

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, November 22, 2016  
6:30 PM**

**COMMISSIONERS PRESENT**

Shane Abma, Chair  
Scott Barbur, Vice Chair  
Adam Argo  
Greg Hemer

**STAFF PRESENT**

Denny Egner, Planning Director  
Vera Kolas, Associate Planner  
Mary Heberling, Assistant Planner  
Peter Watts, City Attorney

**COMMISSIONERS ABSENT**

Shannah Anderson

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

**Chair Abma** 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 – No Minutes for review**

**3.0 Information Items - None**

**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**

**Chair Abma** announced that the public hearing on the Harmony Road Mini Storage would open only for a continuance; no public testimony would be taken this evening.

- 5.1 Summary: Bridge City Church professional use offices  
Applicant/Owner: Bridge City Community Church  
Address: 2816 SE Harrison St  
File: CU-2016-004  
Staff: Mary Heberling

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

**Mary Heberling, Assistant Planner**, cited the applicable approval criteria and presented the staff report, noting staff's recommended approval. She clarified parking was available in the back and across the street and that the proposal would not affect the community service use. No correspondence had been received regarding the application.

**Marc Schelske, Pastor, Bridge City Community Church**, described how the eight parking spaces were used onsite and noted about 65 spaces were available in the lot across the street

**Chair Abma** confirmed there was no public testimony regarding the application and closed the public hearing.

**Commissioner Hemer** noted the site had ample parking and the proposal fit the zoning.

**Commissioner Barbur** agreed parking was not an issue, having lived across the street from the church for the last ten years.

**It was moved by Commissioner Hemer and seconded by Vice Chair Barbur to approve land use application CU-2016-004 a conditional use allowing Bridge City Church to use spaces within the church as professional offices with the findings and conditions as presented. The motion passed unanimously.**

5.2 Summary: King Rd Subdivision  
Applicant/Owner: Mission Homes NW, LLC  
Address: 5126 SE King Rd  
File: S-2016-001, VR-2016-007  
Staff: Vera Kolas

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

**Commissioners Hemer** and **Argo** declared that the application had been discussed at a Linwood Neighborhood District Association (NDA) meeting, which they attended.

**Vera Kolas, Associate Planner**, presented the staff report and comments received, as well as a design modification request submitted by the applicant to address issues with crosswalks and driveway access spacing. She reviewed the proposed design revisions and the related additional condition of approval, noting that staff recommended approval of the proposed applications with conditions. She added that the design modification request met the code, but had not yet been reviewed by the Fire District. No arborist report was supplied to the City, and she deferred to the applicant about whether they had attended any NDA meetings.

**Charles Eaton, Engineering Director**, addressed issues regarding the crosswalks and turn lanes for the subdivision and church to the north across King Rd. He noted the applicant had the burden of proving that the proposed intersection location fit the existing uses in the area and would not create a safety issue. He described the mitigation proposed to allow for the proposed location, which included adding the median, moving the road, and an enhanced crosswalk. **Mr. Eaton** said that he believed the intersection could be designed to function properly and the revised design met Public Works Standards, but more information was required since only a sketch was presented. Except for the accessway spacing off of the intersection, the City had no other issues that were not already addressed in the conditions of approval. If the applicant could not mitigate the problem, a variance would have to be requested.

**Chair Abma** called for the applicant's testimony.

**Ken Sandblast, Planning Director, Westlake Consultants, 15115 SW Sequoia Pkwy, Suite 150, Tigard, OR 97224**, noted the subject site was one of the few in town that could be developed as a subdivision. He presented the application with the following key comments:

- He confirmed the proposal was a replat of the existing 32-lot subdivision of record. The density allowed in R-5 was 16 lots and the applicant's proposal was for only 14 lots, all of which met or exceeded the dimensional standards of the R-5 Zone.
- With regard to future connectivity, there was an opportunity to extend the street system to Home Ave to the west.
- Due to the limited frontage available on King Rd, the variance for the access spacing was requested because there were no other options for access.
- The newly proposed street, SE 51<sup>st</sup> Ave, met and exceeded City standards for local streets, and included 32 ft of asphalt to provide parking on both sides of the street.
- He clarified that a tree inventory of the property was completed, but no report was submitted because it was not required, as noted in the staff report. To satisfy R-5 zoning standards and provide local street connectivity, a majority of the trees had to be removed, although trees would be saved wherever possible.
- The applicant appreciated the City's ongoing communication to resolve the issues regarding the accessways on the north side of King Rd.
  - The applicant submitted a diagram depicting an enhanced crosswalk. Staff confirmed the exhibit addressed the design standard by showing the design was feasible and could be done, and the applicant would be able to satisfy the condition at the time of final engineering.
  - The applicant submitted a report from a traffic engineer where the additional trips were not expected to create an unsafe situation with turning movements into the church driveway.
  - The applicant acknowledged that the new median was to be a restriction on the new street intersection itself and the design would force people to turn right-in and right-out, but would not restrict any traffic flow on King Rd.
  - The applicant's traffic engineer found that for only one peak hour on Sunday, there was a 4.7% chance of conflict between two cars, one turning left into the subdivision and one turning left into the church. The traffic engineer said that was no different than the rest of King Rd. The applicant believed the proposed design would improve access and safety.
- The applicant had not met with any NDAs or the church, as the church access issue had just come up recently.
- The applicant stated they would do their best to save trees, notably some on the edge of the property, but did not want to commit to something they could not do. Most trees were right in the middle of the site, where the connectivity and public street requirements were to be provided. The arborist's inventory and analysis showed about 105 trees and some were not in good shape. He noted the City did not have a tree code, so no regulations exist at this time.
- He confirmed the applicant had considered opportunities to purchase vacated land to the east, south, and west to make a connection, but had not spoken to any property owners.

**Chair Abma** called for testimony favor of, neutral, and opposed to the application.

**David Aschenbrenner, Chair, Hector Campbell NDA, 11505 SE Home Ave, Milwaukie**, stated the NDA had submitted comments. He noted concerns about the street not being fully built and the lack of fencing on the south end of the site and surrounding the stormwater facility.

Concern was also expressed about noise and other impacts to the neighborhood during construction, as well as concern about the lots sitting vacant and not maintained.

**Elizabeth Richard, 5085 SE King Rd, Milwaukie**, stated she lived across the street from the proposed development and that her biggest concern was traffic. She commended that the staff report said traffic report was inadequate, but no new traffic report had been submitted. A new traffic report should be required given the newly proposed median and right-in/right-out to determine how it would impede the speed and flow of traffic on King Rd. The right-out only restriction would pose a traffic hardship for residents of the new development and she thought a street connection to Home Ave would provide an option.

**Lee Garnett, 4928 SE Llewelyn St**, testified in opposition. He was concerned about the number of trees proposed for removal. He asked if the timber would be sold and if the arborist surveyed for endangered birds' nests, noting he had seen hawks and eagles in those woods. He said the development would result in his property losing shade in the summer and the view of the tree line he has had for 16 years, and noted the City desperately needed a tree protection ordinance. He was concerned about the potentially dangerous intersection being constructed and asked how many times King Rd would be blocked during construction. He asked how the proposed development would improve the neighborhood, and what the developer was giving back for removing trees, adding a dangerous intersection, and creating worse congestion problems. He urged the Commission to deny the application.

Staff addressed questions raised during public testimony as follows:

- Staff was unaware of any proposed fencing at the southern border and deferred to the applicant for a response.
- The Fire District was satisfied with the street configuration. Fire trucks could back to Llewelyn and then turn around.
- Per the Municipal Code, the City followed the City of Portland's requirements for stormwater facilities. There were no requirements for fencing, unless specifically called out. The facilities were typically very shallow, planted infiltration areas.
- The City required barricades at dead end streets where no curb exists to prohibit movement. A condition of approval required reserve strips to prohibit access to the other lots until they developed.

**Mr. Eaton** illustrated how the median design would provide a continuous left turn refuge and allow cars to queue without blocking the intersection. He added:

- The traffic impact study accounted for all traffic, including traffic from other developments, because King Rd was an arterial road.
- The existing properties connected to sewer through the old vacated right-of-way where City utilities were located.
- Noise issues and the construction timeline would be addressed in the applicant's engineering and construction plans. The City's noise ordinance would restrict the hours of construction.

**Mike Robinson, Land Use Attorney**, stated once the final plat was recorded, the developer would begin construction as soon as possible. There was no incentive to leave the lots sitting vacant.

**Kurt Dalbey, Mission Homes Northwest**, stated the subdivision provided the opportunity to do all of the building at the same time. All 14 homes would be built at the same time to have as little

impact on the neighborhood as possible. He added:

- The properties would be landscaped and trees planted on every lot. Each house would be fenced on all sides and fencing would be added along the roadway to provide security for the neighborhood.
- Saving trees on the perimeters of each lot was a high priority without impacting the trees with sewer, water, stormwater, etc., that had to be considered. The goal was to leave every tree possible on the perimeter of the subdivision and between houses. A number of lots were wider which allowed space to add trees or retain them if safely possible. His primary concern in hiring an arborist was safety to avoid trees falling after a subdivision was completed. He had experienced trees falling on houses when they had tried to keep trees that could not safely coexist with underground utility lines.
- Although 16 lots were allowed by zoning, only 14 lots would be developed; the least number of lots reasonable to use the property properly.
- The timber being removed was not marketable. The total value of the timber was only about \$20,000.

**Mr. Robinson** added the trees were not being removed for profit, but to make the development possible. The applicant would retain as many trees as possible, but the City did not have an applicable approval standard for tree preservation.

**Don Richards, Arborist**, stated no inventory of endangered birds or other species had been done as it was not required or requested by the City.

**Mr. Robinson** requested a short recess prior to the applicant providing rebuttal.

**Chair Abma** called for a short recess and reconvened the meeting at approximately 8:35 pm. He called for the applicant's rebuttal.

**Mr. Robinson** reminded that the Commission's decision was based on approval criteria, which according to staff, had been met with the recommended conditions of approval. He stated:

- The traffic study had determined the intersection was not unsafe, that the City could grant the deviation to access spacing standards, and that the traffic impact created by the 14-lot subdivision would be minimal and would not significantly alter the operation or safety of existing transportation facilities.
  - The traffic study also revealed no concern about queueing during peak times for the church, which was not a peak time for trips to and from the neighborhood. The intersection could operate without the median, but the applicant worked in good faith to address staff's concerns and would construct the median if the Commission deemed it necessary.
  - He clarified there was no legal reason the subdivision had to defer access to the church. The condition was recommended by the City Engineer and the applicant would comply if the Commission required it.
- In response to public testimony, he confirmed development would begin as soon as the final plat was recorded. The applicant would work with staff to develop a construction mitigation plan and comply with the City's standards regarding construction noise.
  - The applicant would try to address the concern regarding displacement of animals.
  - Not allowing parking adjacent to the crosswalk made sense.
  - The applicant understood the original, November 1st traffic study was deemed not adequate because no mitigation had been proposed; however, the applicant's traffic

engineer determined no mitigation was required because the intersection would be safe.

- Though the City's code did not require tree preservation, the applicant would preserve as many trees as possible and would plant street trees and trees on the lots, according to the City's Code.

The Commission discussed whether to close or continue the hearing given that the revised design plans for the intersection and median had been presented at tonight's hearing. Concern was expressed about the need for the Fire District to review the design; however, the applicant and City Engineer had agreed to work together to achieve a workable design solution.

**Chair Abma** closed the hearing.

### **Planning Commission Deliberation**

**The Commission** deliberated about the challenges of the median mitigation requested by the City Engineer and the conclusion by the traffic study that the initial design was safe. The Commission ultimately agreed to abide by the City Engineer's recommendation.

**Commissioner Hemer** recommended adding a condition to require fencing along the southern portion of the site. He agreed the City needed a tree ordinance and explained that the Commission was not able to enforce any tree preservation because no regulations currently existed.

**Ms. Kolias** suggested amending the condition regarding the median to allow for other design options and review by the Clackamas Fire District.

**Chair Abma** reopened the public hearing to allow the applicant to respond.

**Mr. Robinson** stated he agreed with adding "or other acceptable design" as it gave the applicant an opportunity for a broader discussion about an acceptable design with the City Engineer. However, the design should be subject to the City Engineer's decision, not the Fire District's standards.

**Denny Egner, Planning Director**, agreed with Mr. Robinson's suggestion.

**Chair Abma** closed the public hearing.

**Ms. Kolias** read the amended language for Condition 4s into the record stating, "The proposed street shall be constructed with a median ***or other acceptable design*** in SE King Rd, restricting access to right in-right out of SE 51<sup>st</sup> Avenue, while providing access for the existing left turn movement entering and exiting the existing commercial and residential driveways. ***The design of the median or other acceptable design shall be in accordance with City standards, coordinated with Clackamas Fire District, and approved by the Engineering Director.***"

It was moved by Commissioner Hemer and seconded by Commissioner Argo to approve land use applications S-2016-001 and VR-2016-007 with the recommended findings and conditions of approval as amended regarding street median design and read into the record by staff and an additional condition to require a fence on the southern border of the subdivision along SE 51<sup>st</sup> Ave. The motion passed unanimously.

**Chair Abma** read the rules of appeal into the record.

- 5.3     Summary: Harmony Road Mini Storage  
         Applicant/Owner: Han Thygeson  
         Address: 5945 and 5965 SE Harmony Rd  
         File: CU-2016-001  
         Staff: Brett Kelter

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

**It was moved by Commissioner Hemer and seconded by Commissioner Argo to continue the public hearing for land use application CU-2016-001 to a date certain of December 13, 2016. The motion passed unanimously.**

**6.0     Worksession Items** – There were none.

**7.0     Planning Department Other Business/Updates**

**Mr. Egner** reported that the Visioning Open House at the Waldorf School was a success, and another public event was scheduled for February when development of the Action Plan would begin. On December 6<sup>th</sup>, City Council would appoint two new Planning Commission members, Kim Travis and John Henry Burns.

**8.0     Planning Commission Discussion Items**

**Commissioner Hemer** commended the committee working on the Visioning who met after the Open House. He encouraged everyone to attend Picture with Santa Day on December 17<sup>th</sup> at the Milwaukie Museum.

**9.0     Forecast for Future Meetings:**  
December 13, 2016    1. Housekeeping Code Amendments

Meeting adjourned at approximately 9:27 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

  
Shane Abma, Chair