was located in the public right-of-way, it would need to be included in these documents as the zoning ordinance would not apply.
- **Mr. Egner** noted that the concept of the plaza required some purchase of right-of-way to get the needed area. He would not want to split properties between zoning designations.
- **Ms. Alligood** added that the Open Space zoning designation only applied to publically-owned park land.

Chair Bone closed public testimony.

The Commission deliberated about these key items:

Should size limits apply to all uses?

- **Chair Bone** referred to the staff report that stated that the advantage to applying the standard to all uses would be to encourage small scale development and the disadvantage would be the creation of additional barriers for new development and difficulty enforcing size limits.
- **Commissioner Hemer** asked if it was about the size and scope of the building, or was it about the business. Was there a preference between a mom-and-pop type establishment and a chain establishment (i.e. Trader Joe's); which was what the citizens wanted.
- **Mr. Watts** reminded that size limits could be applied but trying to prohibit particular businesses was problematic.
- **Chair Bone** felt the size was what mattered because most of the downtown establishments were much smaller than 20,000 sf.
- **Mr. Egner** gave some examples of other uses at 20,000 sf that may make sense in downtown: a movie theater, comic book museum, brewery/brewpub, etc.
- **Ms. Alligood** reminded that the 20,000 sf limit only applied to retail; other uses do not have that limit currently and may not require review.
- **Mr. Egner** stated that that limit should not be applied to residential; it should apply to a single "user" rather than "use".
- **Mr. Watts** reminded that as the policy-makers, the Commission needed to determine what the community wanted (i.e. the perfect building vs. certainty and economic activity) and how to make that happen. For each additional requirement, the streamlined process would get more difficult which would increase uncertainty for development. What were the values and vision, and what did the Commission want to achieve through this process.
- **Commissioner Lowcock** agreed that if the goal was to streamline development, every development should not be required to come before the Commission; that sent a mixed signal to developers. He did not support putting the 20,000 sf limit to all uses.
- **Ms. Alligood** would clarify that the 20,000 sf would apply to the ground floor only.
- **Commissioner Hemer** asked why the limit should only apply to retail if this issue was about scale.
- **Mr. Egner** clarified that the size limit on retail came about by analyzing the impact of bigger retailers and to try to keep the scale down for downtown.
- **Vice Chair Parks** felt more comfortable with removing the limitation altogether but for Main St. However, she was unsure of taking the limit off of everything as well as unsure about putting a limit on everything.
- **Ms. Alligood** reminded the group that a building's appearance would be addressed through the design standards. Regardless of what was happening inside the building, the exterior would feel the same.
- **Commissioner Anderson** asked if the issue could be tabled for now.
- **Ms. Alligood** suggested an approach for including uses that did not have the size limit rather than the opposite, for example, commercial lodging and residential.
- **The Commission** directed staff to propose a size limit for all non-residential uses for the adoption draft.

Should production-related offices on the ground floor be prohibited throughout downtown rather than just along Main St?

- **Ms. Alligood** reminded that currently offices were not permitted on Main St.; the proposal to allow office use was in order to provide some flexibility while ensuring that certain types of offices that the community did not want on the ground floor would not be allowed.
- **The Commission** agreed that the proposal should remain with limiting production-related offices only along Main St.

It was moved by Commissioner Barbur and seconded by Vice Chair Parks to continue the hearing for CPA-14-02/ZA-14-02 for Downtown Plan and Code Amendments to a date certain of February 10, 2015. The motion passed unanimously.

6.0 Worksession Items

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Discussion Items

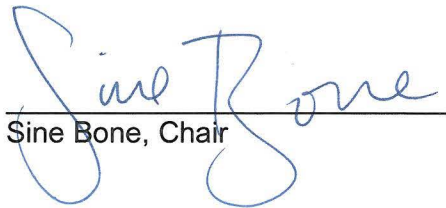
9.0 Forecast for Future Meetings:

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| February 10, 2015 | 1. Public Hearing: VR-14-03 Riverway Lane Addition |
| | 2. Public Hearing: CPA-14-02/ZA-14-02 MFM Downtown Plan and Code Amendments #3 <i>continued from 1/27/15</i> |
| February 24, 2015 | 1. Public Hearing: CPA-14-02/ZA-14-02 MFM Downtown Plan and Code Amendments #4 <i>continued from 2/10/15</i> |
| | 2. Public Hearing: Renaming Lake Rd to Main St <i>tentative</i> |

Meeting adjourned at approximately 9:51 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II


Sine Bone, Chair