

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, February 10, 2015
6:30 PM**

COMMISSIONERS PRESENT

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

STAFF PRESENT

Denny Egner, Planning Director
Li Alligood, Senior Planner
Vera Kolas, Associate Planner
Brad Albert, Civil Engineer
Peter Watts, City Attorney

COMMISSIONERS ABSENT

Shannah Anderson

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 November 13, 2014

It was moved by Commissioner Hemer and seconded by Vice Chair Parks to approve the November 13, 2014, Planning Commission and Design and Landmarks Committee joint session minutes as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, noted that the next Monroe Street Neighborhood Greenway Concept Plan Project Advisory Committee (PAC) meeting was scheduled for February 18, 2015 at the Public Safety Building.

Also, students from the University of Oregon would give their presentation of design concepts for the Cash Spot site and the Portland Waldorf School field on February 20th, 2015 at City Hall.

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: Moving Forward Milwaukie Downtown Plan and Code Amendments #3, continued from 1/27/15
Applicant: City of Milwaukie
File: CPA-14-02, ZA-14-02

Staff: Li Alligood and Denny Egner

This item was taken out of order and was presented after Item 5.2.

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

Li Alligood, Senior Planner, introduced Mary Dorman of Angelo Planning Group, a member of the consultant team. She reviewed the project background, phases, goals, and approach. The public hearings for this code amendment package would be broken into subject areas.

Ms. Alligood noted that tonight's hearing would focus on Development Standards and explained that development standards work together to shape the size, location, and massing of a building, and established the "zoning envelope" which was the section that a building could occur on a site (floor area ratio, setback, maximum height).

Floor Area Ratio (FAR):

The intent was to ensure efficient utilization of downtown sites, and explained that FAR was the relationship between the building area to the site area.

The proposal was to standardize the FARs to minimum 1:1 and maximum 4:1 throughout downtown, with the exception of a few areas that would be 0.5:1 and 3:1 (north of Main St, the ODS/MODA site, and Kellogg Treatment Plant).

Building Heights:

The intent was to provide a consistent street wall along Main St but to keep to the scale of downtown. It was also to implement the South Downtown Concept Plan south of Washington St.

Currently, the minimum height along Main St was 35 ft and 25 ft elsewhere; 3-6 stories was the maximum. The proposal was for a 25 ft minimum throughout downtown or 3-4 stories maximum, with a possible 2-story height or FAR bonus for certain features; buildings over 3 stories must have a 6 ft step back.

Street Setbacks/Build-to Lines:

The intent was similar to that of Building Heights. Currently, the build-to lines only applied to Main St and maximum setbacks were 0 ft for Main St and 10-50 ft for other streets. The proposal for build-to lines was to apply the standard to all key pedestrian routes. For setbacks along those key routes, the proposal was to allow for up to a 20 ft setback but only for a certain percentage of the building's frontage, and up to 10 ft on other streets.

Frontage Occupancy Requirements:

The intent was to work in coordination with the build-to lines to establish a consistent street wall. The frontage occupancy percentage was determined by the percentage of the building face on the site frontage. There was no standard currently and so the proposal was to have 90% along Main St; 75% for Harrison St, Monroe St, Washington St, Adams St, and 21st Ave; and 50% for other streets.

Off-Street Parking:

The intent was to balance a pedestrian-oriented downtown with the need to accommodate residents, visitors, and employees, and recommendations for these requirements came out of the Transportation System Plan (TSP) and Downtown and Riverfront Land Use Framework

Plan.

Currently, there were large areas of downtown that did not require off-street parking, although it was required only in the DR and DO zones south of Washington St where it seemed less necessary. The proposal was for it to be required only for residential use. However, off-street parking changed the dynamic of the ground floor and so it was proposed to not allow off-street parking within 50 ft for the entire length of Main St.

Regarding typical parking standards for commercial uses, there were minimum parking standards in the code; however, it had been found that those ratios were higher than what was being utilized in the downtown environment. The proposal was intended to provide flexibility. The building height bonus option for including residential helped to increase the developable area of a building while meeting the minimum parking requirement for the residential units.

Ms. Alligood reminded that as more standards and requirements were added on, the development area of a property was nibbled away. The Commission needed to keep that in mind as well as how to build in flexibility as they moved through this process.

Transition Area Measures:

The intent was to encourage compatibility with adjacent low-density residential zones. Currently, there was a 3-story height limit and larger setbacks required but only for a small portion of downtown. The proposal was to establish transition area standards for buildings within 50 feet of adjacent property lines with the same setbacks as the adjacent zone (R-5), to require setbacks, and height bonuses would not be allowed.

Residential Density:

In order to encourage a vibrant downtown district, an established population density to support that was required. The current minimum density standards would not change, but the current maximum density would be eliminated. The maximum would instead be controlled by FAR and height standards.

Ms. Alligood noted key questions for the Commission and noted these questions were generated by public feedback:

- Should taller buildings be permitted east of Main St?
 - The proposal was to reduce the permitted building height from 3-5 stories to 3-4 stories, with an allowed bonus of 2 additional stories for features like residential, green building, and/or open spaces. The intent was to incentivize desired community amenities while respecting the scale of existing buildings.
 - The public feedback and suggestions have been for incremental height increases east of McLoughlin Blvd and by-right height increases throughout downtown.
 - Considerations included the fact that a 5th story did not necessarily make a development more or less likely to pencil out, although it did provide more flexibility for developments.
- Should building step backs be required? If so, at what height?
 - The proposal was for a 6 ft step back above the 3rd story in order to limit the visual impact of taller buildings.

Ms. Alligood reviewed the staff recommendations for the Commission to reach consensus on the draft amendments and pin down their decision on this section of the package. She reminded

there would be a final motion for the entire package at the final hearing.

Chair Bone closed public testimony.

The Commission deliberated regarding the key questions.

Commissioner Hemer noted his concern with slope and building height, particularly with regard to the old Cash Spot site (Washington St and McLoughlin Blvd) and asked from where the building height would be measured.

- Staff replied that there were methods by measuring buildings on slopes but it would depend on how the sites were developed since there were multiple lots there.
- **Ms. Alligood** reminded that the question was what the appropriate building height should be in downtown.
- There was concern about treating one property different than others.
- **Mr. Watts** explained the legal implications of allowing for bonuses in only certain areas.

The Commission discussed building heights.

Ms. Alligood gave a time check per the bylaws.

Chair Bone felt that consensus was close. **Commissioner Hemer moved and Commissioner Lowcock seconded to extend the meeting by 15 minutes. The motion passed unanimously.**

Chair Bone noted that, although the Cash Spot site was a transition area to the Riverfront Park, she did not believe that sites should be treated differently.

The Commission agreed with 3-story maximum building height with up-to 5 stories throughout downtown and 6 stories north of Harrison St based on bonuses that would not be cumulative.

The Commission agreed with minimum 6 ft step backs after the base maximum building height was met, for any additional stories.

Ms. Alligood clarified that the green building certified bonus would be based on an ANSI-certified green building program, i.e. LEED, Earth Advantage, etc.

It was moved by Commissioner Barbur and seconded by Commissioner Storm to continue the hearing for CPA-14-02, ZA-14-02 Downtown Plan and Code Amendments to a date certain of February 24, 2015. The motion passed unanimously.

- 5.2 Summary: Riverway Ln Setback Variance
Applicant/Owner: Carter Case/Linsey Forni
Address: 10545 SE Riverway Ln
File: VR-14-03
Staff: Vera Kolas and Brad Albert

This item was taken out of order and was presented prior to Item 5.1.

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

Vera Kolias, Associate Planner, presented the staff report via PowerPoint. She oriented the Commission to the site and noted that Riverway Ln was a 15 ft wide private road which had an abutting 15 ft wide unconstructed public right-of-way. She described the original history that described Riverway Ln to be a private easement for roadway purposes which was followed later with a private dedication of 15 ft of public right-of-way to the public, adjacent to Riverway Ln.

Ms. Kolias described the variance request for a two-story addition, which originally included a garage but had been revised, that would encroach entirely into the required side yard setback to a 0 ft setback to the deeded public right-of-way.

Key issues to consider:

Did the variance request have any negative impacts?

- The proximity to the public right-of-way impacted the ability to construct pedestrian improvements that would come with future roadway construction.
- The proposed garage would require a second driveway which was not allowed and would also create a clear vision issue. However, due to these issues, the garage was removed from the proposal.

Ms. Kolias reviewed the staff recommendation to deny the variance request with the Findings of Denial. However, the Commission could reconsider this recommendation if the applicant provided additional information that adequately addressed the alternatives analysis. She noted the comments received and reviewed the decision-making options.

Commissioner Lowcock asked how to determine a public vs. a private road; was it a matter of service or maintenance, and what the process was for a private road to become a public road.

- **Ms. Kolias** concurred that a private road would not be under the jurisdiction of the City and therefore would not be maintained by the City.
- **Mr. Albert** stated that the process for a private road to become public was a matter of the owners of the easements deeding the street to the City. He described the recommended cross-sections of a residential street and added that street improvements would not be done on Riverway Ln unless the private easements were deeded into public right-of-way.

Vice Chair Parks asked, without the garage and second driveway, how did that change the configuration of the proposal.

- **Ms. Kolias** believed it did not change the structure's configuration, just the purpose of the lower level. She deferred to the applicant.

Commissioner Barbur asked how the Willamette Greenway Overlay zone impacted the development potential for that area that was zoned high density.

- **Ms. Kolias** explained that high density development was allowed outright; the Willamette Greenway Overlay added a layer of review but did not preclude development.

Chair Bone called for the applicant's testimony.

Carter Case, Applicant, 232 SE Oak St Portland 97204, responded to comments. He stated that the Forni family once owned many of the surrounding properties and had homesteaded them as one property. The family was not interested in seeing high density residential on those properties and the residents did not want Riverway Ln to be developed. He acknowledged that

although there were other options for designing the addition, this option was the best for the layout of the home.

Chair Bone called for public testimony.

Linsey Forni Pullan, 10545 SE Riverway Ln, noted the history of the property and area. Her grandparents deeded Riverway Ln, and she was the third family member that lived on the subject property and other family members lived in the surrounding properties. The family had a long history in the area and her family wanted to stay in the home. The other options for constructing the addition would impede on the view and a walkway between the homes. She hoped the Commission would grant the variance.

Vice Chair Parks asked about the deeded 15 feet of right-of-way.

- **Ms. Pullan** replied that although the City's records show that her grandmother deeded it in 1968, the family had no record of that.
- **Ms. Koliias** provided the Commission with a copy of the deed.

Jennifer Forni, 10547 SE Riverway Ln, lived just north of the subject property, and supported the addition.

Craig Pullan, 10545 SE Riveway Ln, is the spouse of Linsey Pullan. He concurred that the proposed addition was the only logical option and it was important that they were able to stay in the home with family nearby.

Gary Klein, 10795 SE Riveway Ln, noted he was the last home on Riverway Ln and stated that he had spoken with the other neighbors who were in support of the proposal. He had lived in the home on and off for 68 years and was very familiar with the Forni and Lavagetto family history of the area. The neighborhood was made up of long-time residents and wanted it to remain single-family residences. He stated that Riverway Ln used to cross Johnson Creek but when his father remodeled his home in 1955, the cement truck broke the bridge and therefore an alternate route was created by deeding the right-of-way. He was curious as to when the zoning changed to multi-family residential.

Mr. Klein felt there would be no negative impact to the neighborhood by the proposed addition. He asked about the permissions on the deeded right-of-way.

- **Mr. Watts** explained how the deed occurred that granted a permanent roadway up to the curve in the road. Also, the Kleins were able to purchase the easement from the Lavagetto family (after which Lava Dr is named).
- **Mr. Egner** noted that for a residence to be legal, it needed frontage on a public right-of-way. He speculated that that was perhaps part of the reason for the easement, as well as access to the properties to build, etc.

Commissioner Hemer asked how 1600 SE Lava Dr was sold outside of the family with regard to the right-of-refusal.

- **Ms. Pullman** replied that the agreement to not sell outside of the family was between the 4 current family property owners. Those addresses were 10577, 10545, and 10663 Riverway Ln, and 1552 SE Lava Dr.

Mr. Egner reminded the Commission that they should address the applicable criteria and referred to Item 2 of the Findings, specifically any negative impact and any effort to mitigate that impact.

Key clarifying points:

- Maintenance of Riverway Ln was the property owners' responsibility.
- In order for the City to gain ownership or easement rights to the private drive, the property owners would need to give easement rights, the City could condemn it, or a street vacation could be done for a variety of reasons.
- The right-of-way provided frontage on a public road which the code required today. If the street were to be vacated, there may be implications with regard to the code.

Mr. Egner asked the Commission if there was a public interest in maintaining the 15 ft street and were there any negative impacts if the proposed addition abutted the street.

Chair Bone called for public testimony.

Mr. Case responded to a few discussion points. Regarding the 20 ft roadway required by the Fire Department, he noted that the Fire Department had made no comment on the proposal. He disagreed that without the 15 ft right-of-way, the properties along that road would be nonconforming. If there was any further concern about access for emergencies, etc., perhaps those could be addressed at a later time.

Chair Bone closed public testimony.

Planning Commission Discussion:

Mr. Egner clarified that the right-of-way would not get developed unless the property owners chose to redevelop their properties which would trigger building the road. He suggested creating conditions for the variance to apply only to this single-family home rather than for the property.

The Commission agreed with that approach.

Commissioner Lowcock noted that since it was a private roadway with no future plans for development, it seeded approval with the right conditioning.

Mr. Egner suggested that staff could return to the Commission; if the Commission was leaning toward approving the application, there could be a tentative motion for approval subject to final approval of the findings and conditions at the continued hearing date.

Chair Bone clarified the general points of the conditions to be crafted as:

- The construction of the foundation of the addition act as the retaining wall for the public right-of-way;
- The zero lot line variance would only be applicable to this home/use, and if there was significant redevelopment, the variance would no longer be allowed.
- The retaining wall would require standards since it was acting as more than just a building retaining wall.

It was moved by Commissioner Lowcock and seconded by Vice Chair Parks to tentatively approve VR-14-03 for Riverway Ln Setback Variance at 10545 SE Riverway Ln with findings and conditions to be drafted by staff and brought back for approval at a date certain of February 24, 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:

- | | |
|-------------------|--|
| February 24, 2015 | 1. Public Hearing: CPA-14-02 MFM Downtown Plan and Code Amendments #4 |
| | 2. Public Hearing: ZA-14-04 Medical Marijuana Code |
| | 2. Public Hearing: Lake Rd to Main St Rename |
| March 10, 2015 | 1. Public Hearing: CPA-14-02 MFM Downtown Plan and Code Amendments #5 <i>tentative</i> |
| | 2. Worksession: MFM Central Milwaukie Plan and Code Amendments <i>tentative</i> |

Meeting adjourned at approximately 10:26 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Sine Bone, Chair


SHAUN LOWCOCK, VICE CHAIR.