

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, MAY 23, 2017
6:30 PM**

COMMISSIONERS PRESENT

Greg Hemer, Chair
John Burns
Scott Jones
Kim Travis

STAFF PRESENT

Denny Egner, Planning Director
Brett Kelper, Associate Planner
Alex Roller, Engineering Tech II
Tim Ramis, City Attorney

COMMISSIONERS ABSENT

Adam Argo, Vice Chair
Shannah Anderson
Sherry Grau

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 March 28, 2017

It was moved by Commissioner Burns and seconded by Commissioner Jones to approve the Planning Commission minutes for March 28, 2017 as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, reported City Council would end its study sessions at 6:15 pm to accommodate televising the Planning Commission meetings at 6:30 pm. He noted the Commission's worksession on the North Milwaukie Industrial Area Plan this Thursday.

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: Rusk Rd Planned Development
Applicant/Owner: Brownstone Development, Inc. / Turning Point Church
Address: 13333 SE Rusk Rd
File: PD-2017-01 (master file)
Staff: Brett Kelper

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

Chair Hemer declared a potential conflict of interest in that he had worked with Ernie Green of Brownstone Development at Milwaukie Lumber five or six years ago. He did not feel he had a true conflict of interest, and could be impartial. No other conflicts of interest or ex parte contacts were declared.

Brett Kelder, Associate Planner, presented the staff report and reviewed key elements of the project and the requested variances. He noted the differences between the original proposal and the alternative plan submitted last week in response to suggestions and concerns from staff and public comments received. He addressed key issues as follows:

- The Habitat Conservation Area (HCA) designation would be corrected to include the entire White Oak grove, which the alternative plan accommodated. The applicant's topographic survey of the site revealed a greater floodplain area than shown on the FEMA map.
- Stormwater issues could be addressed onsite and traffic impacts would be addressed through the conditions of approval. Both site plans presented impacts to the natural resource area, which the applicant argued was necessary to provide more needed housing for the city. The applicant needed to show that alternatives with fewer impacts to the natural resources had been explored.
- The maximum base density allowed on the site was 80 units. The Commission would need to determine if the proposed plan for 92 units met the standard for "outstanding design" and "exceptional amenities" to warrant the applicant's requested 15% density bonus increase allowed through the planned development process.
- Staff believed the alternative plan was an improvement, but more information was needed for it to be thoroughly vetted and to better assess the impacts. The Commission was asked to identify any issues, questions, or concerns for staff to address at the continued hearing.

Staff addressed questions from the Commission with these key comments:

- Oregon Department of Transportation (ODOT) was aware of the intersection issues at Hwy 224 and Rusk Rd, but it was not a priority project. ODOT did not allow adjustments to signal times to mitigate traffic impacts. The increased traffic from the proposed development may increase the intersection's priority for ODOT, but a condition to add a right turn lane could help mitigate the impacts.
- The Planned Development designation was essentially a zone change that established the program and rules governing development on the site. The scope of the Commission's review included not only the site itself, but also the discretionary categories of "outstanding design" and "extraordinary amenities"; these features were intended to allow for increased density.
- Staff would have to research any requirements or liability related to previous fill on the site.
- Development review often required the balancing of conflicting policies, like affordable housing and the desire to protect habitat or the environment, as exemplified in this project. The Housing Needs Analysis found the City needed housing in this price range, but whether the project was too much development for the site was a valid question.
 - **Tim Ramis, City Attorney**, urged deciding the case based on the actual criteria before the Commission rather than a general discussion of policy. The key issue with respect to density was whether the "extraordinary design" features justified the density increase. He confirmed the design feature could be the extra affordable housing provided by the project.
- Staff confirmed that the proposed development would increase traffic on Rusk Rd during peak hours by a small percentage.

- If affordability of the units was part of why the development merited a density bonus, the Commission could recommend a condition for all or a certain percentage of the units be sold at a certain percentage of median income, adjusted over time, for example.
 - **Mr. Ramis** confirmed that if the applicant claimed a feature was a basis for approval, the feature became a de facto condition. He suggested asking the applicant to craft a condition that would be usable.
- For a Planned Development, the Commission could recommend shifting some of the development out of the floodplain into a more vertical development and using a mix of housing types, including multifamily and rowhouses, that would not ordinarily be allowed. During the preapplication process, staff suggested that the applicant look at alternative housing options.

Mr. Kelper noted comments received since the meeting materials were posted. He distributed a letter from Oregon Department of Fish & Wildlife (ODFW) received before the meeting, and noted he would research what “Oregon White Oak habitat are identified as strategy or priority habitat” as written in the letter meant.

Chair Hemer called for the applicant’s presentation.

Serah Breakstone and Scott Emmens, DOWL, presented the applicant’s proposal, and reviewed the features and benefits of the revised site plan.

- Eight of the 46 Oregon white oaks had to be removed to accommodate the street frontage improvements along Kellogg Creek Drive as required by the City. With the revised site plan, all the remaining trees would be retained.
- The floodplain mitigation proposed in the original site plan provided approximately 600 cu ft more of storage space than currently existed. The revised site plan would have much less impact to the floodplain and require less mitigation.

Jerry Johnson, Johnson Economics, stated he authored the City of Milwaukie’s Housing Needs Analysis (HNA) and had reviewed the applicant’s site plan for consistency with the HNA findings. He noted that with more people working in Milwaukie than living in Milwaukie, the area had an inherent demand for housing. The proposed attached housing development would provide more affordable housing to better match demand. He addressed Commissioner questions as follows:

- Guidelines for determining affordability of owner-occupied units were not available. Instituting a program to require affordable units was difficult given a need to clearly define “affordable,” administering the program over time, and shared appreciation mortgage issues. Ultimately, product pricing becomes what the market would bear. Attached housing was less desirable than detached housing, but was more affordable.
- His finding was that about 68% of the housing demand in Milwaukie was for housing priced at \$380,000 and below.
- Providing 92 units at a lower price for affordable housing for moderate incomes was better than 80 units at a higher price, due to the lower land cost per lot and because the developer would have more flexibility to lower the price or to make more margin if the price stayed the same.
- The HNA calculation included 80 units on the R-3 portion of the property. Less than one-third of the city’s housing capacity was on vacant property, and most was assumed as infill redevelopment of other properties.

Zach Horowitz, Kittleson & Associates, confirmed the traffic impact study had a problem with

respect to the right-turn lane at the Rusk Road/Hwy 224 intersection. However, regardless of how the northbound approach on Rusk Rd was configured, it would meet ODOT's capacity standard under both AM and PM peak hour conditions.

- Kittleson collected additional traffic data at the Hwy 224/Webster Rd intersection. He described the results of the study, noting an 8% increase in traffic. This count was done while school was in session, unlike the prior traffic study. He was confident the 6-8% increase was reflective of typical traffic conditions at the site.
- Congestion levels would depend on which direction one was traveling. For example, westbound travelers on Hwy 224 during the morning peak hour experienced significantly more delay than eastbound traffic.
- The development would increase traffic on Rusk Rd, both north and southbound traffic south of Hwy 224, by approximately 10% during the AM peak hour and approximately 6% during the PM peak hour.
- He confirmed the traffic increase rates included a yearly inflation assumption of a .61% increase as identified in the City's Transportation System Plan (TSP).

Ms. Breakstone continued the applicant's presentation, noting several concerns about the conditions of approval and requested revisions as follows:

- Reevaluate or remove the condition requiring a turn lane on Rusk Rd at Hwy 224. Based on the Kittleson analysis and review by the City and DKS, the applicant understood there was some disagreement about whether the turn lane was warranted.
- Condition 2.C.f required a public easement on the soft surface trail through the site. The trail was specifically designed to minimize impacts to the natural area with its pervious surface and 30-in width. While the applicant did not object to making it a public easement, the trail design did not meet the City's standards for a public pedestrian connection.
 - The applicant would be willing to discuss North Clackamas Parks & Recreation District (NCPRD) taking ownership or maintaining the trail and adjacent habitat longterm as opposed to the HOA doing so, as had been discussed.
 - She confirmed the trail was one of the outstanding and exceptional design amenities of the planned development. There was no intention to close off the path to the public. The question was whether making the trail a public easement would change the design.
- **Mr. Emmens** commented:
 - He had received clarification about the necessary FEMA map revisions discussed in Condition 4.A.
 - Condition 6.A discussed a six-month expiration date of the approval and a potential Planning Commission review to consider whether an approval extension was in the public interest. With an October approval, six months was a tight deadline to begin construction. Since the other approvals were good for two years, it seemed reasonable to remove the condition or revise the deadline to match the two-year expiration period for the other applications.

The applicant's team responded to questions from the Commission.

- **Mr. Emmens** described how the stormwater runoff from all impervious surfaces, including rooftops, roadways, and sidewalks, would be collected and delivered to the biofiltration ponds, and then discharged into the wetlands.
- **Mr. Emmens** preferred the revised site plan because of its ability to save the white oaks and provide visual access to the wetlands and natural area.
- The range of unit values had been redistributed but not changed with the revised site plan because while the number of units backing up to the open space was reduced, the natural

space was also opened up to the central units.

- **Ms. Breakstone** explained the developer retained the 92 units in the revised plan because that number made the project economically feasible. Although the team looked at scenarios to reduce the number of lots, the revised site plan balanced all the different interests without losing additional units.
- Commissioners expressed concerns about whether the proposal met the character of the neighborhood and community. Illustrations showing how the various design elements interacted within the site and the context of the surrounding neighborhoods were requested. Fewer units would provide more break-up between the masses that might possibly integrate better with the community.
 - **Ms. Breakstone** acknowledged the development was denser than the surrounding neighborhood; however, the site was well-buffered from the adjacent residential neighborhoods by the natural area buffers, the church, and the roads. She believed the site's design and its natural location addressed the impacts to the neighborhood's character well.
- **Mr. Emmens** clarified that site would be constructed in one phase, which would eliminate the need to construct a temporary road for the church, although construction of the homes could be spread out over two seasons.
- **Mr. Emmens** said that stormwater elements like rain gardens or pervious pavement were considered "outstanding" and "exceptional" and went beyond the minimum requirements.
 - **Mr. Emmens** explained the stormwater facilities were modeled after the City of Portland requirements, which incorporated the latest treatment technology, but would remain outside the flood elevations. He confirmed pervious pavement was an option.
- Regarding ODFW concern about the development's impact on the critical salmon and steelhead spawning habitat in Mt Scott Creek, the applicant's water resource engineer followed the Standard Local Operating Procedures for Endangered Species (SLOPES)) V process and all the criteria set forth by the National Marine and Fisheries Service.
- **Ms. Breakstone** was unsure whether consideration had been given to green building design elements. Doing so would potentially impact the price point to the extent that the homes would become a different product.

Chair Hemer called for public testimony.

In Support – None

In Opposition

Dorothea Van Bockel, 13391 SE Ruscliff Ln, stated she was not opposed to the development but had a number of concerns. She valued affordable housing in general, but encouraged the Commission to continue asking questions about design, the homes' quality in construction, access, and what was truly affordable. She also noted flooding and traffic issues, given the limited capacity of the floodplain and the school bus traffic throughout the day.

Allison Lutt-Markwart, 13430 SE Ruscliff Ln, expressed concern about the limited space for queuing when turning right off Ruscliff Ln to cross the highway, the impact on the flood zones, and the existing traffic congestion that already existed due to multiple activities at the church, athletic fields, dog park, and the Milwaukie Center.

Vince Alvarez, 12671 SE Where Else Ln, Chair, Lake Road Neighborhood District Association (NDA). He liked the revised site plan but was concerned about flooding issues. He

said impacting the flood zones needed to be a priority as increased development in the area would only make it worse. Traffic issues were also a concern for the NDA, so it was important to consider and possibly do more traffic studies.

Steve Tandy, 13330 SE Rusk Rd, expressed concern about the impact of additional traffic on the existing traffic from the three churches, athletic fields, and school buses traveling to Rusk Rd each day. He was concerned about emergency vehicle accessibility as well as the impact of the development given the inadequate Rusk Rd/Hwy 224 intersection. He believed in affordable housing, but did not see \$400,000 as affordable housing.

Steve Sterhan, 14000 SE Rusk Rd, noted that Rusk Rd had been used as a bypass since ODOT's updates on I-205. He had talked to Troy Johnson at Clackamas County about how narrow Rusk Rd was, noting he and his wife had witnessed more than 20 accidents in eight years at the "Deadman's Corner" intersection. With an additional 200 cars on the road a traffic-related death was inevitable. He confirmed he believed in affordable housing.

Dick Shook, 5418 SE Casa Del Rey Dr, read a statement expressing concerns as a 40-year resident on Mt Scott Creek about the impacts of additional impervious surface on Mt Scott and Camas Creeks, wetlands, and local springs, as well as increased flooding. With additional housing, parks must be maintained to provide outdoor recreation. The subject area should have been and still could be added to NCPRD. He felt the proposed number of units far exceeded the number that could be accommodated.

Lois Herring, 8945 SE 29th Ave, discussed her concerns with the November traffic study, and asked that it be redone when the nearby schools were in session. The applicant assumed townhouses would generate half the traffic of single-family detached housing, but she believed the proposed units would have at least one to two cars each. No public transit was available unless one crossed Rusk Rd, which was not pedestrian-friendly. The number of units should be reduced.

Judy Sherley, 5804 SE Kellogg Creek Dr, agreed NCPRD should take over the wetlands. She discussed traffic issues for Kellogg Creek Dr residents. She urged the Commission to require new traffic studies, both when school was in session and on a summer weekend, and asked for traffic signal improvements to Kellogg Creek Dr and at the Rusk Rd/Hwy 224 intersection. She believed the proposal should be reduce to 50 to 80 units.

Joseph Edge, Director, Oak Grove Community Council, stated the Council was the Clackamas County Community Planning Organization (CPO) representing the unincorporated residents across from the proposed development. The existing traffic study understated the actual traffic impacts considering the context of the site, transportation alternatives available, and destinations accessible through alternate modes. An alternative traffic impact study should be done that treated the townhouse units as single-family homes, or at least assign one vehicle per dwelling unit, given the proposed price point could likely require vehicle commuting. He also requested a recalculation of the stormwater facility needs based on the site in its predevelopment.

- The CPO had understood that development was technically feasible in the R-3 zone, but they were not convinced the proposal met the standard of "outstanding design". The CPO wanted to see some creative alternative plans in accordance with the variance request, including multifamily housing, which would be more affordable as workforce housing.

Erica Toussaint, 12399 SE Oatfield Rd, agreed with the concerns expressed about the white oaks and traffic, noting nothing was discussed about the traffic impacts on Aldercrest and Oatfield Rds. She was concerned about fill, noting flooding occurred on her property after the 1995 fill on this property. She did not believe the proposed homes addressed the need for affordable housing in Milwaukie. With one access road, residents of the proposed development would have worse traffic issues than current residents. She was concerned about the impacts on North Clackamas Park, adding the City needed to consider the use of nearby places. After construction was completed, she hoped there was some guarantee that NCPRD would take over the wetlands and trails instead of the HOA.

Andrew Collins-Anderson, Executive Director, North Clackamas Urban Watershed Council (NCUWC), 2416 SE Lake Rd, noted the subject property represented some of the last remaining quality wetlands for Mt Scott Creek, which had been highly developed. NCUWC had worked with Turning Point Church to do site restoration work through the Streamside Stewards Program funded through the Oregon Watershed Enhancement Board (OWEB) and Metro. It did not believe the applicant's proposed mitigation was adequate, as it seemed redundant. Management of these natural areas was critical, and HOAs did not have the necessary resources. He asked that the applicant be required to provide alternatives that did not impact the irreplaceable HCA or water quality resources (WQRs).

Laura Hickman, 13786 SE Briarfield Ct, noted Alder Creek Middle School let out at 4:05 pm, which contributed to the traffic impacts. She discussed concerns about bicycle and pedestrian safety, noting the North Clackamas School District's assessment of Rusk Rd's walkability as the most hazardous walking route in the Alder Creek area. She urged the Commission to look at the existing conditions. She confirmed she believed in affordable housing, but not in moving families into an already hazardous walking and biking situation.

Chris Runyard, 2325 NE 32nd Ct, Portland, explained he did habitat restoration on streams and wetlands in the region, and worked on this property for NCUWC. He concurred with the ODFW and opposed cutting down any of the old growth Oregon white oaks, which were irreplaceable and sat on the remnants of an old wetland forest. There should be no impact to the wetland, HCA, WQR, or the lowlands. The applicant was aggressive about retaining 92 units, but 70 units could all be outside of the natural resource. He discussed the flooding issues. He noted some of the applicant's proposed mitigation had already been done. He believed the lowlands should be managed by NCPRD; HOAs did not have the expertise to do it right.

Greg Baartz-Bowman, 10677 SE 28th Ave, Milwaukie, acknowledged the need for housing but argued it should not be at the expense of the wetlands and old growth Oregon white oaks. He noted that Milwaukie citizens had chosen to protect old growth oaks in the recent past, and added 97% of old growth Oregon white oaks had been cut down in the valley over the last 150 years. The community wanted affordable housing, the Oregon white oaks, and the wetlands

Chair Hemer noted all the public testimony cards that were submitted would be retained and public testimony would continue at the next meeting.

It was moved by Commissioner Travis and seconded by Commissioner Burns to continue the public hearing for PD-2017-001 for 13333 SE Rusk Rd to a date certain of May 25, 2017. The motion passed unanimously.

6.0 Worksession Items - None

7.0 Planning Department Other Business/Updates - None

8.0 Planning Commission Committee Updates and Discussion Items – This is an opportunity for comment or discussion for items not on the agenda.

9.0 Forecast for Future Meetings:

- May 25, 2017 1. Special Session: North Milwaukie Industrial Area Framework Plan and Implementation Strategy
- June 23, 2017 1. Public Hearing: PD-2017-002 13333 SE Rusk Rd- *continued tentative*
2. Public Hearing: DEV-2017-006/VR-2017-002 29th Ave Triplex
3. Public Hearing: S-2017-002 4217 SE Railroad Ave
4. Public Hearing: VR-2017-004 11630 SE 27th Ave ADU

Meeting adjourned at approximately 10:06 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



Greg Hemer, Chair