

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
Tuesday, May 24, 2016
6:30 PM**

COMMISSIONERS PRESENT

Sine Adams, Chair
Shane Abma
Shannah Anderson
Adam Argo
Scott Barbur
Greg Hemer

STAFF PRESENT

Denny Egner, Planning Director
Brett Kelter, Associate Planner
Shelby Rihala, City Attorney

COMMISSIONERS ABSENT

Shawn Lowcock, Vice Chair

1.0 Call to Order – Procedural Matters*

Chair Adams 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 September 8, 2015

It was moved by Commissioner Anderson and seconded by Commissioner Hemer to approve the September 8, 2015, Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, noted the process to recruit for a Visioning Advisory Committee had begun for the Visioning project as part of the Comprehensive Plan update.

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: 19th Ave Garage
Applicant/Owner: Tim Austin LLC/Terrance & Esperanza Martin
Address: 11906 SE 19th Ave
File: WG-2016-001
Staff: Brett Kelter

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

Commissioner Hemer declared a potential conflict of interest due to a personal and professional relationship with the applicant, and read a statement into the record. He stated that

he could be objective in his decision.

Brett Kelder, Associate Planner, presented the staff report via PowerPoint and noted the location, zoning, and the Willamette Greenway overlay and Habitat Conservation Area designation which was what triggered the Type III review. He reviewed the proposal to remove an existing shed and to replace it with new detached garage. He described the intent of the Willamette Greenway overlay with regard to impacts on views to and from the river, compatibility with character of the river, and open space between activity and river, which he believed were not issues with this proposal. Staff recommended approval, and he reviewed the decision-making options.

After calling for public testimony and having none, **Chair Adams** closed the public testimony portion of the hearing.

It was moved by Commissioner Hemer and seconded by Commissioner Abma to approve land use application WG-2016-001 for 11906 SE 19th Ave with the recommended findings and conditions as presented. The motion passed unanimously.

5.2 Summary: Washington St Nonconforming Use
Applicant/Owner: Daniel Hallock, Dynasty Construction
Address: 2926 SE Washington St
File: NCU-2016-001
Staff: Keith Liden

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

Commissioner Barbur recused himself from the public hearing due to a conflict with his law firm.

Denny Egner, Planning Director, presented the staff report via PowerPoint on behalf of Keith Liden. He noted the location and zoning, which was Neighborhood-Commercial CN. The zoning was unusual because it was for this property and the adjacent property, which had a small store, and it was unknown as to why this property was zoned commercial. The current zoning created a problem for the property as it was a nonconforming use and prohibited changes to the residence. The proposal was to expand the residence but would retain current front and side yard setbacks and meet rear yard setback. Staff recommended approval.

No one spoke in favor or opposition to the application.

It was moved by Commissioner Anderson and seconded by Commissioner Abma to approve land use application NCU-2016-001 for 2926 SE Washington St with the recommended findings and conditions as presented. The motion passed unanimously.

5.3 Summary: Marijuana Businesses Regulations Code Amendments
Applicant: City of Milwaukie
File: ZA-2016-001
Staff: Denny Egner

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

Chair Adams declared ex parte contacts with two of the members of the audience that would be giving testimony, where there was discussion regarding the proposed amendments.

Mr. Egner presented the staff report via PowerPoint and reviewed the proposal. He said the proposed amendments added regulations of marijuana businesses and addressed retail sales, testing, research, processing, warehousing, and production/growing. He further reviewed the proposal in each area as noted.

- Retail: Regulations for medicinal dispensaries and retail shops would be combined and the same standards that currently applied to dispensaries would be applied to retail shops.
- Testing/Research Labs: allowed in zones where offices were permitted.
- Processing and Warehousing: allowed in industrial and some commercial zones.
- All would be subject to security and odor control regulations.
- Production/Growing: agricultural use was currently limited to residential and commercial zones.
 - For production and growing in residential zones, the proposal was to add the requirement for growing indoors only with odor control methods and a 12 plant limit. However, growing for recreational/personal use would continue to be allowed outdoors.
 - Production would not be allowed in commercial and mixed use zones.
 - For industrial zones, production would be permitted in the M Manufacturing Zone along Johnson Creek Blvd, allowed as a conditional use in the BI Business Industrial Zone, and not permitted in the North Milwaukie Industrial Area (NMIA) zones (Denny – does this mean all of the NMI area.

Mr. Egner reviewed the key issues for the Commission to consider:

- Energy use standards regarding renewable energy were proposed to be removed from this amendment package and included as part of the business registration process.
- Medical marijuana home occupation grow sites were proposed to be indoor with a 12 plant limit.
- The proposal prohibits grow sites in the NMIA due to the current project underway for future planning of the area. An option would be to allow grow sites by conditional use with limits on size and buffers between grow sites. He noted he was hesitant to propose allowing investments in grow sites in that area if a goal of the NMIA project was to increase employment density, etc.

Staff recommended that the Commission recommend Council approval of the proposed amendments but without the Energy Use Standard as noted above.

Staff answered questions regarding the NMIA area, colocation, packaging, the proposed City tax, and odor control.

Chair Adams called for public testimony.

Matt Haslet, 2200 SE Mailwell Dr, asked the Commission to consider allowing production in the NMIA. He owned a building at the address which had housed heavy manufacturing until the company went bankrupt and now the building had been mostly vacant for the last few years. He noted the majority of the interest in the building had come from marijuana growers or for warehousing/storage but not from any heavy manufacturing tenants. If marijuana production was allowed in the zone, the property could employ more people than by other uses allowed.

James Schwartz, Cascade High Organics, noted he had been in contact with Mr. Egner to

assist in crafting the proposed amendments. He had had a medical marijuana grow site in the NMIA but decided to move due the hardship of the regulations. He noted that:

- His facility had air scrubbing (odor control) which was used for multiple reasons, including security, and he believed that any major player in this industry would not operate a site without air scrubbing. The industry was heavily scrutinized and regulated.
- He noted the number of employees he had was a much higher ratio for area than what the current code goal was, and added that high-yield indoor marijuana cultivation was not the same as outdoor agriculture with regard to staffing.
- The argument for employment intensiveness was ill-conceived as the zoning currently allowed for large warehouse spaces to function with only 1 employee, and the like.
- Regarding sustainability, he noted the industry used high wattage lighting and he believed that solar power would not be able to keep up with the demand or schedule. He disagreed with codifying such regulations for a specific industry and noted the complications with such regulations with regard to enforcement and the lack of option for growers renting space.

Mr. Schwartz emphasized his willingness to work with the Commission to help the City be a model jurisdiction for working with the industry to create a healthy and sustainable community.

Ron Buel, Dank Bros, LLC, described his business plan for a recreational retail production facility in Milwaukie, and noted some of the OLCC regulations. He said he ultimately wanted a Tier II production facility (up to 10,000 sq ft grow site) and what was initially proposed for the NMIA was allowing a Tier I production facility (up to 5,000 sq ft). He noted the gross revenue and staffing forecast for a Tier II operation and suggested that the Commission consider allowing Tier II. Available space for production was limited and in high demand in the region, and he believed that Mr. Haslet should be allowed to make his space available to those interested in it.

Mr. Egner noted that regarding the goal of employment intensity for the M-TSA Manufacturing-Tacoma Station Area zoning, he predicted that through the NMIA project the goal would be around 40 persons per acre. He added that currently the area had very low employees per acre due to warehouse uses, and that area was being looked at as an area with great employment potential. He gave some background on the NMIA project. He also noted that his intent with the proposed regulations was to start small and that smaller operations seemed to fit the area better.

Chair Adams closed public testimony.

Planning Commission Deliberation

Commissioner Hemer noted that he was opposed to requiring 100% renewable energy as it would be very difficult to enforce and was not fair to require that of only one industry. Regarding operations in the NMIA, he felt that with the testimony provided, such operations met the employment goal of the area so he proposed to change the proposal to allow them through Conditional Use.

- **Commissioner Barbur** proposed to allow them outright and did not find the justification in limiting current uses based on the possibility of what a future study may find.
- **Commissioner Abma** explained what was unique about the M-TSA area in terms of what could be developed there and therefore the reasoning behind the study and hesitation to allow this use outright.
- **Commissioner Hemer** responded that the use should be treated the same in the same zoning district, regardless of the location of the district.

- **The Commission** agreed that the energy use requirement would be better handled outside of land use, such as through the business license process.

The Commission reviewed the issues for review and agreed on the proposals as follows:

- To allow operations as a Conditional Use in the M-TSA Zone, permitted outright in the M Manufacturing Zones, and Conditional Use in the B-I Business Industrial Zone.
- To strike the 100% renewable energy requirement.
- To strike the number of plants provision from Low and Medium/High Density Residential zones.
- **The Commission** agreed to the rest of the proposed amendments.

It was moved by Commissioner Hemer and seconded by Commissioner Anderson to recommend approval to City Council for legislative application ZA-2016-001 for Marijuana Businesses Regulations Code Amendments with the recommended findings of approval as amended. The motion passed 5-1 with Commissioner Abma opposing.

6.0 Worksession Items

7.0 Planning Department Other Business/Updates

Mr. Egner noted the Commission was encouraged to attend a joint session on June 23 with Council regarding the Economic Opportunities Analysis and the Housing Needs Analysis, which were significant components of the future Comprehensive Plan update.

- **Commissioner Argo** noted that he was on the Technical Advisory Committee and had attended a recent focus group. Feedback from employers was that they would like to grow job opportunities in Milwaukie. He hoped that staff would be able to take the feedback heard and square it with the consultant's work.

Chair Adams noted that the work on the Urban Renewal project was going well.

- **Mr. Egner** added the timeline of the Urban Renewal Plan for adoption.

8.0 Planning Commission Discussion Items

Commissioner Barbur applauded the City and community's work on the Library Expansion project since the bond measure passed to fund the project.

Commissioner Hemer encouraged the public to attend an event on June 11 at the Milwaukie Museum for the celebration of the Clair Kuppenbender Research Library.


9.0 Forecast for Future Meetings:

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| June 14, 2016 | 1. Public Hearing: ZA-2016-001 Marijuana Businesses Code Amendments <i>tentative</i> |
| June 23, 2016 | 2. Public Hearing: VR-2016-004 10922 SE 42 nd Ave 1. Joint Study Session: Economic Opportunities Analysis Update |
| June 28, 2016 | 1. Public Hearing: CU-2016-002 Bob's Red Mill Restaurant and Sign |

Meeting adjourned at approximately 9:56 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



Shane Abma, Chair

chair Hmer Grg