

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
Tuesday, February 28, 2017  
6:30 PM**

**COMMISSIONERS PRESENT**

Greg Hemer, Chair  
Adam Argo, Vice Chair  
Shannah Anderson  
Scott Barbur  
John Burns  
Sherry Grau  
Kim Travis

**STAFF PRESENT**

Denny Egner, Planning Director  
Brett Kelter, Associate Planner  
Vera Kolas, Senior Planner  
Tim Ramis, City Attorney

**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.

*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 10, 2017

**It was moved by Commissioner Anderson and seconded by Vice Chair Argo to approve the January 10, 2017 Planning Commission minutes as amended. The motion passed unanimously.**

**3.0 Information Items** – There were none.

**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 (continued from February 14, 2017)  
Applicant/Owner: Hans Thygeson  
Address: 5945 & 5965 SE Harmony Rd  
File: CU-2016-001, NR-2016-001, TFR-2016-001, VR-2016-003  
Staff: Brett Kelter

**Chair Hemer** opened the public hearing and read the conduct of quasi-judicial hearing format into the record. He also noted his previously declared potential conflict.

**Brett Kelter, Associate Planner**, presented the staff report via PowerPoint. He noted the findings excerpts and reviewed the revised conditions related to the jurisdiction of Harmony Rd and the outstanding issues discussed at the February 14 hearing, which included the bridge embankment issues and stormwater management. Staff recommended approval with the

revised conditions. He responded to questions about the applicant's request to extend the approval to five years.

**Chair Hemer** called for the applicant's testimony.

**John Lewis, 3975 Dee Hwy, Hood River, OR**, stated the applicant had met with North Clackamas Urban Watersheds Council (NCUWC) and made efforts to accommodate their suggestions, incurring additional expense to modify the embankments of the bridge. However, no guidelines existed from any jurisdiction, habitat organization, or the Corps of Engineers for under-bridge clearance regarding wildlife. The applicant's proposal regarding the under-bridge clearance was supported by ESA, the City's consultant.

- He described the options for handling stormwater, noting underground detention would be used to meet the stormwater requirements if needed.
- The applicant had no issues with the street standards being changed to the City's if Harmony Rd were annexed; however, under Oregon Revised Statute (ORS) 227.178, the City was not allowed to change the requirements after the applicant submitted the application, which could potentially cause economic duress.
- The extension of the approval was requested due to the new federal administration and economic uncertainty. The applicant did not want to lose the conditional use again, which was expensive to establish.

**Hans Thygeson, 2500 Willamette Falls Drive, West Linn, OR**, said he wanted to assure the Commission that he had hired the best consultants, wetland specialists, and experts in Oregon. Each change in the parking area resulted in additional expenses for storm detention studies. He noted that bridges were more expensive to install than culverts, but the applicant chose a bridge to be more responsible.

**Chair Hemer** asked if the applicant would rather have the condition related to the annexation of the road or the length of time of the permit.

- **Mr. Lewis** answered the length of time on the permit. The concern about the road was if future changes to Harmony Rd would require the applicant to shoulder the cost of improvements. The applicant wanted to know all the variables, especially before requesting a bank loan. The applicant would benefit from the City standards, which were less stringent than the County's.

**Chair Hemer** called for public testimony, reminding that testimony would only be heard regarding the conditions of approval.

**Chris Runyard** spoke in opposition to the application. He believed NCUWC was misrepresented; it was opposed to a bridge because it would be destructive to what was left of Minthorn Creek. NCUWC preferred shared access of the bridge if the applicant was going to use the north end of the property. Building on the north end would require excessive fill. He reminded that the developer's environmental consultants were still hired by the applicants in support of their project. If the Commission wanted habitat and ecology in the city of Milwaukie, the Commission needed to give a wide berth for the wildlife that remained.

Staff responded to whether the County's street standards were more stringent than the City of Milwaukie's with these comments:

- Key differences included sidewalk widths and the width of the accessway into the site. The City's standards were less stringent overall.

- The City and the County had discussed this matter internally and decided that the County's greater standards would apply, since Harmony Rd was currently under the County's jurisdiction.
- Regarding changing approval criteria after an application was filed, the City's view was that the engineering standards were separate from the approval criteria. The statute limited changes to approval criteria but allowed the City to make adjustments in the engineering standards that would apply after approval, so the City disagreed with the applicant.
- The applicant also expressed concern that they would be obligated by condition to build a substantially bigger facility with the planned expansion of the road. Because the City applied the constitutional standard of proportionality, no major additional improvements would be required.

**Chair Hemer** confirmed the applicant had no rebuttal and closed the public testimony portion of the hearing. He then called for deliberation from the Commission.

The Commission noted storage units were identified as a conditional use in the Business Industrial Zone, although the use did not fit the definition of the zone, which stated "a mix of clean, employee-intensive, industrial and office uses." This contradiction should be addressed as a future work plan item.

Following discussion, the Commission consented to deny the request for the five-year extension since the Code already allowed the applicant to request an extension in the future if needed. The City's ongoing Visioning work and upcoming Comprehensive Plan update were also considerations regarding the extension request.

**Commissioner Burns** noted for the record his professional experience as a stormwater engineer, and added that he wrote the latest version of the presumptive approach calculator being used for this project. He discussed his concerns about the stormwater mitigation and his dismay with staff's response to his questions via email. He preferred denying the applicant's variance requests in order to get a better stormwater management plan, such as by reducing impervious surfaces.

**Tim Ramis, City Attorney**, clarified details related to the email exchange and that no Commissioner deliberation had occurred. He advised the Commission on how to communicate with staff and other Commissioners with regard to the official record. He suggested taking a short break to ensure all the parties could see the email communication and comment on it if needed.

**Chair Hemer** called for a brief recess and reconvened the meeting at approximately 8:12 p.m. He reported that the email discussion had been distributed to the applicant, Planning Commissioners, staff, city attorney, and each member of the audience.

**Chair Hemer** reopened the public hearing to allow further testimony and rebuttal.

**Mr. Lewis** stated that the applicant followed the guidelines of the City's municipal code and that the plans would meet the mitigation requirements of the code. Therefore, he disagreed with denying the application for more mitigation and suggested the code be adjusted if the Commission felt the requirements should be more stringent. The applicant could meet the stormwater requirements on the site and so the Commission should move forward from this topic.

**Commissioner Burns** asked if the applicant would consider alternative mitigation solutions that might cost less than constructing 3 ft of additional bridge on either side and revise the stormwater plan with options such as reduced impervious surface and additional green space.

**Mr. Lewis** noted that the applicant was not resistant to options, citing the bridge modifications that had been volunteered. He reminded that 3 ft was measuring from the high-water mark. Per the applicant's engineer, when the water was at its normal level, with the creek about 10 ft-wide, there would be 10 ft to 13 ft between the ordinary high water mark and the bridge abutments on each side of the creek.

**Chair Hemer** closed the public hearing and called for Planning Commission deliberation.

The Commission discussed wildlife passage along the creek, City and County street standards, landscaping, potential alternatives to the proposed WQR and HCA disturbance, and use of the existing shared facility. The Commission consented to leave the street improvements as conditioned, which was to apply the Clackamas County street standards.

**It was moved by Commissioner Barbur and seconded by Vice Chair Argo to approve land use applications CU-2016-001, NR-2016-001, TFR-2016-001, and VR-2016-003 for 5945 & 5965 SE Harmony Rd with the recommended findings and conditions as amended. The motion passed unanimously.**

**Chair Hemer** read the rights of appeal into the record.

**Chair Hemer** suggested that more research should be done and more protection provided regarding HCAs.

5.2 Summary: Sign Code Amendments  
Applicant: City of Milwaukie  
File: ZA-2016-003  
Staff: Vera Kolas

**Chair Hemer** opened the public hearing and read the conduct of quasi-judicial hearing format into the record. He confirmed there were no declarations from any of the Commissioners.

**Vera Kolas, Associate Planner**, cited the applicable Code criteria and presented the staff report via PowerPoint, including the two options proposed for determining the location of a freestanding sign on a frontage. At the study session on February 23, 2017, City Council was generally supportive of Option 2, but asked that the Planning Commission consider including a 150-ft minimum spacing requirement between freestanding signs if a property elected to have two freestanding signs on a frontage that exceeded 300 ft. She noted two phone calls were received by staff regarding the proposed Sign Code Amendments and that the public hearing on the amendments was scheduled at City Council on April 4, 2017. No other correspondence was received.

Staff addressed clarifying questions from the Commission, which included the following responses:

- The proposed amendments retained the definition of frontage found in (#CI-2015-002, which was the lineal street frontage area of 1 sq ft per lineal ft of street frontage with a maximum

sign size of 250 sq ft, but only one frontage, not multiple frontages, could be counted. A property with 400 sq ft would still be limited to a 250 sq ft sign.

- Limiting the size of roof signs was an aesthetic decision; the copy and content would not be affected. Concern was more about the size of signs and sign clutter in some of Milwaukie's sign districts.
- An extension could be granted for the subject sign of the 2015 Code Interpretation (#CI-2015-002). If the extension was not granted, the applicant would have to comply with the subject Sign Code Amendments if in effect at that time. No criteria existed regarding the granting of an extension; applicants received the extension request provided nothing had changed.

**Chair Hemer** closed the public hearing and called for deliberation from the Commission.

The Commission discussed the lack of public testimony, especially with regard to economic impact, the 250 sq ft maximum size limit for freestanding signs, and Option 2 with a 150-ft minimum spacing requirement.

**Vice Chair Argo** clarified that the history leading to the need for Sign Code Amendments regarded consistency on where signage was placed, not sign size.

**It was moved by Commissioner Burns and seconded by Commissioner Grau to recommend approval to City Council of legislative application ZA-2016-003 for Sign Code Amendments with the recommended findings as presented and Option 2 with a 150-ft minimum spacing requirement. The motion passed 5 to 2 with Chair Hemer and Commissioner Barbur opposed.**

**Chair Hemer** read the rights of appeal into the record.

## **6.0 Worksession Items**

- 6.1 Summary: Planning Commission Bylaws  
Staff: Denny Egner

**Denny Egner, Planning Director**, presented the proposed language updates to the Planning Commission Bylaws which would better align the role of the Planning Commission with the Commission's actual duties. He asked the Planning Commission to vote on the adoption of the proposed changes.

**It was moved by Commissioner Barbur and seconded by Commissioner Anderson to approve to recommended proposed bylaws for adoption by City Council as presented. The motion passed unanimously.**

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

- 7.1 Summary: Planning Commission's Interim Update Pages  
Staff: Denny Egner

**Denny Egner, Planning Director**, noted the update pages had been distributed for the Planning Commission's Code books. He noted City Council had changed their study session day to the second Tuesday from 5:00 pm to 7:00 pm, which conflicted with the Planning Commission 6:30 pm meetings. He clarified there was no requirement to broadcast the meeting, but it was good practice and provided better outreach to the community.



The Commission discussed alternative meeting dates and times, but expressed concern about changing meeting days from Tuesdays and starting meetings any later than 6:30 pm. Front loading the agenda with items other than public hearings and having hearings start at 7 pm when broadcasting would be available was suggested.

## 8.0 Planning Commission Discussion Items

**Mr. Egner** reported that the Visioning event was well-attended, and good ideas were presented. The Vision Advisory Committee would meet tomorrow night to review the feedback and compile common ideas and identify which could be broader actions that might implement other ideas.

**Chair Hemer** said he was really proud of the group and how the non-English speaking participants were accommodated with interpreters so they could participate. This had been an issue at the initial event. It was great to see people that did not necessarily speak English included and involved in the community.

- He reported that the Milwaukie Historical Society was sponsoring City Council's proclamation of March as Women's History Month on March 7<sup>th</sup> at 6:00 pm. He invited everyone attend the Council meeting wearing red to show support for local women, noting the importance of celebrating great Milwaukie women like Annie Ross and Florence Ledding. The Milwaukie Historical Society had a book coming out titled, "A Perspective on Women's History from 1950 to Present", and would be hosting an event in June.

## 9.0 Forecast for Future Meetings:

- |                |                                   |
|----------------|-----------------------------------|
| March 14, 2017 | 1. Worksession: Variance Training |
| March 28, 2017 | 1. TBD                            |

**Mr. Egner** suggested cancelling the March 14<sup>th</sup> meeting as two Commissioners had scheduling conflicts. The Commission agreed to cancel the meeting.

Meeting adjourned at approximately 9:48 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



\_\_\_\_\_  
Greg Hemer, Chair