



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

March 26, 2019

Present: Kim Travis, Chair
John Henry Burns, Vice Chair
Adam Argo
Joseph Edge
Greg Hemer

Staff: Denny Egner, Planning Director
David Levitan, Senior Planner
Vera Kolas, Associate Planner
Justin Gericke, City Attorney

Absent: Robert Massey

1.0 Call to Order – Procedural Matters

Chair Travis called the meeting to order at 6:30 pm.

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 25, 2018
- 2.2 November 27, 2018

Consideration of the September 25 and November 27, 2018 Planning Commission Minutes was postponed to next month's meeting.

3.0 Information Items

Denny Egner, Planning Director, noted several upcoming meetings regarding housing in Milwaukie:

- April 1 – Comprehensive Plan Advisory Committee (CPAC) meeting to discuss housing issues
- April 3 – Community open house on the cottage cluster and accessory dwelling unit (ADU) project
- April 16 – Joint Planning Commission/City Council meeting for a presentation on the cottage cluster/ADU work
- April 18 – Comprehensive Plan Town Hall focused on housing

4.0 Audience Participation – This is an opportunity for the public to comment on any item not on the agenda. There were no public comments.

5.0 Public Hearings

- 5.1 Summary: Appeal of DEV-2019-002
Applicant/Owner: Robert and Carla Pletka
Address: 11380 SE 21st Ave
File: AP-2019-002
Staff: Vera Kolas, Associate Planner

Chair Travis called the hearing to order. She asked if any Commissioner wished to declare any bias, ex parte contact, or conflict of interest. None of the commissioners acknowledged any bias or conflict of interest regarding ex parte contacts.

Vice Chair Burns declared he was at the site earlier today and had a conversation with a neighboring property owner who shared the driveway access and noted his use of the driveway.

Commissioner Hemer declared he had spoken to Ms. Pletka by phone today as she had called the Milwaukie Museum looking for historical pictures of the property.

Neither **Vice Chair Burns** nor **Commissioner Hemer** noted that the contacts would affect their respective abilities to be fair and impartial.

Vera Kolas, Associate Planner, presented the staff report via PowerPoint, described the current and proposed uses of the subject property and the driveways, and reviewed the code pertaining to accessway spacing and the original conditions of approval to bring the site closer to conformance. Staff's opinion was that the applicable code was properly applied to the development review. She reviewed the Commission's decision-making options.

Staff addressed clarifying questions from the Commission with key discussion items as follows:

- An option for the appellant was to apply to modify the access spacing standard. Upon approval by the City Engineer, the development review approval would reflect the modification. The original approval would then be voided, and the appeal withdrawn.
- In order to comply with the Development Review decision, Driveway C would need to be removed and, the sidewalk and the curb would need to be reconstructed to full height.
- For the accessways to be in full compliance, Driveways A, B, and C would need to be closed. However, the approval did not require closure of Driveway A because it was shared with an adjacent property. The ideal situation would be for Driveway A to not be shared, Driveway C would remain as it was farthest from the intersection, and Driveway B as "enter-only" would ensure that maneuvering happened onsite. The City's Development Review decision was intended to bring the driveways into closer conformance with code informed by an understanding of how the site functioned, as well as the need for accessways for the neighboring properties.
- Containing all backing movements on the site was required by code.

Chair Travis called for the appellant's testimony.

Carla Pletka, 11380 SE 21st Ave, stated she and her husband ran a business named Eurotubes and they had been looking for a new location.

- Leaving the driveway intact would help reduce an already-strained demand for parking for other businesses at no additional cost to the City. They understood the City had authority to interpret its own codes to allow for flexibility and exceptions.

Robert Pletka, 11380 SE 21st Ave, stated he had been told by the seller of the property that the wall separating the parking lot from the high school was built 3 ft onto the school's property.

Ms. Pletka noted the parking was located at the southernmost location of any business in South Downtown Milwaukie and was not visible to the food cart location, the new public plaza, or Axletree. It also met the goals of the city vision to have employees park at the north and south ends of the city and therefore supported the vision of the South Downtown Concept Plan.

- Placement was needed for the garbage container and it could be placed near the driveway if

it was accessible.

- The driveway access was removed once and then replaced, demonstrating a case for it to be considered grandfathered for access to the site. Also, the property was still held by the current owner, Mr. Wheeler. With the light rail construction, TriMet's contractors inadvertently removed the access. The access was restored after Mr. Wheeler visited the City, avoiding a legal action.
- Parking in the area was a coveted commodity, especially around the food carts. If access was removed, the value of the property would be reduced. They had obtained use of the property with the full intention of having the driveway access as is.
- Eurotube's small driveway access had clear visibility from both sides of Lake Rd. She referred to a slide displaying the driveway, noting no issues existed with visibility of traffic or students into or out of the driveway. It was possible to see a long way from Driveways B and C even if traffic was backed up due to the train.
- The appellants were asking for the same consideration, flexibility, and exceptions given to the newer developments. They were not asking for something to increase the property's value, but only to maintain what they had. The access was very much needed for deliveries and other reasons.

Mr. Pletka noted if the business needed electrical, plumbing, or other kind of maintenance, they would have to have a truck park in front of the entrance doors to the building. Once the required ADA parking space was installed, there would be room for about two cars.

Ms. Pletka stated the taproom's occupancy was for 60 people, but there was no place to park 60 cars, and barely enough room existed to park five cars. People would have to park elsewhere and walk to the business. She asked for the Commission's consideration to allow Driveway C to remain open even though it was not a perfect situation.

Vice Chair Burns stated the Commission was to look for errors in fact or law and that was the extent of the decision they were allowed to make. However, the City had proposed an alternative through the opportunity to have a transportation study to justify the second access. He asked if the appellants were interested in pursuing a study.

Ms. Pletka stated they could not afford a transportation study because they were putting all their funds into the business. She noted that if the Commission decided against their appeal, they would be forced to consider a transportation study because they intended to use Driveway C. They knew a decision could be appealed to the Land Use Board of Appeals (LUBA). They asked if the Commission could grandfather in the driveway. She confirmed that one ADA parking space was required.

Commissioner Edge stated the Commission had limited discretion in outlining a path forward to legalize the current accesses. He appreciated what the appellants were trying to bring to the community, but this was a legally-prescribed process and the Commission needed to act in accordance to the law.

Chair Travis confirmed there was no public testimony and called for staff's additional comments.

Ms. Kalias stated that the City Building Official indicated that only if parking spaces were formalized would an ADA space be required. She further confirmed that creating parking spaces by painting lines for them would require an ADA space.

Mr. Egner did not believe an option existed for legalizing any parking spaces onsite due to the lack of room to maneuver.

- If the Commission denied the appeal, and the appellants agreed to close the driveway and they could pursue the modification to the accessway standard, Engineering would typically require that the improvements to close the driveway be completed first.
- He confirmed a condition to close the driveway could be based on a certain number of days to allow the appellants time to determine which application to submit.

Ms. Kolias clarified that if the appeal was denied, the development review approval would stand with its conditions. The final occupancy permit would be held up without the closure of Driveway C. If the modification to the accessway standard was pursued with the City Engineer, a condition of approval could be applied to the development review that would align with the timing of the modification process so work would go forward until the driveway situation was resolved.

Mr. Egner stated that the recommended conditions of approval assumed a denial of the appeal and would include a new condition added to the original approval as discussed.

Chair Travis called for the appellant's rebuttal and final remarks.

Ms. Pletka asked who would authorize changing the access spacing standard.

Mr. Egner replied that Kelly Brooks, Assistant City Manager and Acting City Engineer, would decide the approval on the recommendation of the Engineering staff which would be based on the application requirements. A stamped transportation engineer's report would be required.

Justin Gericke, City Attorney, clarified the condition was drafted so that if the appeal was denied tonight, the application would be approved without access through Driveway C. The condition of approval stated that within 180 days after denial, this appellant must enter the access modification process and if the modification was successful, they could retain access through Driveway C. If it was not successful, or if the appellants did not choose that route, they would have to close Driveway C.

Mr. Egner noted that if the business was ready to open before 180 days, they would receive a temporary occupancy permit. The City would enforce the closure of Driveway C by denying a permanent occupancy permit. He added that it would be unusual for the City to install curbs if Driveway C was closed.

Chair Travis confirmed there was no further testimony or comments and closed the public hearing.

Planning Commission Deliberation

The Commission expressed concern that their decision could impact a small business that would be beneficial to Milwaukie and aligned with the City's goals and those of South Downtown. The Commission stated that this proposed approach provided flexibility to the appellants within the process. They added that they could not find errors in fact or law in the City's analysis or decision.

Commissioner Edge moved and Commissioner Grau seconded to deny the appeal of DEV-2019-002, with an amendment to Condition 1A that removed the reference to

removing easternmost Driveway C, and with the new condition read into the record by staff as follows: "Within 365 days of the Planning Commission decision, the applicant must obtain approval of an access spacing modification that authorizes access from Driveway C. If an access modification is not granted, the applicant shall permanently close Driveway C per the Public Works Standards." Motion passed unanimously.

6.0 Worksession Items

6.1 Summary: Comprehensive Plan – Housing Update Staff: David Levitan, Senior Planner

David Levitan, Senior Planner, provided an update on housing block work of the Comprehensive Plan Update and discussed the Housing Town Hall and online Open House scheduled for April 18th where staff would discuss growth limitations and planning, and gather input from the community.

Key comments and responses to Commissioner questions by staff were as follows:

- A limitation on growth was the capacity of the Kellogg Wastewater Treatment Plant. Current use at the plant was 35,000 equivalent dwelling units (EDU) and maximum capacity for the plant was 40,000 EDU which left 5,000 EDU remaining to allow for growth. Most of the 10,000 EDUs in the urban growth management area (UGMA) were already treated at the plant.
- A base case scenario assumed the city could accommodate 2,900 dwelling units based on the buildable lands inventory. Three other scenarios would cover placing missing middle housing throughout the community, a “centers” focus, and a “hub and corridor” focus. The scenarios would be presented to the public at the Open House for evaluation of equity issues, affordability, sustainability, and livability.
- Missing middle housing was defined as the gap between the category of single-family homes and duplexes and the category of multi-family housing.
- Consideration was needed toward providing equity in additional housing types in all areas versus just near transit and services.
- A challenge would be to preserve visual and neighborhood character while increasing design flexibility and affordability as new housing types were introduced. Milwaukie had a lot of large lots compared to other cities and was dependent upon infill development.
- All aspects of the tradeoffs of growth needed to be considered and not simply those affecting affordability.
- Climate change could also affect growth scenarios due to displaced people and the 5,000 dwelling units of capacity in the treatment plant might not be adequate to accommodate the increase. Other possibilities in wastewater reuse and other solutions should be considered that could take pressure off the utilities.
- The information provided in the housing matrix was appreciated, but there was a lot going on in it. Allowing participants to discuss the scenarios and their trade-offs at their tables during the Open House would be a good educational opportunity.
- The data from the Neighborhood Hubs Survey could be included in a discussion of whether additional density should be located in the areas around neighborhood hubs. There was a wide range of opinions expressed by the community. Another discussion point could be whether increased affordability had to mean increased density.
- The introduction needed to be succinct but cover as many items as possible. A wide variety of backgrounds and levels of knowledge would be represented in the audience. Definitions should be included for terms like “gentrification,” “affordable,” or “equity.”

- Over the past 30 years, Milwaukie had not seen a great population increase nor added many dwelling units. However, growth in the region was impacting the affordability of homes in the city, showing that local and regional issues could not be decoupled.

Commissioner Hemer thought that for most people living in Milwaukie, an increase in house pricing was a positive thing. Discussing an issue such as preparing for an influx of people may lead some community members to believe they were getting a bad deal.

Commissioner Edge responded that renters did not benefit from the same price mechanisms as homeowners and with the percentage of renters to homeowners in the city being about 60% versus 40%, in the spirit of equity, the focus of assistance should be on those who are disadvantaged. It was important to do more to benefit renters.

Mr. Levitan noted that Milwaukie's neighborhoods were dominated by R-7 zoning and did not allow much equity nor offer the opportunity for more diverse types of housing. The question was if more housing types should be offered to provide opportunities to people who could not afford a detached single-family home on a large lot.

Commissioner Hemer stated that the actual question should be whether to allow different housing types for everyone to be able to afford.

Mr. Levitan recommended providing a personalized example such as a teacher's income and what kind of housing would be affordable to that income level. On the other hand, both the Vision and Council direction said to focus on equity and affordability.

Additional key points of the discussion were as follows:

- Examples could be provided, such as purchasing a smaller house could cost less over time but gain more equity and could also have less impact from an environmental standpoint.
- Sequencing of proposed Comprehensive Plan blocks should be referenced; for example, the input on hub and corridors had an important tie between transportation and land use.
- Staff clarified that transportation would be addressed through a Transportation Systems Plan (TSP) update process. However, some transportation-related policies would be addressed in the next block.
- Focus should be on the total life-cycle cost of ownership, including housing and transportation. The impacts of parking and traffic on availability, affordability, and equity of housing should be considered.
- How to reduce onsite parking would be discussed as part of middle housing, ADUs, and cottage clusters. Concepts were being discussed, such as reducing the required onsite parking and the pros and cons of shifting parking to the street.

Commissioner Grau believed system development charge (SDC) waivers should be considered for everyone providing affordable housing. She clarified affordable housing built by nonprofits or the government should receive waivers through Construction Excise Taxes (CET) or Tax Increment Financing (TIF). The focus should be on the complete spectrum of housing affordability. The City's permitting process should also be looked at to avoid delays and difficulties with determining costs and obtaining funding for nonprofit housing providers.

7.0 Planning Department Other Business/Updates – There were none.

8.0 Planning Commission Committee Updates and Discussion Items – This is an opportunity for comment or discussion for items not on the agenda.

Mr. Egner noted a preapplication conference was coming up for the Coho Point development project.

Mr. Levitan stated the City's approach to the Comprehensive Plan policies was based on the Buildable Lands Inventory (BLI) that indicated the need for about 1,200 units for the next 20 years. However, that did not include the Hillside Housing Authority site although that project was outside of typical development.

Commissioner Argo noted it was Commissioner Grau's last meeting. The Commissioners thanked her for her service and **Commissioner Grau** stated she had enjoyed her time on the Commission.

9.0 Forecast for Future Meetings:

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| April 9, 2019 | 1. Public Hearing: WG-2019-001 Riverway Ln Single-Family Residence Replacement |
| | 2. Public Hearing: RNR-2018-005 Elk Rock Estates <i>tentative</i> |
| April 23, 2019 | 1. TBD |

Mr. Egner confirmed the public hearing would not be held on April 9th for the Elk Rock Estates.

Meeting adjourned at approximately 8:43 pm.

Respectfully submitted,
Alicia Martin, Administrative Specialist II



Kim Travis, Chair

John Burns, Vice Chair