

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, January 26, 2016
6:30 PM**

COMMISSIONERS PRESENT

Shane Abma
Shannah Anderson
Adam Argo
Scott Barbur
Greg Hemer

STAFF PRESENT

Denny Egner, Planning Director
Brett Kelter, Associate Planner
Tim Ramis, City Attorney

COMMISSIONERS ABSENT

Sine Bone, Chair
Shaun Lowcock, Vice Chair

1.0 Call to Order – Procedural Matters

It was moved by Commissioner Anderson and seconded by Commissioner Barbur for Commissioner Hemer to act as Planning Commission Chair for this meeting. The motion passes unanimously.

Acting Chair Hemer 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 May 26, 2015

2.2 June 9, 2015

It was moved by Commissioner Anderson and seconded by Commissioner Barbur to approve the May 26, 2015, and the June 9, 2015, Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

There were no information items.

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: Appeal of Code Interpretation CI-2015-002
Applicant: Onsite Advertising Services, LLC.
Address: 2200 SE Mailwell Dr
File: AP-2016-001

Staff: Brett Kelter

Commissioner Hemer

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

Brett Kelter, Associate Planner, presented the staff report via PowerPoint and noted the focus was on roof signs in the manufacturing zones. The two issues for this appeal were whether "street frontages" could be combined to allow for a larger roof sign and how many roof signs were allowed per site in the manufacturing zones. He explained the basis of the recent code interpretation that related roof sign area to a single frontage and provided some background information on previous roof sign applications, which represented a few different methods of calculating sign area. He also presented several options for determining the number of roof signs allowed. The current staff recommendation was to allow only one roof sign per site.

Commissioner Anderson asked whether a change to MMC Table 14.16.050 would be sufficient to address the issue or if additional narrative would be needed. **Mr. Kelter** suggested that a future code amendment would probably include an adjustment to the table, but that an interpretation would suffice to provide direction to staff and applicants for now. **Tim Ramis, City Attorney**, clarified that the purpose of tonight's hearing was not to amend the code, but to interpret the code for this situation.

Mr. Kelter noted that the staff recommendation for this appeal was to uphold the interpretation of CI-2015-002, but with a modification to limit to roof signs to one per site. He reviewed the decision-making options.

Commissioner Hemer called for the applicant's testimony.

Mike Connors, Hathaway Koback Connors, 520 SW Yamhill St Ste 235, Portland, explained the background of the original application and interpretation. The applicant and staff agreed on was how the allowable sign size was calculated in previous sign applications, which was based on the total sum of all frontages. However, regarding number of roof signs allowed, staff had changed their position to limit the number to one per site. The applicant did not agree with this method of changing the standards as it disrupted precedent and created nonconforming situations. He described their interpretation of MMC Table 14.16.050 for standards for roof signs, noting there was no connection limiting the frontage or orientation of the sign, and the description of frontage did not limit it to frontage on one public street.

Mr. Connors noted that changing the interpretation from past interpretations was not an appropriate path and did not allow the applicant to proceed with their project. He recommended the Commission uphold the appeal and then use the code amendment process to help clarify the code for future applications.

Mr. Kelter provided some further points of clarification on the history of roof sign permits. He noted that the definition of "frontage" was only a definition and did not provide guidance on how to interpret frontage and whether multiple frontages should be combined or kept separate (for purposes of calculating allowable sign area). Regarding the potential of the interpretation to create nonconforming situations with existing signs, he suggested that the Commission could consider whether there was a way to note in its decision that the interpretation would not apply to previously established signs. And he noted the importance of being aware of where the line might be between a reasonable interpretation for clarity and a change that might fall more into

the category of being a code amendment that warrants more public discussion.

Commissioner Abma asked how staff would handle the area calculation for a roof sign on a property with two frontages of very different lengths (e.g., 400 ft and 50 ft), if only one frontage could be used. **Mr. Kever** confirmed that staff would probably allow the longer frontage to determine the allowable sign area. **Commissioner Abma** also asked whether, in that same scenario, if the 400-ft frontage was the one used to determine allowable sign area, could the sign could be oriented toward the 50-ft frontage. **Mr. Kever** clarified that there is nothing in the City's sign code that regulates the orientation of a roof sign, so the hypothetical sign in question could be oriented to face either of the site's frontages, or even to face an adjacent property.

Mr. Ramis advised that the issue of nonconforming situations resulting from the code interpretation should be left for a later discussion.

Commissioner Hemer closed public testimony.

Planning Commission Deliberation

Commissioner Argo suggested that, if the code explicitly stated that aggregation of frontages was allowed, then there would be an establishment of standard; however, that was not explicitly stated. On the question of whether multiple frontages could be combined for the calculation of allowable sign area, he explained that he had not been compelled by Mr. Connors' argument to go against the staff recommendation. On the question of whether more than one roof sign could be allowed at a particular site, he noted that he would like the Commission to deliberate further.

The Commission discussed the "frontage" definition.

- **Commissioner Barbur** suggested that the code definition of "frontage" seemed to conflict with itself, between its first and second sentences. Rereading the code standard for roof sign area and replacing the word "frontage" with the first sentence in the definition pointed to allowing a combination of both frontages for the measurement. **Commissioner Abma** agreed and added that he was concerned that not allowing frontages to be combined could lead further from a non-discretionary implementation of the code where the multiple frontage lengths were significantly different and someone would have to choose which to use for calculating sign area.
- **Commissioner Hemer** noted that this question had not come up in the 2011 process of significant amendments to the sign code, so he took that to mean the public was satisfied with the 2011-era interpretation of the frontage question, which was to allow multiple frontages to be combined for calculating area. The Commission appeared to agree with the applicant regarding the street frontage calculation being one that can combine multiple street frontages; therefore, there was no need to discuss the interpretation regarding the number of signs allowed, since the applicant was only proposing one sign.

Staff confirmed that the number of roof signs allowed could be handled through a separate legislative amendment.

The Commission and staff discussed changes to the findings, including a short recess for staff to make copies of revised materials.

It was moved by Commissioner Barbur and seconded by Commissioner Anderson to approve the appeal (file #AP-2016-001) of CI-2015-002 for 2200 SE Mailwell Dr, with the

proposed findings including the amendments described by staff. The motion passed unanimously.

6.0 Worksession Items

6.1 Summary: Recreational Marijuana Code Amendments Staff: Denny Egner

Denny Egner, Planning Director, reviewed the staff report and background. He discussed the differences in limitations between medical and recreational marijuana regulations, including the required distance between dispensaries which did not apply for recreational retail stores. Recreational marijuana regulations addressed retail, grow sites, processing sites, wholesale operations, and laboratories, but did not address land use.

Mr. Egner reviewed the issues outlined in the staff report and the direction City Council had indicated. Council would like to see similar regulations to those of medical dispensaries, with some interest in a potential added buffer around parks. He noted the state regulations required current medical dispensaries to choose between medical or recreational once licenses were issued since they were regulated under different authorities.

James Schwartz, 931 NE Cesar Chavez Blvd, Portland, was a marijuana consultant and clarified that there was a stopgap measure to allow for recreational marijuana to be purchased at medical marijuana facilities until December 31, 2016, in order to allow time for the Oregon Liquor Control Commission (OLCC) implementation to be put in place.

Mr. Egner stated that Council directed that processing, wholesale, and laboratory facilities should be treated similar to other industrial uses. Some considerations would be given to odor standards. For a starting point from Council, the potential proposal was to allow grow sites in the Johnson Creek Blvd Manufacturing Zone area; as a conditional use in Business Industrial Zone along Industrial Way; and initially prohibit them in the North Milwaukie Industrial Area, given that there was a project starting that focused on that area, with the idea that changes could be considered as part of that project's process. Another area to discuss was grow sites in residential areas other than for personal use.

The Commission discussed buffers around parks, location of retail sites, timing of licensing, and OLCC regulations on liquor stores for comparison.

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Discussion Items

Commissioner Hemer noted that on February 6 there would be a meeting regarding the proposed Sunday Parkways program.

9.0 Forecast for Future Meetings:

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| February 9, 2016 | 1. Public Hearing: ZA-2015-003 Short-Term Rentals Code Amendments |
| | 2. Public Hearing: MLP-2015-004 10722 SE 55 th Ave <i>tentative</i> |
| | 3. Worksession: Housing Amendments <i>tentative</i> |
| February 23, 2016 | 1. Public Hearing: MLP-2015-006/VR-2015-007 Rockwood St Partition |

2. Public Hearing: CSU-2015-008 Northwest Housing Alternatives
tentative

Meeting adjourned at approximately 9:13 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

A handwritten signature in blue ink, appearing to read "Sine Bone", written over a horizontal line.

Sine Bone, Chair

SAUNDY LOWCOCK

