



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

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

April 13, 2021

Present: Lauren Loosveldt, Chair
Greg Hemer
Adam Khosroabadi
Robert Massey
Jacob Sherman

Staff: Laura Weigel, Planning Manager
Mary Heberling, Assistant Planner
Justin Gericke, City Attorney

Absent: Joseph Edge, Vice Chair
Amy Erdt

(00:15:15)

1.0 Call to Order – Procedural Matters*

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

(00:16:38)

2.0 Planning Commission Minutes

Commissioner Hemer mentioned the change to the format of the minutes. Previously, the commissioners' comments were written on separate lines and the February 23, 2021 minutes were phrased with "the group discussed." **Laura Weigel, Planning Manager** shared that she and a staffer were working with Scott Stauffer, City Recorder to understand how the Planning staff can efficiently and effectively take notes.

Chair Loosveldt asked, if the recordings of the meeting had closed captioning. **Mary Heberling, Assistant Planner** shared, the closed captioning was automatically generated by YouTube. **Weigel** shared, she would check with City Council to understand how they were handling closed captioning.

The commission approved the minutes with a 5 – 0 vote.

(00:21:24)

3.0 Information Items

No information was presented for this portion of the meeting.

(00:21:35)

4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:22:27)

5.0 Public Hearings

(00:22:39)

5.1 VR-2021-002 Milwaukie High School (MHS) Sign Variance

Chair Loosveldt shared, the purpose of the hearing was a discussion of Milwaukie High School's sign variance application at the property located at 2301 SE Willard St.

Heberling shared the applicable provisions of the Municipal Code (MMC), which were:

- Chapter 14.32 Adjustments
- Section 14.09.090 Conditional and Community Use Signs
- Section 14.16.010 Residential Zone
- Section 19.1006 Type III Review

Commissioners Hemer, Massey, and Sherman visited the site and did not have contact with anyone from the site.

Heberling presented the staff report. The applicant proposed an electronic reader sign to share messages with the Milwaukie High School community and the neighborhood. The size of the electronic reader sign would be 18.56 square feet (sf) and the display size would be 16.93 sf. They would like to locate the electronic reader sign at the main parking lot entrance, which would be the northeast corner of Willard St and 23rd Ave. Previously, the applicant applied for a sign in 2006. This hearing was for a sign adjustment to the sign code for Community Service Uses. This proposal was a sign adjustment process to allow for an electronic reader sign in the underlying residential zone (R-2) where electronic signs were not allowed. The goal of the hearing was to determine if the proposal met the sign adjustment criteria and if strict application of Chapter 14.32 Adjustments was causing an undue or unnecessary hardship. The applicant provided some information, which the adjustment was based on special and unusual

circumstance related to the specific property and the specific electronic reader sign. The applicant also shared that this was the only high school in the district without this type of electronic reader sign and North Clackamas School District (NCSD) deemed the electronic reader sign an essential communication tool. Lastly, the applicant believed the electronic reader sign would be critical and essential in communicating natural disasters and emergencies. The Planning Department staff had some concerns regarding the applicant comparing themselves to other high schools in NCSD. Staff questioned how a lack of an electronic reader sign was causing an undue or unnecessary hardship. There was a concern if other schools and Community Service Uses in residential zones in Milwaukie wanted an electronic reader sign they could make the same case. The question was what was unique about the applicant to allow this adjustment. Lastly, the applicant did not show how a denial of an electronic reader sign would create an undue or unnecessary hardship related to their messaging functions as a school.

The applicant responded to staff's concerns, which was the electronic reader sign would allow the school to share more information, communicate important messages around emergencies, and their previously approved electronic reader sign from 2006 was not installed due to funding issues. **Heberling** shared the Planning Departments response to the applicant that it was difficult to determine if their proposal was defensible or causing an undue or necessary hardship. Staff asked about the high school's category 4 status, what did that entail, and why was that a reason for the school to have an electronic reader. The Planning Department also questioned if it was a requirement for Category 4 buildings to have an electronic reader. Based on the current information staff recommended denying the sign adjustment proposal for 2031 SE Willard St on the basis that it did not meet the approval criteria to grant an adjustment.

The group discussed the high school's category 4 building status.

Commission Sherman asked if the City of Milwaukie had a list or knew which buildings in the city had the same status. **Heberling** responded that Planning staff and the Events and Emergency Management Coordinator for the city were unaware of any other category 4 buildings in the area. **The applicant** shared, the school was established as a category 4 building after it was remodeled.

The Planning Commission discussed an intergovernmental agreement between the City of Milwaukie and NCSD. **Commissioner Sherman** asked, if the City would be able to post messages on the electronic reader? It seemed like that would be a public benefit. **Heberling** responded, that there was not an IGA between the City of Milwaukie and NCSD. They also shared, it was best to not use this as a condition of approval. **Justin Gericke, City Attorney** added, it would be difficult to negotiate an IGA because there was nothing to base it off of and a public benefit was not a criterion for this application.

The Planning Commission discussed the applications materials.

Commissioner Sherman mentioned, questions from page 15 section E about the hour of operations and the lighting from the electric and its effects on residents. **Heberling** responded, the hours of operation would be 7am to 9pm. They shared that they did not have any additional information regarding the lights and its impact on the nearby residents.

The applicant testified that the electronic reader sign will be in a high traffic area for individuals coming to and from the high school. The electronic reader sign would share messages in multiple languages and was a common feature at other high schools in the district. The electronic reader sign would be used to announce theatre dates and other events. Having an electronic reader sign would allow the school to share messages quickly and especially in an emergency. A static board would not allow the school to change messages quickly. A person must physically change the message on a static board, and it would limit what was or was not shared. The limitations of a static board would cause inequities. Milwaukie High School had been used as an emergency shelter in times of natural disasters and parts of the school were constructed to serve as an emergency shelter. The community may lose power, including access to cell phones and internet. The electronic reader sign would still be available to share emergency messages because it would be powered by a generator. In 2006, City Council approved an electronic reader sign for Milwaukie High School. The school struggled with finding funds to purchase and install the electronic reader sign due to the recession. During this time, the school had to lay off 25% of its staff and resources were needed in other areas. It took over ten years for the school to recover from the financial crisis. They were requesting an electronic reader sign to ensure the school would thrive.

The applicant invited **Cecilia Quintero**, a student to share their testimony. There were multiple clubs at the high school and the electronic reader sign would help with sharing the clubs' events and activities to students who did not have access to the internet and in various languages. She believed this would be the most efficient avenue to share the school's news.

The group discussed the operational activities of the electronic reader sign. **Commissioner Hemer** asked about the additional cost to operate the electronic reader. **The applicant** responded, they did not have exact costs. In some schools the static boards were maintained by a custodian or parent volunteer. It was not an efficient use of their time and the other electronic reader signs in the district were not changed often. **Commissioner Sherman** asked, how often would the messages rotate and how many messages would be shared at a given time? **The applicant** shared, on any given day they would not share more than three or four messages to ensure visitors could see the messages easily and not hold up traffic.

The group discussed the undue hardships if the applicant was not granted an approval. **Commissioner Sherman** asked, if having the custodian or parent changing the school's current reader in the district was an undue hardship. **The applicant** shared, they had to look up undue hardship and it appeared it was an undue hardship to ask staff to change their current static board. Also, they believed, it was unfair to determine which news was being shared or not. The electronic reader sign would grant the school an opportunity to share more messages and not leave any students out. They also shared that district wide they had sent 1,700 hotspots to students who were without internet and this was one of the reasons they believed an electronic reader sign was needed. **Commissioner Khosroabadi** asked, if the undue hardship was an equity concern, such as students without internet access and language barriers. **The applicant** agreed that equity was a barrier and the principal was trying to resolve their equity concerns.

The group discussed the high school being a category 4 building. **Chair Loosveldt** asked, how was that declaration made, when was it made, and how was the new construction of the school and potential new electronic reader sign different than other high schools in the area. **The applicant** responded, the district's structural engineer made that designation and designed areas of the school to respond to possible future disasters. As a category 4 building, the school had a massive generator to operate the refrigerator and freezer and would back up the electronic reader. This would be the only school to have a generator to back up the electronic reader. **Chair Loosveldt** stated, that was contingent on our decision. **The applicant** responded, yes.

The Planning Commission began deliberations. The first topic they discussed was a possible criterion to use for evaluating an electronic reader for Milwaukie High School. **Commissioner Sherman** shared, to ensure there was not an influx in electronic reader signs in the city the approval criteria could be based on whether the building was deemed category 4 or not. **Commissioner Massey** shared, the broader community used the high school and believed this was a possible reason to approve their electronic reader sign. They believed this was a burden to the school. **Commissioner Hemer** believed, approving the electronic reader sign based on the high school being a category 4 building and having the ability to serve as an emergency shelter were the reasons to approve the electronic reader sign. He did not believe this would create an influx in sign variances because the school was the only category 4 building in Milwaukie. **Chair Loosveldt** shared, the only possibility for approving the electronic reader sign was the school's designation as a category 4 building. Chair Loosveldt wanted this to be the only requirement the Planning Commission considered because this was the only valid option for approval.

The Planning Commission discussed the undue burden of the school not having an electronic reader. **Commissioner Khosroabadi** was not concerned more entities would apply for a sign variance. While the school was able to function, there was a hindrance to students who did not have

internet access and therefore, were unable to receive messages from the school. The hardship would fall on the students more than the school. Maybe the Planning Commission and staff needed to define undue hardship. **Commissioner Hemer** shared, the lack of an electronic reader sign would prevent the school from sharing important messages and allow staff to efficiently complete their job by changing the messages on the electronic reader sign from their desk. Currently, someone had to physically change the messages on their current static board. Based on MMC 14.32.030, the purpose of the sign ordinance was to get messages out quickly and that was the goal of the high school. This was depriving the high school of equity and inclusion of all students and people regardless of their race, ethnicities, and spoken languages. **Chair Loosveldt** believed, every high school could make the argument that they are different than other schools. They also shared, an equity argument could also be made for elementary school students.

The Planning Commission discussed how to proceed. **Chair Loosveldt** shared, the Planning Commission needed to continue the hearing because they did not have enough evidence to support the high school's status as a category 4 building. The applicant needed to provide more information. **Heberling** responded, more information would be helpful. **Weigel** shared, the Planning Commission needed to continue the hearing and understand the implications of being a category 4 building and if other buildings with the same status could potentially apply for an electronic reader sign. The group supported the applicant providing more information as well. **Gericke** shared, staff discussed precedent because the City needed to apply the code in a manner that was consistent. One way to avoid precedent was by distinguishing an application. In order for staff to distinguish this application from other CSUs, the applicant needed to provide additional information. **Chair Loosveldt** encouraged the commissioners to share what they needed clarification on in order to proceed. The commission stated they needed to understand what a category 4 building responsibilities were, if there were other category 4 buildings in the city, and why an electronic reader sign was needed? **Heberling** defined undue hardship and defensible use based on the code. Defensible was define as another community service use wouldn't be able to ask for the same thing as well. It needed to be unique to the particular applicant and another CSU would not be able to meet those particular criteria. **Chair Loosveldt** encouraged the group to connect the school's category 4 status to every criterion and let that be the focus of approval. The applicant needed to provide more information. Information about signage for category 4 buildings from the state would be helpful as well. **The Commissioners** agreed that the school being a category 4 building needed to lead the conversation for approval. **Commissioners Hemer** and **Massey** wanted to also share that their subset reasons needed to be part of the future discussion as well.

The Planning Commission voted 5 – 0 to continue the hearing to May 11, 2021.

(02:15:00)

5.2

CU-2021-001 Providence Supportive Housing

Chair Loosveldt shared, the purpose of the hearing was for the applicant to request a condition use for a vacant lot on the corner of Llewelling St and 34th Ave. The land use file for this hearing was CU-2021-001

Heberling shared the applicable provisions of the Municipal Code (MMC), which were:

- Section 19.905 Conditional Uses
- Section 19.1006 Type III Review

Commissioner Hemer shared a possible conflict of interest. He stated, he served as the Vice President of the Milwaukie Museum and the organization received \$300 from Providence for an event.

Commissioners Hemer, Khosroabadi, Massey, and Sherman visited the site and they did not have any contact with individuals from the site.

Heberling shared the staff report, the site consisted of three taxlots and was 13,504 sq ft (0.31 acres). The taxlots were zoned R-3. In the area, there were single-family and multifamily residential buildings, Providence Hospital, and office uses. The applicant was proposing three phases, which included phase 1: Conditional Use and Variance approvals, phase 2: seek funding, and phase 3: Development Review. The site was being proposed as affordable housing for very low-income seniors and clinic space on the bottom floor for services for the residents and community. The applicant was working with the federal government to receive funding to develop this project. Part of the criteria from the federal government was to receive approval for any decision that could delay the development activities. The applicant needed a conditional use approval to have the parking lot in the R-3 zone. The applicant was seeking a 17-space parking lot, outdoor space to serve the mixed-use building, and multi-family/commercial related uses. The goal of the hearing was to ensure the applicant met the criteria for a conditional use. The parking lot would be in the R-3 zone and used for residents only. Additional parking was proposed, and those spaces would be in the GMU zone for the clinic/office and employees. The parking lot would meet all of MMC standards. The proposed project aligned with the characteristics of the neighborhood, which was single family, multi-family, and commercial uses. The applicant proposed a buffer of open space from multi-use building to single-family use to mitigate any impacts from the new buildings. The applicant would improve the street frontage by implementing sidewalks and, if needed, bike lanes. The applicant ensured

the loading area was further away from the residential areas to mitigate any nuisance impacts from loud trucks. The proposal met all of the MMC standards, including design standards, street frontage improvements, and mixed-use buildings. The proposal also met many goals and policies from the Comprehensive Plan, such as housing affordability, equity, and sustainability. During the final phase, which would be the Development Review, the applicant would be responsible for completing a transportation impact study. If the study results included any transportation concerns, the applicant would be responsible for implementing any transportation mitigation activities. The proposed development would be near 32nd Ave, which had two bus lines. The Planning staff received two comments of support from Elvis Clark and Mary and Gene Zellharie. Staff recommended the Planning Commission to approve the application. Heberling invited the Planning Commissioner to ask any questions.

Commissioner Hemer asked if the parking lot met the minimum requirements for residential and commercial. **Heberling** shared, this was one of the parking lots and the other parking areas were in the GMU zoned properties.

The Planning Commission discussed the approval process. **Commissioner Sherman** wanted more information about the planning process and the sequence of things. The Planning Commission was tasked with approving part of a plan, the parking lot and not the residential building. They were seeking clarity. **Heberling** responded, this was a unique situation because the applicant was seeking funding from the federal government. The federal government required the applicant to receive approval of any Planning Commission review before submittal for funding. On May 5th, the applicant would be before the Planning Commission for another variance. A variance for the 5th story was needed. **Chair Loosveldt** wondered about the process and if it was fair. **Gericke** did not see any problems with proceeding with the variances hearings and issuing a decision.

Commissioner Sherman shared, we were issuing a decision for a parking lot and there was a possibility that the housing would not be built. **Heberling** confirmed that to be true and shared, the applicant could use the parking for the hospital, which was possible with a conditional use. **Commissioner Khosroabadi** clarified the applicant's process and shared, the applicant was getting all their ducks in a row prior to seeking funding from the federal government. **Heberling** and **Weigel** confirmed Commissioner Khosroabadi's statement.

The applicant shared a presentation. During their presentation, they stated, this was about them getting their ducks in a row prior to seeking 5 million dollars in funding from the U.S. Department of Housing and Urban Development (HUD). They were seeking funding through HUD's senior

housing program, which would guarantee that about 70 seniors would not pay more than 30% of their gross income towards rent. This was a significant public benefit. During the planning phases of the project, the applicant learned, there was a deep need for affordable housing for extremely low-income seniors. The average income of the residents would be between \$5,000 and \$15,000 per year.

The commissioner briefly deliberated, and **Commissioner Sherman** asked about the applicant's proposal and their connection to the Milwaukie bikeway proposal. **Weigel** shared, the applicant attended the meetings and were in support of the Milwaukie bikeway project. **The applicant** responded, they were completely supportive of the project and would continue to support it.

The commissioners approved the proposal with a 5 – 0 vote.

(03:00:48)

6.0

Planning Department Other Business/Updates

Weigel shared the joint meeting with City Council will be on April 20th to discuss the bylaws.

(03:00:48)

7.0

Planning Commission Committee Updates and Discussion Items

Commissioner Hemer shared, May 21st will be dogwood day. They encouraged the Planning Commissioners to participate in the City's picture contest. They also reminded the Commissioners to complete their OGC filing by April 15th.

Chair Loosveldt and **Commissioner Hemer** shared that Earth Day was coming up. They were unsure if the City had any festivities planned. There will be an event with Exceed Enterprise to teach others how to start a styrofoam cycling center.

(03:04:32)

8.0

Forecast for Future Meetings

April 27, 2021	Discuss Comprehensive Plan Implementation Committee (CPIC) housing standard findings
May 11	Joint meeting with the Neighborhood District Associations.

Meeting adjourned at approximately 9:23 PM

Respectfully submitted,

Janine Gates

CITY OF MILWAUKIE PLANNING COMMISSION

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N. Janine Gates
Assistant Planner