



# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

September 10, 2019

**Present:** Kim Travis, Chair  
John Henry Burns, Vice Chair  
Joseph Edge  
Greg Hemer  
Lauren Loosveldt  
Robert Massey

**Staff:** Denny Egner, Planning Director  
Vera Koliass, Associate Planner  
Justin Gericke, City Attorney

**Absent:** Adam Argo

### 1.0 Call to Order – Procedural Matters

**Chair Travis 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>.

### 2.0 Planning Commission Minutes

#### 2.1 January 22, 2019

**Commissioner Hemer** noted that the January 22<sup>nd</sup> minutes were unclear as to which commissioner motioned for Chair Travis to be nominated and should be amended for clarity. (Commissioner Hemer had made the nomination and the January 22<sup>nd</sup> minutes were subsequently amended.)

**Chair Travis opened the floor for motion to approve the minutes as amended. Commissioner Hemer made a motion for approval. The motion was unanimously approved.**

### 3.0 Information Items

**Denny Egner, Planning Director**, stated that although the application submitted for the Monroe Street Apartments had been deemed incomplete, he expected that the application would be resubmitted. He noted that if the application was resubmitted it would be subject to administrative review, but that the Planning Commission and City Council were both bodies to which an administrative decision could be appealed. For this reason, Mr. Egner recommended that the commissioners avoid ex parte contact regarding the apartments.

**Justin Gericke, City Attorney**, concurred with Mr. Egner's recommendation.

**Chair Travis** asked whether any of the commissioners had questions about ex parte contact. None did.

**Mr. Egner** indicated that the hearing for S-2018-001 listed on the forecaster as occurring on September 24 would need to be continued to a future meeting.

#### **4.0 Audience Participation**

**Chair Travis** indicated that public testimony would not be heard at this meeting because it was not allowed at this stage in deliberation.

#### **5.0 Public Hearings**

- 5.1** Summary: Elk Rock Estates (Continued from July 23, 2019)  
Applicant/Owner: Matthew Gillis, Gillis Properties  
Address: 12205/12225 SE 19th Ave  
File: NR-2018-005, LC-2018-001, WG-2018-001, VR-2018-014, VR-2018-015  
Staff: Vera Kolias, Associate Planner

**Chair Travis called the hearing to order and read the conduct of quasi-judicial hearing format into the record. She also read the hearing history of the file. She asked if any Commissioner wished to declare any bias, ex parte contact, or conflict of interest. None did. She asked for commissioners who had visited the site prior to the hearing to raise their hands. All did.**

#### **Planning Commission Deliberation**

**Vice Chair Burns** asked whether it would be possible to deny the application because of only one finding or if it would be required that the Planning Commission work through all the findings before them.

**Mr. Gericke** said that the commission should work through the findings before them in order to create a basis for the final findings and any future appeal.

**Mr. Egner** clarified that the commission could deny the application based on failure to meet a single approval criterion.

**Vice Chair Burns** indicated that he felt that the applicant had failed to demonstrate through an alternatives analysis that impacts were mitigated or avoided to the maximum extent practical. He stated that this was a requirement for natural resource cluster developments. He stated that he was willing to deny the application on that basis alone without ruling on other criteria.

**Commissioner Edge** concurred with Vice Chair Burns. He also stated that he felt that there was insufficient evidence that the current plan would meet the threshold for FEMA requirements for development in the floodplain.

**Commissioner Massey** and **Commissioner Loosveldt** concurred with Commissioner Edge.

**Commissioner Hemer** asked for Vice Chair Burns to answer questions in his capacity as a licensed Civil Engineer regarding the application. He began by asking about

concerns raised in the staff report regarding fish being trapped in a hole in the floodplain created by this development.

**Vice Chair Burns** declined to answer as a Civil Engineer and instead referred to the findings provided by City staff which showed that other similar features had been allowed at other similar locations on the Willamette nearby.

**Commissioner Hemer** asked Vice Chair Burns about whether it would be better to mitigate water runoff at the source of the runoff or at the bottom of the hill.

**Vice Chair Burns** indicated that there were merits to both methods and that they were both routinely applied. He stated that it would be up to a design engineer to make that determination.

**Commissioner Hemer** asked Vice Chair Burns about whether there should be grates in the driveways to allow water to run off given the relative elevations of the street, the driveways, and the houses.

**Vice Chair Burns** declined to comment on drainage design, deferring to City staff and the applicant to make determinations about the appropriateness of any given design. He granted that it was generally a good idea to make provision for water to drain from low points.

**Commissioner Hemer** stated that he felt conflicted because while he believed that the property owner should be allowed to do what he wanted with his property, Commissioner Hemer was concerned about the potential for damage from water runoff to the house at the lower elevation. He further indicated that he would be willing to deny the application based on the height of the driveways and the potential for trapping water. He proposed that if the application were approved, streets coming off of SE 19<sup>th</sup> Ave be designated as woonerfs, which he defined as having no sidewalks and some parking.

**Vice Chair Burns** indicated that the details of design described by Commissioner Hemer were outside of the scope of the current hearing and that he preferred to leave those determinations to City staff reviewing the development in the permitting process.

**Chair Travis** concurred with Vice Chair Burns and asked whether any of the commissioners wished to continue the discussion or if anyone would prepare a motion.

**Commissioner Hemer** stated that he would be willing to deny the application based on the design not meeting FEMA floodplain requirements, but that he felt uncomfortable denying based on insufficient alternatives analyses. He indicated that he would be willing to vote on the application without further discussion.

**Mr. Egner** asked for Vice Chair Burns and Commissioner Edge to restate their concerns around the floodplain for the record and asked for clarification about whether the basis for their denial could be found in the draft findings presented by the Planning Department or if they came from another source.

**Commissioner Edge** referenced the draft findings in support of denial related to Title 18 of the Milwaukie Municipal Code, particularly Finding 5 which included references to “foundations” and “lowest enclosed floor”. He reaffirmed his belief that FEMA would likely require the design to be changed on review. He indicated that he believed any such revision to the design would be so significant as to require a new hearing by the Planning Commission.

**Mr. Egner** asked Commissioner Edge for clarification about the relationship between the rationale for the decision and the findings, stating that the Planning Department could expand upon the point in its final findings as necessary.

**Commissioner Edge** stated that he believed the draft findings offered sufficient support for the denial in their current state.

**Vice Chair Burns** and **Commissioner Edge** discussed the relative merits of continuing to deliberate on the application, deciding that a narrow decision would be of more benefit to the City and applicant than a broad one.

**Vice Chair Burns** suggested that the Planning Commission should direct staff to prepare findings for denial based on draft Finding 5.

**Vera Kalias, Associate Planner**, asked whether it would be acceptable to include the entirety of the draft findings on natural resources rather than limiting to just the text concerning the alternative analysis.

**Vice Chair Burns** asked that findings regarding the proposed mitigation plan be excluded.

**Chair Travis** asked Mr. Egner about whether, procedurally, the motion should be to deny the application or a preliminary denial.

**Mr. Egner** clarified that the motion would be for preliminary denial and a direction to staff to prepare finalized findings in support of denial

**Vice Chair Burns moved for a preliminary denial based on flood hazard regulations and insufficient alternatives analysis as described in the draft findings. The motion specifically excluded any determination on the mitigation plan. Commissioner Edge seconded the motion. Chair Travis called for a vote. Chair Travis, Vice Chair Burns, and Commissioners Massey, Loosveldt, and Edge voted in favor of the motion. Commissioner Hemer voted in opposition to the motion. Chair Travis read the conditions of appeal into the record and indicated that the final vote would take place at the Planning Commission meeting on October 8.**

## **6.0 Work Session Items**

There were no Work Session items for this meeting.

## **7.0 Planning Department Other Business/Updates**

**Mr. Egner** provided an update on the ongoing work of the Comprehensive Plan Advisory Committee (CPAC). He stated that the CPAC discussed Urban Design policies including policies requiring that for eligible zone changes proximity to parks, commercial areas, and transit be considered. He indicated that the

Planning Department intended to bring the policies before the Planning Commission in November with an open house to be scheduled prior to that.

**Commissioner Hemer** asked how neighborhood greenway routes would interact with the proposed higher density.

**Mr. Egner** replied that it would be necessary to examine the interaction of neighborhood greenways and the increased density during the coming discussion of the Transportation System Plan in order to resolve the current conflict between the actual traffic volumes on collector streets and the traffic volumes on neighborhood greenways.

**Chair Travis** asked whether there were any future CPAC meetings planned.

**Mr. Egner** stated that there were more meetings planned; the next meeting would be to review the full Comprehensive Plan package and to discuss implementation priorities. He notified the Planning Commission that they were invited to the City Council Study Session on October 15 for the annual review of the Planning Commission workplan.

**Chair Travis** asked whether there would be a meeting for active synthesis of the proposed Comprehensive Plan policies.

**Mr. Egner** stated that that synthesis discussion would be forthcoming, but that some additional work would be done on ensuring consistency of policies throughout the plan. He said it would also be necessary to ensure that the plan aligned with state goals.

**Commissioner Edge** asked whether there had been any consideration given to seeking early-adopter assistance from the state relating to adoption of HB 2001.

**Mr. Egner** said that there was, and that City staff had been in contact with the Department of Land Conservation and Development (DLCDD) about becoming an early adopting city. He said that he had drafted a three-year plan for the implementation of the Comprehensive Plan. He noted that the City was also in the process of revising its floodplain development standards following a DLCDD audit. He said that like HB 2001, this revision process had an external timeline that would accelerate the City's timelines.

He notified the council that he had been in conversation with the DLCDD about getting some additional assistance in the form of a state grant to examine the City's development of bicycle facilities in and around the Murphy site.

**Commissioner Hemer** asked about the Neighborhood District Association (NDA) boundaries and whether those boundaries were drawn as part of the Comprehensive Plan revision. He mentioned that this could be discussed more at an upcoming meeting of NDA leaders.

**Chair Travis** indicated that she wanted to find different strategies for outreach given the increased levels of public interest in the Comprehensive Plan. She suggested that members of the Planning Commission could attend NDA meetings.

**The Planning Commission** discussed this, and it was agreed that Chair Travis would connect with David Levitan, Senior Planner, to schedule times for those visits.

**Chair Travis** proposed a staff-led walking tour of some part of Milwaukie to help residents to understand land use with real-world examples.

**Mr. Egner** suggested that the September 24<sup>th</sup> Planning Commission meeting could be used for that purpose.

**The Planning Commission** discussed this and agreed.

#### **8.0 Planning Commission Committee Updates and Discussion Items**

There were no committee updates or other discussion items for this meeting.

#### **9.0 Forecast for Future Meetings**

Sept 24, 2019	1. Hearing Item: S-2018-001, Railroad Ave Subdivision
Oct 8, 2019	1. Hearing Item: NR-2018-005, Elk Rock Estates (Final Decision)
Oct 22, 2019	1. No agenda items are currently scheduled for this meeting.

Meeting adjourned at approximately 7:34 PM

Respectfully Submitted,  
Dan Harris  
Administrative Specialist II



~~Kim Travis, Chair~~

John Burns, Vice-Chair