

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, FEBRUARY 14, 2017
6:30 PM**

COMMISSIONERS PRESENT

Greg Hemer, Chair
Scott Barbur
Sherry Grau
John Burns
Kim Travis

STAFF PRESENT

Denny Egner, Planning Director
Tim Ramis, City Attorney
Vera Koliass, Senior Planner
Brett Kelper, Associate Planner

COMMISSIONERS ABSENT

Shannah Anderson
Adam Argo

1.0 Call to Order – Procedural Matters*

Chair Hemer called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

Chair Hemer welcomed new Planning Commissioner Sherry Grau.

***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 May 24, 2016
- 2.2 June 14, 2016
- 2.3 June 28, 2016
- 2.4 October 25, 2016
- 2.5 December 13, 2016

Commissioner Barbur stated he was not listed on the December 13, 2016 minutes and should have been listed as a Commissioner present.

It was moved by Vice Chair Barbur and seconded by Commissioner Travis to approve the Planning Commission minutes for May 24, June 14, June 28, October 25, and the December 13, 2016 as amended. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, announced the second Visioning Town Hall was scheduled for February 15, 2017 at the Waldorf School at 6:00 pm. The focus of the meeting would be to match Action Items with the draft Vision and the goals that have come from the Visioning process. Unlike the last Town Hall, which featured several speakers, there would be time for people to participate during this Town Hall.

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: Harmony Rd Mini-storage
Applicant/Owner: Hans Thygeson
Address: 5945 & 5965 SE Harmony Road
File: CU-2016-001, NR-2016-001, TFR-2016-001, VR-2016-003
Staff: Brett Kelter

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

Brett Kelter, Associate Planner, presented the staff report via PowerPoint, and noted the applicant submitted an updated bridge embankment detail on February 10, 2017, that addressed questions about the length of the bridge span. Staff recommended approval with conditions. He noted the applicant had waived the 120-day land use clock, so continuance was an option if more information was needed. No correspondence had been received.

Staff addressed clarifying questions from the Commission. Key responses related to the application included:

- Several questions were addressed about the Water Quality Resource (WQR) and Habitat Conservation Area (HCA) areas, including the differences in how the areas were measured, an applicant's options for challenging the WQR and HCA boundaries, the City's process for determining the scope of mitigation required, and rules about dumping garbage in the HCA. Staff was not aware of any major issues with the natural resource boundaries in the proposed location.
- Further clarification was provided regarding the construction, structure, and function of the bridge. The bridge's support structures would be on either side of the creek just beyond the ordinary high water mark. The creek would flow freely under the new bridge and not be constrained in a pipe or culvert.
- The existing shared access between the building at 5885 SE Harmony Rd (adjacent to the west) and the applicant's site was intended to allow only right-out turning movements, although space existed for passenger vehicles to make a right turn into that access from Harmony Rd. The access was not constructed to allow the kind of truck-turning movements that access the site from International Way. Approval of the application would result in a wider access to Harmony Rd, with revised access of right-in/right-out movements only. Once the driveway was widened, the easement agreement with the adjacent property would be reestablished so that the wider driveway would still be accessible to the 5885 SE Harmony Rd property.
- The updated document submitted by the applicant of a different type of bridge support system. The latest submittal of the bridge embankment showed a type of construction that appeared to have potentially less impact on the creek, but the final bridge span length was unclear. A condition could be established to have the applicant demonstrate that the bridge span would be long enough to provide a certain degree of separation from the ordinary high water mark to the bridge supports without trying to set a specific length now.
- Mitigation efforts focused on the south side of the creek, which was classified as being in "Poor" condition; the north side of the creek was classified as being in "Good" condition because it had more existing tree canopy. The mitigation required for the development would increase the ecological value or function of the stream, not decrease it. There would be significant changes to the overall site with the development, so assessing the trade-off

was a fair question. Staff had concluded that the proposed mitigation plantings seemed to generally offset the disturbance.

- Regarding public comment from Joseph Edge about not developing within the 100-year floodplain, staff noted that there was no Federal Emergency Management Agency (FEMA) 100-year floodplain designation on this property.
- The trip estimate for the proposed development of just over 1,000 mini-storage units (based on the Institute of Transportation Engineers (ITE) manual) was approximately 250 one-way trips per day (or 125 round trips). One way to consider that was to imagine that just over 10% of the units would be accessed on a given day.
- Adjacent apartments to the east also backed up to the WQR area, with the creek running under an existing unpaved roadway on the adjacent site through a culvert or pipe. The roadway was wide enough to drive on, but it was primarily used for pedestrian access.
- The HCA was intended to protect habitat for all wildlife. The City's designated HCAs generally paralleled the City's WQR areas and tended to be connected corridors. It was unclear why the HCA designation on the map did not follow the stream flowing east from the subject property onto the adjacent apartment property—perhaps it was due to the ephemeral nature of the stream or a lack of evidence of water.
- The wildlife corridors established by the HCA designation were part of Metro's Title 13 work which focused on water resources and wildlife habitat. Initially, under Title 3, Metro focused on wetland areas and streams; later, Title 13 focused on habitat, including for small mammals, fish, and birds. Both the height and expanse of the proposed bridge would minimize impacts to the HCA by allowing for better movement of those animals through the corridor than the culvert to the west.

Chair Hemer called for applicant's testimony.

Hans Thygeson, 2500 Willamette Falls Drive, West Linn, OR, briefly highlighted the application via PowerPoint. He reviewed the accessways into the property, noting that they would be sharing access with the adjacent property to the west. Regarding pinch points for the creek, he stated that to the east there was a roadway across an 18-inch culvert used for the seasonal creek that handled drainage and stormwater from the business park along International Way; to the west, the culvert had less than 12 ft of clearance.

John Lewis, Development Specialist, described the revisions made to the bridge detail based on suggestions from the North Clackamas Urban Watershed Council (NCUWC) to provide a greater clearance under the bridge for larger mammals. A 9-ft vertical clearance was now proposed, which should be more than adequate for the wildlife anticipated along the corridor. Extending the bridge's span would result in a loss of vertical clearance. The applicant did not anticipate any disturbance in the delineated wetland creek bed, although legally, 50 cubic yards of soil could be displaced.

Mr. Thygeson noted the site was reviewed by two natural resource consultants and both concluded that once the applicant corrected some deficiencies and removed nuisance plants and debris in the area, the wetlands and the area would be considerably better. Construction could be done from either side of the creek while staying outside the high water marks. He addressed additional questions from the Commission as follows:

- The proposed bridge was 40 ft long, with about 34 ft between the support structures, and that clearance height was measured from the creek bed.
- The objective of the updated bridge design was to keep the bridge span as short as possible to give it as much vertical clearance as possible. Per the civil engineer, the 40-ft span

should easily keep the bridge out of the delineated creek bed, but the final length could be determined during the permitting process.

Mr. Egner noted that the condition was based on the dimensions on the preliminary plans, which showed an approximate 40-ft distance between the ordinary high water marks for the creek (79-ft elevation), as well as on the applicant's drawing, which implied that a span longer than 40 ft was needed. The condition could be modified to require simply that the applicant stay out of the ordinary high water mark.

Mr. Thygeson responded the scaling was not accurate. Although not the intent, the applicant was allowed to disturb 50 cubic yards. He described the construction process, and noted that the retaining wall would be built from the north side and assured there would be no impacts to the WQR.

Mr. Lewis added that the proposed buildings had been pulled back from the resource area as well. The variance being requested would give the applicant more space from the WQR and allow more landscaping to be provided.

The applicant's team continued addressing questions with these comments:

- Discussions with other property owners to use the existing bridge on the adjacent property to the west had occurred in the past; however, since access to self-storage should be secure and controlled, it would be challenging to share access through the adjacent industrial neighborhood.
- The 250-trip estimate was high traffic for a self-storage facility. Based on the ITE manual, the proposed development met the standard, according to Clackamas County and the applicant's consultant.
- The existing shared access easements were identified on the site plan and the applicant confirmed there was no issue with the access points. Although the easements were recorded, they did not extend back across the creek.
- The applicant noted there would be an onsite manager who would be responsible for maintaining the property and keeping it clean. One dumpster would be located on site, and policies required customers to remove all their trash from the site.
- The existing fence along International Way did not extend into the WQR due to the hill. However, installing a higher fence was not an option due to liability issues. The applicant was not concerned about trash in the creek and reiterated the facility will be fully managed with surveillance cameras onsite.

Mr. Thygeson assured that plans were in place to protect the HCA and WQR, and that he and his consultants understood the complexity of the location. He believed they were prepared to properly protect the site for the long term. He clarified that the Landscaping Plan was not to scale.

Mike Robinson, Land Use Attorney, stated the applicant accepted the recommended findings and conditions of approval, but suggested modifying Condition 1 to reflect the updated bridge detail. He also requested that Additional Requirement Note 7 be modified to allow longer time limits. He believed the evidence provided showed the applicant had met the burden of proof. He asked that the applicant be allowed to provide additional evidence and rebuttal before closing the record.

Chair Hemer called for public testimony.

Chris Runyard, Northeast Portland, OR, NCUWC, opposed to the application.

- He noted his background in wetland, habitat, and upland restoration and his familiarity with the creeks within the city. Although Minthorn Creek was mostly paved or ditched, there were still salmon in the creek. He discussed stormwater facilities and runoff issues and their impact on water quality. He encouraged that all stormwater be kept onsite and suggested installing stormwater swales on the south side of Harmony Rd. He believed surface area water would overflow the two proposed planters.
- Mitigation plantings did not necessarily improve WQRs or alleviate the impacts of fill grading and paving. He noted that the correct native dogwood species should be included in the mitigation planting list.
- He was not in favor of a bridge, but encouraged the applicant to consider wider footings to allow better wildlife passage and suggested that several feet were also needed on the bank under the proposed bridge structure.
- He hoped funding would be provided to remove the plastic silt fences and tree sleeves from the property. He asked if any of the white oaks would be removed for the bridge's construction.
- He feared the Commission believed the plan would improve the watershed; he believed that the proposed development would destroy what remained of the south portion of Minthorn Creek.

Joseph Edge, 14850 SE River Forest Dr, Oak Grove, NCUWC, reviewed the comments submitted by NCUWC. The Council preferred development on the south side of the creek only, with some incentive to add the land on the north side of the creek to HCA inventories. The code allowed variances for added flexibility, such as increased building heights, which would minimize disturbance on the north side. He was unsure why Minthorn Creek was not included in FEMA's floodplain mapping. He believed there should be incentives for an applicant to map additional HCA or WQR areas on their site. He disagreed that some landscaping was sufficient mitigation and clarified that for large mammals, a 10-ft vertical clearance under the proposed bridge would be necessary for a few feet on either side of the ordinary high water mark.

Chair Hemer called for further comments from staff.

Staff noted clarifications for the record and responded to public comment with the following points:

- The applicant had requested to extend the approval expiration to 5 years, with completion within 7 years. (Item 7, Additional Requirements Section).
- The conditions would be revised to allow for staff to confirm whether comments about improving erosion issues from ESA, the City's natural resource consultant, were applicable to the revised bridge embankment detail.
- Regarding bridge clearance and inconsistencies between the drawings from the applicant, a condition was suggested that would provide the applicant some flexibility in demonstrating the necessary length of the bridge span; the bridge-span width would be dictated by the ordinary high water line.
- Staff addressed concerns about additional stormwater runoff coming from the site, and noted the proposed stormwater management scheme would meet the Code. Potential options were discussed to ensure runoff did not drain directly to the creek.
- Regarding comments about the City's discretionary review for mitigation and what was adequate, staff suggested that the Commission could consider a ratio of plantings for area of square footage of disturbance, or could consider designating a portion of the site as a resource buffer area that would be planted and have development restrictions as a trade-off for the bridge disturbance.
- Language should be added requiring that all plantings on the mitigation planting list were in fact species from the Milwaukie Native Plants list.

Chair Hemer called for the applicant's rebuttal.

Mr. Robinson noted that the applicant agreed with all the recommended conditions; however, he did not believe the City's discretion regarding mitigation was as great as suggested, because the Commission's discretion was controlled by the code.

- Regarding the bridge conditions, he questioned why 3 ft was being specified on each side and was leery to accept a condition where additional discretion was required after the hearing.
- The discussion about mitigation was extremely useful, and the applicant agreed with staff suggestions about mitigation.
- He addressed several comments from public testimony, noting that avoiding any impacts to the wetland was difficult due to the constraints of adjacent properties. The Commission could not compel the adjacent property owner to grant an easement. The impacts would be minimized by the proposed mitigation and locating the bridge where presented.
- The preliminary stormwater report addressed concerns about water quality and quantity issues. With respect to the trees, the project complied with the code.
- Regarding the minimum clearance of the bridge, the evidence in the record from Pacific Habitat Services was that primarily only small mammals occupied that riparian area, not large mammals like bear or deer and if so, the 8.5-ft to 9-ft height clearance under the bridge was sufficient. The proposed bridge was reasonable; it was designed to leave a wide area in the riparian corridor for the mammals normally found, and combined with the mitigation and water quality planters, the applicant was improving this site.
- Without the bridge or development on the north side of the creek, there would be no impact to the stream and therefore no mitigation needed, so the degraded condition at the site would remain, as opposed to the plan before Commission, which was to mitigate on the south side and remove invasive species.

Chair Hemer announced that the public hearing for the Harmony Rd Mini-Storage would be continued to a date certain of February 28, 2017, with discussion only on the conditions of approval.

6.0 Worksession Items

- 6.1 Summary: Sign Code Amendments
Staff: Vera Koliias

Vera Koliias, Associate Planner, presented the staff report regarding the proposed Sign Code Amendments, noting the two options proposed for the Commission's consideration. She clarified the definitions of freestanding, roof, and wall signs, and noted one phone call was received regarding the regulation of wall signs. The City hoped to get feedback from the sign industry about the appropriate sizes for signs at the upcoming hearing.

Mr. Egner provided insight regarding the Code Interpretation decision the Planning Commission made a year ago and the background leading to the proposed amendments.

Feedback from the Commission in preparation for the hearing was as follows:

- Having consistent sizes for freestanding and roof signs was reasonable and preferable to matching industry standards.

- Staff was directed to reach out to the sign industry and do further research about appropriate sign sizes.
- People collect rental income from the signs in the North Milwaukie Industrial Area and larger signs were needed to be visible from the highway and frontage road. Reducing the size of the signs would likely eliminate additional large, offsite signage in that area.

Mr. Egner said staff would report back to the Commission about the discussion with Council, and added that sign industry representatives and property owners would likely provide comments at the hearing.

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Discussion Items

Chair Hemer reminded about the Visioning Town Hall on February 15, 2017 at 6:00 pm at Waldorf School.

9.0 Forecast for Future Meetings:

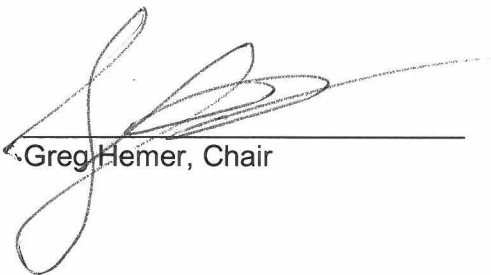
- | | |
|-------------------|---|
| February 28, 2017 | 1. Public Hearing: ZA-2016-003 Sign Code Amendments tentative |
| | 2. Worksession: North Milwaukie Industrial Area (NMIA) |
| March 14, 2017 | 1. Worksession: Variance Training |

The Commission and staff discussed scheduling conflicts with the March 14th meeting and potential changes to the upcoming meeting schedule.

Meeting adjourned at approximately 10:09 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



Greg Hemer, Chair