

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, March 23, 2010
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Nick Harris, Vice Chair
Lisa Batey
Teresa Bresaw
Scott Churchill

STAFF PRESENT

Katie Mangle, Planning Director
Ryan Marquardt, Associate Planner
Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Chris Wilson

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:39 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 February 9, 2010

Vice Chair Harris moved to approve the February 9, 2010 Planning Commission meeting minutes as presented. Commissioner Bresaw seconded the motion, which passed 4 to 0 to 1 with Commissioner Churchill abstaining.

3.0 Information Items

Ms. Mangle noted that Commissioner Batey was reappointed to the Planning Commission by City Council. One position on the Planning Commission was still vacant.

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: Parking Chapter amendments
Applicant/Owner: City of Milwaukie
File: ZA-10-01
Staff Person: Ryan Marquardt

Chair Klein stated that the Planning Commission had discussed legislative amendments to the Milwaukie Municipal Code during the previous worksession. Amendments to the Code require initiation by City Council, Planning Commission, or a property owner.

Vice Chair Harris moved to initiate the proposed amendments to the Milwaukie Municipal Code Title 19. Commissioner Batey seconded the motion, which passed unanimously.

Chair Klein called the hearing to order and read the conduct of legislative hearing format into the record. He asked if any Commissioners had any ex parte contacts to declare.

No Commissioners abstained and no Commissioner's participation was challenged by any member of the audience.

Ryan Marquardt, Associate Planner, presented the staff report via PowerPoint, reviewing the goals, key issues, and proposed changes regarding the Parking Chapter update. He responded to questions from the Commission as follows:

- The Code did not have language capturing or prohibiting the phasing of a project over several years to get around the parking requirement. Up to 10% of the building permit value would have to be contributed during each phase of the project.
- The Code definition of floor area did not count garages as floor area, so converting a garage to living space would add floor area. The Applicability Section applied to both commercial and residential uses.
- Change of use could potentially change parking requirements. For example, D&R Masonry on McLoughlin Blvd was an auto use before changing to manufacturing. The building for Classic Memories was now storing goods, changing from a quasi-retail use to a warehousing use. If a change in use included an addition of more than 100% of the existing floor area, it would require full compliance, but a change in use with an addition less than 100%, would be closer to conformance.
- Change in use from a small store or office space to a restaurant could trigger traffic generation and parking requirements, and would require up to 10% of the improvement costs dedicated to parking space. To bring the site closer to conformance, additional parking could be required if extra space was available on site.
 - The list of priorities for bringing a site closer to conformance guided staff in determining what improvements should be considered, depending on the site. The priorities were as follows: paving and striping, minimum parking space requirements for vehicles, bicycle parking, and landscaping improvements.
 - The Building Department addressed ADA requirements, and would likely require conformance to ADA parking standards during a remodel.
 - Code Section 19.502.3 Applicability for Development and Change in Use Activity was located on 5.1 page 21 of the packet.

Commissioner Churchill:

- Believed Washington County required that tenant improvements with no clearly defined accessibility route to the building from the ADA parking spaces designate up to 25% of the construction costs for ADA compliance. He asked if Milwaukie had similar requirements, if they meshed with ADA requirements and how the 10% dedicated to parking space would be used.
 - **Mr. Marquardt** responded that the ADA involved a whole different set of federal requirements, while the Parking Code was more local to the City of Milwaukie.
 - **Ms. Mangle** stated the 10% required for parking improvements would be additive rather than overlapping. The Building Department would address onsite circulation, especially with regard to fire, life and safety, and ADA parking. Onsite circulation was not covered in the Parking Code chapter.
 - Typical improvements required by the City were landscaping where none existed, paving, parking, and bicycle parking. Without a list of priorities for guidance, however, staff was nervous about the lack of clarity, so elements were actually under-requested. With the Parking Code clarified, staff would be allowed to ask for more improvements and applicants would understand the requirements.
- Clarified that potentially, a portion of the improvement costs were required for ADA compliance with an added 10% required for local Parking Code requirements.

Chair Klein:

- Asked about the Foxy's building, which was first a Dairy Queen, then ultimately converted to video poker/tobacco retail. That change in use required less parking.
 - **Mr. Marquardt** explained that parking requirements were applied on a site-to-site basis. If a change of use permit required additional parking but there was no additional space for parking, the City could not require that the owner buy another lot, though a shared parking agreement might suffice. The Downtown Storefront Zone was different and had no minimum parking requirements.
 - **Ms. Mangle** clarified that almost every parking lot in the City was nonconforming in one way or another. Large projects could be largely characterized as change in use or remodels, so the bar should not be set too low because that would let large projects off the hook.
- Recalled discussion about too much parking being required in residential business pockets where the City was trying to achieve pedestrian access.
 - **Ms. Mangle** noted if a change of use had to trigger full conformance each time, the City would quickly become a ghost town because it would be difficult for most properties to come into full compliance.
 - **Mr. Marquardt** clarified that the new ratio table grouped similar uses into more general requirements, so it was more likely that changes of use or tenant improvements would not change the parking requirement because essentially there were not as many different uses to change to.

Commissioner Batey commented that the D&R Masonry project turned out great, but the one across the street (Willamette Jet Boat) was not as impressive, especially the landscaping. She asked why the other site had not been done as nicely.

- **Mr. Marquardt** responded that Willamette Jet Boat met the minimum requirements for landscaping buffers and overall landscaping, while D&R Masonry did more than meet the requirements. The same requirements applied to both sites, but it was a function of how much the different landowners wanted to put into their site.

Mr. Marquardt continued with the staff report, noting that although the Commission had directed staff to retain the two parking space minimum for single-family residential, having a one parking space minimum was required for compliance with the Metro Functional Plan. A handout was distributed to the Commission with Metro's letter dated March 18, 2010 attached. The handout was later entered into the record as Exhibit 1.

- Metro had stated that since changes to the Parking chapter were proposed, the City should come into compliance with the Metro Functional Plan.
- Illustrations of the site design implications regarding one versus two parking spaces were displayed and described. A house lot with a 20-ft setback would have either a double-wide driveway in front or tandem stacked driveway without a garage. If a one-car space was required, it could be in the setback area because it was deep enough and no requirement existed for covered parking.
 - Neighborhoods near downtown had narrower front yard setbacks, so if the house was moved closer to the front lot line, a single-car garage was required to meet the requirement because it would not fit in the front driveway. A two-car-wide driveway would not be deep enough unless parking sideways.

The Commission and staff continued with discussion as follows:

- The Parking Code did not limit the maximum amount of off-street parking; however, the City did want to reduce paving and lot coverage and minimum vegetation requirements did exist.
- If a garage was converted to living space, a 20-ft setback still allowed for a 9 ft by 18 ft parking area in the front driveway without a garage. A 15-ft setback would not accommodate the required parking space for a garage conversion, so the driveway could be angled or relocated.
 - Under the current and proposed Code, a parking space was not allowed in a required side yard setback. If a side yard setback exceeded the minimum, parking could be placed in the side yard.
 - The idea was to avoid having an excessive number of vehicles parked in front of a house, so a 15-ft setback was not bad if the width of the lot allowed for parking on the side or in back.
 - People owned multiple cars, so it was difficult to stop them from parking on grass if only one parking space was required. A tandem driveway was difficult to manage, so a side-by-side driveway was best to avoid parking on the grass.
 - **Ms. Mangle** pointed out that they were discussing the minimum parking the City would allow for new residential construction. Staff believed most new houses would continue to be built with two- to three-car garages, with additional parking in the driveway. Existing properties might be problematic, but much of Milwaukie had good public transit and bike access. Many families did have one car or biked to work, so perhaps should not be required to build an additional parking space. Staff did not believe one-car parking would be the norm, but questioned whether more parking should be required if it was not always needed.
- Options for resolving the single-family, one- or two-space parking issue were reviewed as follows:
 - Revise the amendments to one space per single-family residence as noted in Exhibit 1.
 - Proceed with the current amendments as written, requiring two spaces per single-family dwelling unit. However, if adopted, the City would not be in conformance with the Metro Functional Plan and therefore subject to appeal to LUBA by Metro.
 - Request an extension, allowing the City to be out of conformance for a longer period of time. Metro stated that it was time to come into compliance while revising the Parking chapter, which might not be revisited again for many years. Staff did not believe this option was feasible.
 - Request an outright exception to the requirement. However, Metro's Code required a Metro Council hearing to request an exception due to special circumstances. Staff was not optimistic this option would work.
- **Commissioner Batey** did not believe a vote on the reduction in off-street parking requirements was possible without first notifying the neighborhoods. A plan presented in Island Station for a duplex with two parking spaces per unit was questioned for not providing enough off-street parking. Some locations in the city could accommodate on-street parking, so one off-street parking space was enough, but other locations had little or no on-street parking. She did not like taking a cookie cutter approach with parking standards. More importantly, the Planning Commission would do City Council a disservice if they did not have a dialogue with the Neighborhood District Associations (NDAs) before voting on a recommendation to the City Council.

Mr. Marquardt continued with the staff report by reviewing the proposed parking amendments for residential homes, using the Columbia Care Services residential treatment home (Balfour House) as an example.

- Residential homes were regulated as single-family residences and therefore the City does not currently limit the maximum amount of parking provided. Though the Balfour House plan was ultimately revised, the City would have had no recourse to prevent the originally proposed 24-space parking lot in the front yard.
- The proposed Code amendments would address such future issues with a minimum ratio, similar to what existed, but also a specific maximum ratio allowing one extra space available per each bedroom.
 - Under the proposed amendment, the Balfour House would have been required to have a minimum of 6 to 8 parking spaces with a maximum of 15 spaces. While still a large number, parking was not unlimited.
- A new standard was also proposed where parking areas of over 2,500 sq ft would be set back at least as far as the front yard setback requirements and have landscape buffering around the parking area.

Chair Klein:

- Noted the one space per employee issue and recalled reading about the maximum employees during a shift. When a residential care home was constructed, the owner may have an idea about how many maximum employees would be on a shift, but in practice other residents might need extra attention, requiring additional staff members and increasing the maximum number of employees.
 - **Mr. Marquardt** replied that in other jurisdictions, employee parking was handled through a ratio. If it was of concern, staff could search for something based more on physical site characteristics rather than numbers that were likely to change.
- Asked if there was a way to limit the size of a residential home because the number of residents at Balfour House had a big impact on the neighborhood. Was it possible to set a maximum number of off-street parking spaces and not allow on-street parking for residential homes because they were a business in a residential area?
 - **Bill Monahan, City Attorney**, answered 'no,' such a restriction was not legally defensible because residential homes were not considered businesses and were protected by the Federal Fair Housing Act, the same as single-family residences.

Commissioner Batey asked why parking was not encouraged behind the building as a general rule, but especially for residential care homes to retain the residential character. She also warned about placing too much emphasis on the Balfour House as the example when amending the Code. Residents of Balfour House did not have cars, but senior home residents still had their cars, so two parking spaces per dwelling plus employee parking would not provide enough off-street parking.

- **Ms. Mangle** responded the problem was that the entire driveway counted as parking space, so large lots with circular driveways could accommodate 20 parking spots. Whatever standard was adopted would apply to all residential properties in Milwaukie. By specifically addressing employees in the amendment, parking could be tailored to set an additional limitation on residential facilities with employees without impacting average single-family homes.

Discussion continued as follows:

- While moving parking behind the Balfour House might have been logical, other sites might not have that ability.
- The proposed wording required one parking space per dwelling unit for multi-family dwellings. Residential homes were protected by the Federal Fair Housing Act and were required to operate as a single housekeeping unit. In the Balfour House, each room was not

considered a separate dwelling unit because they did not have kitchens. The Royal Mark on King Rd was assisted living with individual housekeeping units, each with a small kitchen, which was the key deciding factor.

- The adult foster care home on Lake Rd had most of its parking spaces inside the garage. As a residential facility, the proposed parking ratios would apply, increasing the minimum parking required to two spaces per dwelling, plus one space per employee. At the Lake Rd facility, a minimum of two spaces would be required, plus two more for the couple operating the facility. Theoretically, there could be nine cars based on the number of residents as well. The facility had a three-car garage, with parking in front of each garage and then some.
- The issue was tricky because the same regulation applied to all residential housing. For example, a family in a large house with several teenage drivers who all had cars was not required to sign shared parking agreements with other property owners. It was important not to overregulate.

Mr. Marquardt explained that staff considered different options regarding the location of residential parking. Again, regulations regarding parking location would also apply to all residences, not just residential homes.

- Staff considered and rejected an alternative that allowed only 40% of the front yard setback area to be dedicated to parking. This option seemed excessive in terms of regulation and explanation. A larger Code change would also be involved than was really desired, affecting single-family remodels as they came closer-to-conformance.
- Another alternative required that a 30 ft by 30 ft parking area would have to be out of the front yard setback. Most residential parking areas would have a driveway width of 18ft or less.
- It was difficult to determine what regulations should apply to encourage owners to place parking in the back or side yard.

Commissioner Batey:

- Asked why a narrow driveway leading to a garage located behind a house was counted as parking.
 - **Mr. Marquardt** responded because a driveway could be used for parking. If a car could fit in that space, it counted as a parking spot.
- Suggested that a parking area should be defined.
 - **Ms. Mangie** encouraged the Commissioners to help identify alternative solutions. She noted that 5.1 Page 150, Appendix A Alternatives for Regulating Residential Parking Uses with Large Parking Areas indicated four alternatives, three of which were presented to the Commission. It was a challenging issue and she welcomed additional solutions.
- Proposed the definition of a parking area could state that where more than four parking spaces were required, the parking area would not include the driveway to access those parking spaces.
 - **Mr. Marquardt** asked what regulation that definition would be based on.

Chair Klein:

- Inferred that if there was a triggering point for 4 or 5 cars located in a specific area behind or away from the house, the parking area must be structured more like a business parking lot rather than residential, so that the driveway to the parking area would not count as parking spaces.
 - **Mr. Monahan** asked what problem the Commission wanted to address. A parking area behind the house still met the minimum requirements without using the access drive to

count toward the spaces. Parking would only be located in the back because more parking spaces were needed.

- Believed the point was to encourage parking behind the building rather than in front, but that could not be done on every parcel.

Mr. Marquardt noted that, with the current staff proposal, residential parking areas 2,500 sq ft or larger must be either set back 20 ft or located in the backyard. This would capture residential facility parking lots, but would not apply to most single-family dwellings. He concluded the staff report by reviewing the proposed changes to residential parking regulations and responding to questions from the Commission as follows:

- The current code did address clear vision standards for gates. A chain-link fence at the property line was see-through and would not be in violation of the clear vision standard. Essentially, a 20-ft radius around driveway area had to meet the clear vision standards.
- He confirmed that public area improvements could not include gravel. A sidewalk section had to be replaced with sidewalk, not gravel.
- No gravel could be used within side yard setbacks; however, side yards could be graveled on a very wide lot.
- Gravel was encouraged for non-required parking areas because it was a greener option than pavement. Requiring pavement on every surface that a resident could potentially drive on seemed like overkill. While required parking and frontage improvements in the required setback would still require a hard surface, the Code change would officially allow secondary driveways, such as one leading to a shed at the rear of a property, to be gravel. Boats and RVs would still be allowed on gravel.

Chair Klein called for public testimony in favor of, opposed, and neutral to the proposed amendments.

Dan Jurkovich, 10216 SE 41st Court, Milwaukie, supported the Code amendments and asked how close the Code change was to passing. He took in foreign exchange students, which promoted Milwaukie to Germany and other countries. He wanted to convert his unused garage to living area to have extra bedrooms, but was required to provide a covered space for his car. Last March, his contractor had assured him that the Code change would only take a few weeks. He needed a realistic timeframe to know when he could proceed with garage conversion to determine whether he should accept another foreign exchange student for the next school year.

Chair Klein responded that Code changes were a long process that took at least one year. The packet included 152 pages of rewrite of the existing Code that had to be reviewed and discussed before adoption. Time was also needed to allow the public to comment on the changes, which was important as well.

Commissioner Batey added that Mr. Jurkovich's issue was probably one of the least controversial and would probably be passed. However, even if it was passed tonight, it had to go to City Council.

Mr. Monahan clarified that the Planning Commission would vote on a recommendation, which was then put on the City Council agenda. The Council would have a similar hearing, and could pass it in one night with a unanimous vote. Two readings of the ordinance were required, which meant Council would have an action one night and then return for the second ordinance at a later meeting. After adoption by Council, it took 30 days for the ordinance to go into effect.

Chair Klein added the best-case scenario was that if the Commission voted for the changes tonight, it would be two months before it would go into affect. He believed Mr. Jurkovich could successfully plan to accept another exchange student for the next school year, depending on how long his contractor needed to finish the job.

Mr. Jurkovich asked if he had other options so the contractor could begin construction and document the work as it progressed.

Chair Klein responded that he did not know if it was a possibility, but suggested that Mr. Jurkovich speak with staff tomorrow.

There was no further public comment.

Ms. Mangle said staff received many similar comments in support of removing the covered parking requirement, so there was a need in the community for that Code change.

Commissioner Bresaw:

- Suggested looking at other jurisdictions for ways to make the Code less restrictive regarding commercial vehicle parking in residential areas.
 - **Mr. Marquardt** responded staff could look at what other jurisdictions required. He had worked with Tim Salyers, Code Compliance Coordinator, to find reasonable definitions of commercial vehicle, so they were open to the idea.
- Clarified that she was thinking of the real world. A heavy equipment field mechanic who worked late at night drove the company truck home if the company was located some distance in another direction.

Commissioner Batey noted that most of Milwaukie's Code Enforcement was complaint-driven. If no one complained, it was not enforced. She asked if Commissioner Bresaw was concerned about temporary parking of one or two nights occasionally or recurring parking.

Commissioner Bresaw replied that she could not say because her husband did not have a company truck anymore, but on the truck he did use the smokestack was 10 ft tall and close to the maximum length with a box close to 6 ft.

Commissioner Batey noted that her neighborhood complained about a renter who parked his tow truck in the driveway and on the street. Another neighbor parked his big commercial truck behind his house out of sight and no one complained about it.

Chair Klein said that while he sympathized with Commissioner Bresaw's husband, some vehicles should not be parked at home. Someone who parked a commercial vehicle overnight and left early in the morning to return to work probably would not receive complaints, but a large dump truck parked all the time was not the image that Milwaukie needed. Large recreational vehicles (RVs) were also a problem.

Commission Bresaw agreed, adding some dump trucks were bigger than the work trucks she mentioned, and there were no restrictions on them.

Chair Klein closed the public testimony portion of the hearing at 8:09 pm, noting the Commission needed to provide staff direction about the areas that were still of concern.

Planning Commission Discussion

Mr. Marquardt reviewed the issues raised by the Commission including residential home parking standards, defining commercial vehicles, and RV parking.

Commissioner Batey added she was concerned about parking RVs and boats at residences. The Code should encourage people to park such vehicles behind the house when improvements were triggered. Another worksession would have been helpful for additional discussion on certain details of the proposed amendments.

Staff assured the Commission that it was fine to raise questions at the public hearing stage. In fact, the City would not have received the letter from Metro until the public hearing.

Chair Klein stated it was impossible to know when a house was constructed if the owner would own an RV and/or boat. Someone who owned those types of vehicles would look for a home that allowed for that needed access and parking.

Commissioner Batey did not believe it was possible to change existing problems, but parking behind houses should be encouraged in future development.

Chair Klein believed a guideline for the size of commercial vehicles was a step in the right direction, and was a situation that might slip under the wire of Council. However, including RVs and boats would be throwing the baby out with the bathwater.

Commissioner Batey stated the Code allowed lots with less than one acre in size to have one RV or a boat.

Mr. Marquardt clarified that one uncovered RV or boat was allowed on lots less than one acre in size. Currently no limits existed on the number of RVs or boats for lots bigger than one acre. One Code amendment capped that number, so that only one more RV or boat was allowed for each additional half acre. "Covered" did not mean a blue plastic tarp, but a structure that met the Accessory Structure Standards.

Chair Klein suggested removing RVs from the discussion because it was too aggressive of an approach.

The Commission consented that the Code language should be crafted to encourage people to put RVs and boats behind houses.

Chair Klein suggested that since it appeared that the Commission was not ready to recommend the change to the City Council, perhaps the Commission could craft the wording on the fly so that it could be sent to the NDAs.

Commissioner Churchill asked staff to check the Lake Oswego ordinance for RVs.

Ms. Mangle summarized the Commission's concerns about residential home standards including the location and amount of parking. To address residential home issues, Commissioner Batey had suggested defining the driveway so that no more than four spaces would count as parking space.

Commissioner Batey interjected that she would need to review the Code and parse through the definition, because the driveway should not count. Her idea was to try to move parking behind residential homes to the extent possible. It could also pertain to commercial development to encourage parking behind the buildings.

- **Ms. Mangle** clarified that the driveway did need to count as parking space for some situations, so staff would work on the language.

Commissioner Churchill said that the threshold for residential parking lots of 2,500 sq ft was plenty big and could go to 2,000 sq ft, but he supported 2,500 sq ft.

Commissioner Bresaw stated that having the landscaping buffer was very good. She supported parking a commercial vehicle in a side yard driveway, parallel with the mass of the house, instead of in a front yard setback.

Vice Chair Harris believed the commercial vehicle restriction was a good rule because a large service vehicle was not much different than a fifth-wheel trailer.

Ms. Mangle summarized that the Commission's requests to require RV parking in the back yard, similar to Lake Oswego's requirements, and to generally encourage people to park behind the house. This posed a challenge because it affected other parts of the Code, not just the Parking Chapter.

- She requested a straw poll to give staff direction regarding the Commissioners' views about the single-family residential minimum parking requirement. If the Commission did not want to change it, then no more public notice would be needed on that issue.

Commissioner Batey stated that she did not see any way around getting NDA views, because if the Commission decided to keep the requirement, they were setting up the Council for a conflict with Metro. She was not ready to change it without hearing from the NDAs and was not comfortable with either vote without the neighborhood input.

Commissioner Harris agreed that he wanted input from the NDAs. Going up against Metro was not attractive, but setting the requirement at one minimum parking space allowed developers to abuse the rules to their advantage. He was neutral at this time.

Commissioner Churchill asked if NDA leadership had provided feedback.

- **Ms. Mangle** replied no feedback had been received about the one minimum parking space because staff had operated under previous direction provided by the Planning Commission and had received the notification from Metro when preparing for this hearing. It was a very valid request, but notices had not been sent out.

Commissioner Bresaw was concerned about a developer squeezing more lots onto a particular area, but for an individual building a residence, the one parking space minimum was fine.

Commission Batey believed the requirement only applied to single-family dwellings. A planned unit development (PUD) or a townhouse could have one parking space per unit.

- **Mr. Marquardt** clarified that for three or more dwellings, one space per unit was the minimum if less than 800 sq ft. Townhouses were a special use and would be in the downtown area where no minimums really existed.

Chair Klein added lot size would not come into play, depended on the zoning.

Commissioner Bresaw stated the streets were too crowded with cars, so less off-street parking resulted in more crowded streets in general. She would probably accept the one parking space minimum, although she did not like it.

Commissioner Churchill believed it was interesting that other municipalities, such as West Linn, had accepted the housing standard expectation of the average buyer as a two-car garage and some space in front of it. In more dense conditions, such as Sellwood and some areas of Milwaukie, he could see pros and cons. The character of the resulting housing on smaller lots was not pleasing and did not have great planning; near zero setbacks with 3-ft side lot setbacks. However, in Sellwood there were small cottages on 50-ft wide lots with an adjacent parking pad that were successful.

- He understood that Metro was trying to get people out of vehicles and into public transportation, but it tended to push parking onto crowded small, narrow streets. There were not a lot of Milwaukie streets that were tight like Sellwood, but there were some. As densification of existing neighborhoods proceeded, it could push more parking onto the streets. On the pro side, it discouraged putting a massive parking garage door at the front of the house.
- He was torn and did not know how to build better tools to address the issue.

Chair Klein agreed with Commissioner Churchill that one space was fine and he understood what Metro was trying to do. It was applicable to some houses.

- He did not have an issue bringing it to NDAs, but was concerned that when the public started looking at one space per dwelling unit, they would believe the City was taking away their parking spots. However, this issue was for new development and remodeling, which was an important point. One parking space could work for some particular houses, which was all that Metro was asking the City to do. A developer would not build a five-bedroom house with one parking spot.

Commissioner Batey:

- Said Metro might not be happy if parking was anything other than one space, but perhaps there was a way to require two parking spaces and allow an exception for very small footprint houses, or for streets built to the full cross section that had plenty of on-street parking. She agreed that there were places where it was appropriate to allow one parking space, but in many places it was not. Someone who rode bikes and utilized public transit would want to build a four-bedroom house with one parking space.
 - **Ms. Mangle** noted that the South Downtown Concept was about small, urban places. The idea was that a person could build a house two blocks outside of downtown on a small lot and bike or walk to light rail, so it was not right to require them to build two parking spaces. Commissioner Batey's idea about exceptions was interesting.
- Believed townhouses, PUDs, and all compact living developments were an exception where one parking space was enough or even no parking was needed. They had very small lots and street parking was available.
 - **Ms. Mangle** added Milwaukie was unique in that a number of streets did not have on-street parking.
- Noted it was a balance; even though the rights-of-way were wide, the City/Commission was always trying to save the trees, which caused the loss of some parking.

Chair Klein responded that it was about saving the trees, but also about saving parking spots, protecting what was in front of your house, and not allowing your neighbor to do something you do not want them to do. He did not have an issue with one parking space per unit, because the market would drive what was needed. He believed that it could be done, but probably no one would build one parking spot on a 10,000 sq ft lot.

Commissioner Churchill believed that parts of Portland traded in the parking garage for a pad in front, which was okay. Some areas in Northeast would rather have the square footage in the house and put a pad out front. He would rather see it planned well initially, rather than later the infilled, converted garage that looked converted. He preferred that a cottage be planned correctly.

Chair Klein strongly urged staff to bring pictures when presenting the issue to the NDAs.

Commissioner Churchill suggested that staff also discuss how other municipalities adopted the idea and have had it for several years without affecting the market rate. Most effective changes he had noticed were in PUDs where garages were tucked around the side and the front of the cottage was put forward. They were not required to have so many parking spaces that it wrecked the character. Near Martin Luther King Jr Blvd, there were some spots that were fairly good, with common lots joined into a common green and parking put underneath at the rear of the buildings.

Mr. Monahan explained that the Metro Functional Plan took into consideration and encouraged all aspects of the Transportation Planning Rule.

- Metro's authority created a situation that dictated the minimum within Milwaukie's Municipal Code. That specific Code provision stated that the minimum must be one space per single-family dwelling, unless the City wanted to go through a review or an exception process. From his reading of the Code language, it was a huge uphill battle; getting an exception was somewhat like variance criteria. For example, the City would have to prove it was not possible to achieve the requirement due to topographical or other physical constraints, which was difficult because Milwaukie was not dissimilar to other jurisdictions within the Metro area that complied with the provision.
- The key provision was when the City and County adopted other measures more appropriate to achieve the intended result of the requirements. The City could make an effort to come up with some findings that showed the objectives of attainment with the Transportation Planning Rule and the intent of the Code through some other means. He was not sure from tonight's discussion how that would be done.
- An option was to consider adopting the standard and then engaging in such a review to see if it was possible to come up with such justification and go back to Metro to change the provision. A public hearing to evaluate the application was required at Metro to comply. Metro staff had already drawn their conclusions, as noted in Exhibit 1, that the Code provision of one space per unit was sufficient.
- He believed challenging the provision would be a huge uphill battle and would delay the entire Code update, unless the first alternative was taken to accept the provision and then try to achieve an exception.

Chair Klein preferred putting a maximum on spaces rather than a minimum.

Commissioner Churchill believed this was the start of a slippery slope.

Mr. Monahan noted it could be. Metro has claimed these were just aspirational goals in the past.

Commissioner Batey asked if any jurisdiction had ever bucked Metro on the one space minimum. She wanted to know what the Clackamas County Code required.

- **Mr. Marquardt** responded he had not really looked at all the other jurisdictions, but he would see if anybody was out of conformance and how they got there. He could not find it in the Clackamas County Code but would ask their staff about it.

Chair Klein suggested that staff get feedback from the NDAs, look at other jurisdictions, and mull over the one space minimum, because the amendments would obviously return to the Commission again for discussion.

Ms. Mangle asked if it would push people for feedback to state that the Commission was considering recommending a one space minimum parking requirement for new construction to meet Metro requirements.

Commissioner Churchill requested in-depth research about how other jurisdictions planned to react to Metro's requirement. The NDAs would have the same discussion the Commission had regarding the downside and upside risks and benefits. If the NDAs did not understand where it might be headed or what the impacts would be, they might not be able to react well.

Chair Klein believed the comprehension of new construction would get lost because the public would think that Metro would start taking parking spaces away.

Commissioner Bresaw believed the only defense of two-car off-street parking was that Milwaukie was going to do all the Green Street Program projects to reduce paving.

Vice Chair Harris stated that he was interested in hearing from NDAs. However, he did not believe it was wise to buck Metro about the issue. It would be a monolithic waste of time.

Ms. Mangle sought direction from the Commission about how to proceed with the NDAs and the timing of the next hearing. Staff would not attend the meetings, but would send notice to the NDA chairs and Land Use Committee (LUC) members along with comprehensive material and photos.

Commissioner Batey suggested sending notice to NDA LUCs.

Commissioner Churchill questioned whether contacting just the LUC members was appropriate. He would send them notice, but encourage them to meet and review it with their whole NDA group.

Chair Klein noted the NDAs met in the second week of the month, so staff should expect a response in 30 days.

Ms. Mangle asked that what the Commission would do if all the NDAs provided negative feedback, because it would delay the process for two months. She agreed with the need to notice, but wanted to be sure it was done effectively and honored the feedback provided.

Commissioner Churchill stated it was important to give the opportunity for feedback.

Ms. Mangle suggested that staff could do everything described in anticipation for the City Council hearing. Staff could fully prepare the Council that the Commission's recommendation was an open decision, which included seeking specific feedback on the issue from the community. This would allow the hearing to be continued in two weeks as opposed to two months.

- She assured staff was not rushing the Code update, but wanted to keep the momentum going. Staff and the Commission had been working on the Code project for a long time and it had been discussed in five worksessions. The City received a \$50,000 grant from the State to start two new Code projects and staff was limited in its ability to keep too many projects going. Staff wanted to get it right, so it was not a rush, but projects had started in Milwaukie and not finished, and she did not want that to happen with this amendment project.

Commissioner Churchill believed Commissioner Batey had a good point in extending courtesy to the NDAs for feedback. Though it might not appear to have a lot of impact, by definition, it was a major change in the minimum parking for new development.

Commissioner Batey noted that how it was framed in the NDA packages was important because it was a big change that was driven by Metro.

Chair Klein stated they were assuming it was the only thing going out to the NDAs. He believed the NDA LUC members would probably give it a cursory glance and pass it on.

Commissioner Batey agreed no one would read the ordinance, but she assumed the NDAs would get a variation of the packet provided to the Commission.

Mr. Marquardt responded that staff would do a thorough job of explaining it. The question was whether the Parking Chapter amendments needed to return to the Planning Commission or could they go to City Council after the NDAs' review.

Chair Klein preferred not to make a decision based on what the NDAs said, but rather make the decision before and then let the NDAs send it to Council. If Council wanted to address line items, they could make adjustments.

Commissioner Churchill believed the appearance could be that the Commission ignored the NDAs and let it go to Council. The NDAs should be asked for feedback.

Chair Klein stated the issue had gone to NDA leadership meetings on a number of occasions. He had attended one or two meetings, but had not specifically discussed the amendments.

Commissioner Churchill clarified that prior notification to NDAs did not address the one parking space minimum. If misunderstood, the issue could snowball, so the right explanation had to be made because it was a Metro-driven process at the moment. He did not believe that there was a huge impact to be in compliance, but to rush it and not receive NDA feedback could be strategically incorrect.

Ms. Mangle noted that, including Ms. Beth Kelland in the audience, most of the NDAs were represented at this PC meeting. While staff could not attend all the NDA meetings, they could prepare the materials so the Commissioners could help represent the issue.

Commissioner Bresaw offered to could go to the Lake Road NDA meeting.

Commissioner Churchill believed it would be helpful for the Commission to know that other municipalities had adopted the one parking space minimum in the last three years and that no sizeable impact to density of new development had resulted; the market seemed to drive it.

Commissioner Bresaw suggested the information be emailed to the Commissioners before the NDA meetings.

Ms. Mangle asked if the Commission had anything for staff to work on.

Commissioner Batey asked about the proposed change to extend shared parking from 300 ft to 1,000 ft for commercial uses. Was it a blanket change to 1,000 ft or was shared parking encouraged to be closer with 1,000 ft as the maximum distance?

- **Mr. Marquardt** answered the Code stated 1,000 ft was the maximum with no encouragement about shared parking being closer. Presumably, if someone wanted shared parking, they would probably want it to be as close as possible. Some standards were also included about the walkway between the use and shared parking, so if the owner had to improve that walkway, they would want it to be closer.
- He clarified that if the shared parking was 2,000 ft away, an applicant could go through a variance process and appeal.

Chair Klein noted that distance was not one of the three criteria that needed to be met for that variance.

Ms. Mangle noted that the Waldorf School parking lot was 450 ft from its front door.

Mr. Marquardt confirmed that the distance to shared parking was measured according to a pedestrian route, not as the crow flies.

Ms. Mangle she suggested taking a break to confirm the NDA meeting schedules.

The Commission took a brief recess and reconvened at 9:00 p.m.

Chair Klein stated that the Commission's discussion at the continued hearing would only address the written testimony received from the NDAs.

Mr. Marquardt entered the letter received from Metro into the record as Exhibit 1.

Commissioner Batey moved to continue ZA-10-01 to the Planning Commission meeting on April 27, 2010. Commissioner Churchill seconded the motion, which passed unanimously.

6.0 Worksession Items

- 6.1 Summary: Discussion of time limits for land use approvals
Staff Person: Katie Mangle

Ms. Mangle described staff's perspective on the time limits issue, which would influence what was done on the Riverfront Park and Natural Resources Overlay projects. The Harmony Mini-Storage hearing was held to approve a variance to the time limit restriction that automatically

goes along with Conditional Use, Variance, and Non-Conforming Use permits. The Commission approved that application, but there was some discomfort with the criteria, meeting the criteria, and why some requirements applied to some types of permits and not others. She briefly reviewed a distributed handout that described how land use approval time limits were addressed with the following additional comments:

- A Conditional Use was anything that was developed in the Willamette Greenway, including docks, houses, and the Riverfront Park. Multi-family uses were allowed as Conditional Uses in R3 zone, duplexes in the R7 zone, and commercial recreation in the BI zone. Most of the uses in the CL and CN zones were also allowed as Conditional Uses.
- A Type II process for home improvement exceptions were used for homeowners to do decks and bump outs for kitchen expansions, which were also subject to the 6-month plus 1-year expiration.
- Changes or extensions of a non-conforming structure or use were also Conditional Uses. They did not apply to Water Quality Resources, Habitat Conservation Areas, or overtly to Traffic Impact Studies or Community Service Uses (CSUs).
- Some permits were based on the context that existed during the review, but did not have this type of time limit that maybe should be considered. The issues that arose during the Mini-Storage project would come up again and again when any large project took more than 1½ years to construct.
 - Having a 1½ year time limit was awkward, especially if the approval was not linked to conditions that change over time. Staff's sense was that this type of time limit was to be used to ensure that if it was a sensitive use or permit, that there was the ability to check and be sure that the land uses and natural environment around the project had not changed. There was a clear public purpose for the time limit, but as currently written in the Code, it was a blunt instrument and probably not doing what the City needed.
- The other kind of time limit was seen more in the past when developers who did land divisions asked for a time limit to allow them more time before their preliminary plat expired for a land division. There was no real approval criteria for that, so it was awkward, but maybe less problematic.

Mr. Monahan explained that the broad purpose of the time limit was to allow for some guarantee that an approval had some value for a reasonable period of time.

- If Code provisions changed over the course of time, or the conditions within the area in which the approval was granted had changed and the development had not proceeded to a significant point, the time limit offered a chance to go back and see if the opportunity existed to take another look at the application.
- The Portland Metropolitan Homebuilders wrote to all jurisdictions 2½ years ago expressing concern about the down economy. Many of their membership had development approvals that would probably expire without being implemented. There were concerns that when the economy improved, if a mechanism was not in place for extension of the approvals the approvals would lapse and additional costs would be involved to get the projects rolling again. In addition, the jurisdictions would have to review the applications after accepting a fee again without additional benefit for the community, creating a repetitive process. And once the economy picked up, there was the possibility of bogging down new applications that were competing with those under review again.
- Other jurisdictions had decided to extend the permit process. Staff believed that there should not be a blanket approval that said any and all applications that had an expiration date in this coming year are automatically approved for another 2 years.
 - A process was needed and could require a very limited or no application fee. Criteria could be designed to require that an applicant come forward and say that due to

economic circumstances or other reasons the project had not proceeded. The applicant could be asked to demonstrate some investment of time, energy, and costs into development of the plans.

- Applicants with approvals could request an additional 1-year or 2-year period, but this would require a Code change.

Ms. Mangle stated the time limit issue could be addressed three ways, each with different levels of urgency:

- The review procedures of the next Code project would review this section, and provide an opportunity to refine it.
- A time limit could be added for the Natural Resources Project review. The water quality aspect of the Harmony Road Mini-Storage application area seemed to make the Commissioners uncomfortable.
- The existing variance process could be used without amending the Code, but was it an acceptable way to address the time limit issue? Most urgent would be the affect on Riverfront Park or other applications subject to the time limit Code.

Commissioner Batey noted the existing Code and variance process led one to believe that economics should not be taken into consideration.

- **Mr. Monahan** agreed that was really the problem. If the current variance criteria were retained, the Commission was stuck deciding whether to take economics into consideration and trying to apply criteria that were not designed for that purpose.
- He recommended that if the Commission did not believe it was right to penalize people who are caught in the net of the economy, or put staff in the position of forcing someone to file a new application fee and redoing the review process, then the best thing was a Code amendment that allowed for an easy extension process.

Ms. Mangle added that in Milwaukie for projects like Riverfront Park, or any big commercial project could require an extension even in good times. For example, the Panattoni project took longer than 18 months. Projects did take time and there could be many reasons why, including size of the site, complexity of the project, labor shortages, as well as the economy.

- She requested feedback before going into the Riverfront Park application because it was subject to the Code as currently written and included a variance request for the land use time limit section. If the Commission did not want that variance, then it should be clear and assume that Riverfront Park would return in 18 months for application renewal.
- She confirmed the Commission could not enact a Code revision to help Riverfront Park because the application was submitted in March 2009. A land division project application submitted last week for the Island Station neighborhood would also be subject to the time limit per the Code.
- She clarified that a CSU did not apply to Riverfront Park.

Chair Klein noted the CSU for the sign at Milwaukie High School would be outstanding forever. He wished the Commission had had the foresight to put a sunset on the High School sign.

- **Ms. Mangle** believed the Commission had the ability to impose some time or other limits. She believed areas existed to place appropriate limits that were not being done, and perhaps such limits were overused in other areas that were not as helpful.
- **Mr. Marquardt** clarified that items like the sign are not approved through Chapters 600, 700, or 800 in the Zoning Code.
- He added that the problem with Riverfront Park was that they could only receive a grant for one additional year, which would likely kill the project, because the expiring permit would

have to be resubmitted.

Chair Klein noted the Commission could not logically deny a time limit extension for the Riverfront Park project; it could not be stopped.

Commissioner Batey:

- Added the nature of the Riverfront Park was that the City would look for grants, so it would take several years even in a good economy. If the project did not fit in the Code, the Code should have been revised before that project was submitted.
 - **Ms. Mangle** clarified that Riverfront Park was not a CSU. It was actually the only park with land zoned for a park because it was Downtown Open Space Zone. She emphasized the discussion was not to specifically address upcoming issues with Riverfront Park; other applications would also be subject to the time limit.
- Said she did not have a problem with considering a change to the variance Code because a more flexible variance was needed, but the way it was currently written did not allow for a variance for financial impact.
 - **Ms. Mangle** understood concerns about financial impact, but asked how larger, more complex sites should be addressed.

Commissioner Churchill understood reviewing it on a case-by-case basis would be discriminatory toward smaller property owners.

Mr. Marquardt stated there was a variance request with the Riverfront Park application, specifically to vary it from that time limit. That analysis was based on factors such as obtaining grant funding, but even if all of the financing was available from the start, that project could not be built within 1½ years. He asked if the Commission would consider such a variance.

Chair Klein responded it was more of a logistical problem than a financial problem. He could reconcile it enough to say it was logistically impossible to fund the project in the required time period. Though financial impact was not supposed to be considered for the variance, logistically it was fine in his opinion. He did agree the Code needed work.

Ms. Mangle reminded that Riverfront Park had variances, exceptions, nonconforming uses, and the consultants were starting work, having received approval from the State.

Chair Klein stated that he did want the Commission to revisit the time limits for land use approvals issue.

7.0 Planning Department Other Business/Updates—None

8.0 Planning Commission Discussion Items

Commissioner Batey:

- Asked about a rumor she heard that North Clackamas Parks and Recreation (Parks and Rec) had completely punted on the north side of North Clackamas Park.
 - **Ms. Mangle** responded she had heard the rumor too, but did not have firsthand information. Staff was working with the Parks and Rec staff to prepare their Northside Master Plan as an application for the City to adopt. However, she had heard that they lost that funding in the budgeting process.
- Speculated that perhaps Parks and Rec were not ready to proceed given Title 13, etc., and so had passed the funding onto the Trolley Trail project and would come up with other

funding. But if that was not the case, and they were really dropping it, she believed they completely backtracked on something they pretty much promised at the ball field hearings about coming forward with a plan for the north side of the park.

Chair Klein noted that he read in *The Pilot* that Ardenwald was talking about turning Johnson Creek Blvd into a toll road. He would invite the author, Carlotta Collette, to his NDA as well as a Planning Commission meeting to explain her reasoning.

9.0 Forecast for Future Meetings:

April 13, 2010 1. Public Hearing: DR-09-01 Riverfront Park *tentative*

April 27, 2010 1. Worksession: Natural Resources Overlay *tentative*
2. Worksession: Revised Fee Schedule *tentative*

Ms. Mangle noted that Riverfront Park would not be ready for the April 13th hearing nor would the revised fee schedule, so she suggested cancelling that meeting unless the Commission had something to address.

The Commission consented to cancel the April 13th meeting.

Meeting adjourned at 9:27 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, Inc. for
Alicia Stoutenburg, Administrative Specialist II



Jeff Klein, Chair