

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, June 13, 2017
6:30 PM**

COMMISSIONERS PRESENT

Greg Hemer, Chair
Adam Argo, Vice Chair
John Burns
Sherry Grau
Scott Jones
Kim Travis

STAFF PRESENT

David Levitan, Senior Planner
Brett Kelter, Associate Planner
Vera Koliass, Associate Planner
Mary Heberling, Assistant Planner
Keith Liden, Temporary Planner
Alex Roller, Engineering Technician II
Tim Ramis, City Attorney

COMMISSIONERS ABSENT

Shannah Anderson

1.0 Call to Order – Procedural Matters*

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

Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

2.0 Planning Commission Minutes

2.1 April 11, 2017

It was moved by Commissioner Burns and seconded by Commissioner Jones to approve April 11, 2017 Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

David Levitan, Senior Planner, noted the applicant for PD-2017-001, scheduled for June 27th, requested the hearing be moved to July 25, 2017 at the earliest.

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: ADU Variance
Applicant: Sarah Roller
Address: 11630 SE 27th Ave
File: VR-2017-004, ADU-2017-001
Staff: Keith Liden

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

Keith Liden, Temporary Planner, presented the staff report and reviewed key elements of the project, the requested variance, and how the application met the approval criteria with conditions.

Chair Hemer called for the applicant's presentation.

Sarah Roller, 2679 SE Davies Ct, Milwaukie, stated the front portion of the garage served as office space for her father's business, and the ADU would be an apartment for her mother. The variance was for an additional 80 sq ft which was unavoidable as the footprint of the existing garage was 880 sq ft. The applicant would comply with the requirement to improve the driveway apron and sidewalk although she felt it seemed like a reach for only 80 sq ft.

Chair Hemer confirmed there was no public comment and closed the public testimony portion of the hearing.

It was moved by Commissioner Burns and seconded by Commissioner Travis to approve land use applications VR-2017-004, ADU-2017-001 for 11630 SE 27th Ave with the recommended findings and conditions as presented. The motion passed unanimously.

5.2 Summary: 29th Ave Triplex
Applicant: Casey Colton, Stone Creek Building
Address: Tax Lot 11E36BA01101 on 29th Ave
File: DEV-2017-006, VR-2017-002
Staff: Mary Heberling

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

Mary Heberling, Assistant Planner, presented the staff report, reviewing key elements of the proposal and the requested variance related to the driveway and the two options explored. She addressed clarifying questions regarding the driveway designs,

Chair Hemer confirmed there was no presentation from the applicant and no public comment. He closed the public testimony portion of the hearing.

The Commission noted the driveway proposal was a creative way to address space issues and the variance was reasonable.

It was moved by Commissioner Grau and seconded by Commissioner Travis to approve land use applications DEV-2017-006 and VR-2017-002 for Tax Lot 11E36BA01101 on 29th Ave with the recommended findings and conditions as presented. The motion passed unanimously.

5.3 Summary: Eagle & 21st Development
Applicant: Bradley Smith
Address: 2024/2026 SE Eagle St, 11923 SE 21st Ave
File: WG-2017-002, VR-2017-005
Staff: Brett Kelter

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

Brett Kelder, Associate Planner, presented the staff report, describing the site's history and the project and requested variance. He and City Engineering Technician II, Alex Roller, addressed clarifying questions from the Commission with these key responses:

- There was some flexibility to push the road more toward the center of the right-of-way (ROW) to preserve trees in the ROW.
- There was no intention to improve the gravel path on 21st Ave to Bluebird St. Getting a formal agreement with the railroad for major ROW improvements could be difficult.
 - Signage indicating a dead-end road could be posted to deter thru-traffic and minimize confusion about traffic circulation in the neighborhood. Installing a barricade would require a turnaround for the fire department.
- The design of the accessway incorporated ADA facilities into the roadway. The neighborhood preferred not to have sidewalks and other pedestrian improvements, which were not warranted due to the low traffic volume. The proposed street design would be approved by the Engineering Director.
- Stormwater would be managed on the north side of the ROW.

Chair Hemer called for the applicant's presentation.

Brad Smith, 13621 SE Fair Oaks Dr, reviewed the history of the property. The residential units were for him and his wife, who were downsizing, as well as for their daughter and granddaughter.

Chair Hemer confirmed there was no public comment and closed the public hearing.

Discussion from Commission noted no trees would be lost, the project would not be visible in the Willamette Greenway either from or to the river, and a dead-end sign was adequate to deter traffic. Streets in the Island Station Neighborhood were treated as greenway streets with bicyclists and pedestrians having the right of way, and the NDA had no issues with the proposal.

It was moved by Commissioner Travis and seconded by Vice Chair Argo to approve land use applications WG-2017-002, VR-2017-005 for 2024/2026 SE Eagle St, 11923 SE 21st Ave with the recommended findings and conditions as amended. The motion passed unanimously.

Chair Hemer called for a brief recess, reconvening the meeting at approximately 7:43 pm.

- 5.4 Summary: Railroad Ave Subdivision
Applicant/Owner: Simon Lofts, Sustainable Infill Development/Francar LLC
Address: 4217/4219 SE Railroad Ave
File: S-2017-002, VR-2017-001, VR-2017-006, ZA-2017-002, CPA-2017-001
Staff: Vera Koliass

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

Chair Hemer declared that he served on the Milwaukie Historical Society Board as a volunteer and had testified on behalf of the Historical Society in support of the demolition of the historic

home. He assured his testimony would not be affected in any way. No other conflicts of interest or ex parte contacts were declared.

Vera Koliass, Associate Planner, presented the staff report, and reviewed the history of the site and key components of the project. She reviewed three key issues regarding the proposal, and staff's recommendations regarding alternatives to the requested variances regarding Lot 13, accessways, and new street intersection spacing.

- She corrected a typo and noted the required spacing for the new intersection between 42nd Ave and 43rd Ave was ~~530~~ **300** ft. The applicant proposal was 126 ft.
- Staff submitted a slightly revised set of conditions that reflected the recommended changes. She highlighted the comments received and noted that Condition 6.E reflected the recommended full 46-ft ROW.

Staff addressed questions from the Commission with these key comments:

- Staff recommended Lot 13 be eliminated because the lot was crammed onto a maximized site plan that created rear lot line issues for Lots 16 and 17, and required another access easement across Lot 14.
- Although rezoning to R-5 would allow for six additional lots on the property, adding lots needed to balance against good design and other Code requirements, including access and lot layout. Eliminating Lot 13 would result in a better design and the development still had more lots than allowed under the current zoning. Staff did not redesign the southern portion, but eliminating Lot 13 would allow Lots 16 and 17 to be squared off.

The applicant agreed with staff's recommendation to have a shared access between Lots 2 and 3 from the new street with Lot 1 being the only lot to access off 42nd Ave. However, Lot 1 must have a turnaround because backing onto 42nd Ave was prohibited.

- Improvements were required on 42nd Ave regardless of access because a subdivision had a larger proportionality requirement; therefore, all frontages must be improved.
- Staff's required loop design met other development standards for connectivity and the future development of adjacent parcels, which must be able to access the ROW.
- The current design reflects the City's requirement that no driveways may access onto Railroad Ave; the new roads were spaced evenly between 42nd Ave and 45th Ave. The 45 ft intersection/driveway spacing requirement applied to the construction of 43rd Ave. Previously, Lots 1 and 2 accessed onto 43rd Ave too close to Railroad Ave. There was space to accommodate shared driveway between Lots 2 and 3, so the proposed plan could meet the requirement.
- The findings and conditions addressed requirements the revised plan needed to meet. With the Commission's approval of the preliminary plat, the final plat would need to meet the revised standards and include a narrative of how it differed from the original.
- The pedestrian path was a multi-use path, and the extension of the path along north side of Railroad Ave was in the City's Transportation System Plan (TSP).
- No recent examples existed of the rectangular lot requirement reducing the amount of developable acreage. The Planning Director preferred more regularly shaped lots as required in Title 17 and to not have an access easement across a property. Whether the application met the code's criteria "to the extent practicable" was a discretionary decision for the Commission. The pros and cons of the layout had to be weighed against the number of lots.
- No turnaround was required on Lot 13 because the requirement was only for driveways onto arterials and collectors, not interior streets.
- The primary issues with Lot 13 were that Lot 13 required an access easement and an additional variance for the 10-ft rear yard setback. The irregularity of Lots 1, 2, 10, and 11

were tied directly to the loop road, but the lots met all of the other development standards and did not require any setback variances.

Chair Hemer called for the applicant's testimony.

Mark Dane, Mark Dane Planning, 12725 SW Glen Haven Ave, Portland, OR 97225

explained that removing Lot 13 did not create rectangular lots and would also create double frontage lots, requiring another variance.

- He commended staff for the internal road solution presented. He believed the loop street was key in allowing availability of services.
- He reviewed how the proposal met the criteria for the Comprehensive Plan Map and Text Amendments, as well as the Zoning Map Amendment. .
- The driveway/intersection spacing variance was requested to maximize circulation.
- He reviewed the requested variances with these key comments:
 - The variances requested for the access spacing and double frontage on Lots 18 and 19 were a result of the parcel shape.
 - The variance requested for Lots 1, 2, 13 was to allow alternate accesses as access on Railroad Ave was prohibited. The rear yard setback variances requested for Lots 13 and 19 would allow for the lots to be more buildable.
- He disagreed with the elimination of Lot 13 and believed staff's reasoning was against the policies, objectives, and goals of the Comprehensive Plan and zoning.
- The applicant sought approval with the amended conditions as proposed.

Mr. Dane addressed clarifying questions from the Commission with these key comments:

- As shown in the new revised plan, the applicant agreed with removing access for Lot 2 to over Lot 3 from 42nd Ave. Changing the home's orientation and having one access made more sense.
- He deferred to the builder regarding the median sale price of the homes, but noted house prices would change by the time the homes went in. More houses were needed now and they could not be built fast enough.
- Regarding the Hector Campbell NDA requests, the location of the historic house with the family name would be signed, the subdivision's name reflected the family name, and material from the historic home would be used for signage at the multiuse path.
 - The applicant had no objection to using two or three types of deciduous trees, which would be included in the landscaping plan. Materials used for the homes themselves would be left to the builder's discretion.

Mike Harn, Owner, Anlon Construction, 18255 S Charlie Ct, Oregon City, addressed questions from the Commission. The median cost of the homes would be in the low \$400,000s. Eliminating one lot would increase the median cost to around \$475,000. There would be a variety of home shapes and sizes as the building envelopes were rather unique. Much depended on the market and the desire for unique homes.

Commissioner Burns noted the stormwater assumptions for the predeveloped conditions in the submittal reflected what was on the site today, but the City's standard was predeveloped or Lewis and Clark conditions.

- **Mr. Dane** responded the applicant's team would take another look.

Chair Hemer called for public testimony.

In Support

David Aschenbrenner, Chair, Hector Campbell NDA, 11505 SE Home Ave, Milwaukie, OR stated the neighborhood supported the project. The applicant had worked with the NDA to resolve issues with the two accesses on 42nd Ave. He was reassured by engineering staff that 42nd Ave would be rebuilt and the intersection improved. The NDA had no issues with Lot 13 and the access through Lot 14 or the double lot frontages.

Kay Endo, 4423 SE Railroad Ave, Milwaukie, shared the history of his family and their land, and stated he fully supported the project.

In Opposition

Beth Lacey Snow, 4404 SE Franklin St, Milwaukie, shared the history of the area and her family home. She opposed the project because she would lose the privacy the field to the southeast provided and the shade the trees provided. If approved, she wanted the mature trees preserved, adding they would also provide shade for the new homes. She was also concerned about erosion behind her house and asked if there was a plan for a retaining wall.

Chair Hemer called for comments from staff.

Ms. Kolias noted the 20 ft-wide landscape buffer that included the existing trees along the perimeter of the project, so some of the noted trees might fall into that buffer and remain on the property.

Mr. Levitan responded staff supported the zoning change and Comprehensive Plan amendment for the additional density, but staff did not believe the proposed site design met the requirements and findings, which would eliminate Lot 13. While that would create a triangle-shaped lot, it would also result in three fewer irregularly-shaped lots.

- The Housing Needs Analysis (HNA) showed a need for 1,150 units over the next 20 years, but also that the City had more than double that capacity to accommodate that growth. The HNA supported the rezoning to allow for anywhere from 14 to 19 units, but he did not believe it supported the need to maximize out to the full 19 units.

Chair Hemer called for applicant's rebuttal.

Mr. Dane noted the applicant changed the plan after a concern was raised at the neighborhood meeting about the trees and apologized that was not more clearly shown. He believed he had made a strong argument for keeping Lot 13 and shared his inclination to appeal the decision, if not approved.

Ms. Kolias confirmed the findings and conditions of approval. Staff recommended that Lot 2 either be eliminated or get its access with Lot 3 from the proposed 43rd Ave, and that Lot 1 be the only lot accessing 42nd Ave.

Chair Hemer closed the public hearing.

Planning Commission Deliberation

The Commission agreed the zone change was warranted given that 40% of the City was R-7 zone and only 10% was R-5. The NDA did not have an issue with the zoning change and R-5 zoning met the City's goals and policies.

During deliberations, the Commission discussed and amended the following conditions of approval regarding the requested variances with additional comments as noted:

- Retain Lot 2 and recommend Condition D.2.b to allow access through Lot 3.
- Allow variances to the double frontage lots on Lots 18 and 19.
- Allow the variance to the minimum street spacing requirement between 42nd Ave and 43rd Ave off Railroad Ave.
- Allow variances to the minimum rear yard setbacks for Lots 19 and 13. (Condition 1.B)
- Retain Lot 13 and allow the variance allowing Lot 13 to use the access easement with Lot 14.
- Eliminate Condition 2.
- Add Condition 1.D. to allow a variance to allow alternate access for Lots 2, 13, and 14.
- Eliminate Condition 3.D.1 and Condition 2.A.

Tim Ramis, City Attorney, suggested two motions be considered, one for the recommendation for the Comprehensive Plan and Zoning amendments, and the other to address the specific development plan.

It was moved by Commissioner Travis and seconded by Vice Chair Argo to recommend approval to City Council of ZA-2017-002 and CPA-2017-001 4217/4219 SE Railroad Ave. The motion passed unanimously.

It was moved by Commissioner Grau and seconded by Commissioner Jones to approve land use applications S-2017-002, VR-2017-001, and VR-2017-006, for 4217/4219 SE Railroad Ave with the recommended findings and conditions as amended. The motion passed unanimously.

Chair Hemer read the rules of appeal into the record.

6.0 Worksession Items

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Discussion Items

Chair Hemer announced that on July 29th, the Milwaukie Pioneer Cemetery would unveil five new headstones purchased by the U.S. Veteran's Administration for previously unmarked graves. More information was also available on the June Veterans Facebook Page.

9.0 Forecast for Future Meetings:

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| June 27, 2017 | 1. Public Hearing: PD-2017-001 13333 SE Rusk Rd continued from 5/25/17 |
| | 2. Worksession: NMIA Framework Plan and Implementation Strategy |
| July 11, 2017 | 1. Public Hearing: S-2017-002 4217/4219 SE Railroad Ave continue tentative |

2. Worksession: Vision/Comprehensive Plan Update

Chair Hemer asked staff to consider presenting the Vision/Comprehensive Plan Update on June 27th, so the July 11th meeting could be cancelled.

Mr. Levitan said if staff was unable to present to the Commission on June 27th, the worksession could be pushed to July 25th. He confirmed the Commission preferred to focus on the Comprehensive Plan portion rather than the Vision Action Plan, but wanted to be updated on the status of the Vision Plan elements.

Meeting adjourned at approximately 9:49 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



Greg Hemer, Chair