

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, AUGUST 22, 2017
6:30 PM**

COMMISSIONERS PRESENT

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

STAFF PRESENT

Denny Egner, Planning Director
Vera Kolas, Associate Planner
Mary Heberling, Assistant Planner
Dan Olsen, City Attorney

COMMISSIONERS ABSENT

Kim Travis

1.0 Call to Order – Procedural Matters*

Chair Hemer called the meeting to order at 6:42 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 June 13, 2017

Commissioner moved and Commissioner moved to approve the June 13, 2017 Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, noted that the final approval of the Community Vision as part of the Comprehensive Plan Update project was scheduled for the September 5th City Council meeting, as well as the Kellogg Creek/Rusk Rd Planned Development public hearing.

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: Tutoring School
Applicant/Owner: Tamara Jata, Blueberry House Tutoring LLC
Address: 10670 SE 52nd Ave
File: CSU-2017-004
Staff: Vera Kolas

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

Chair Hemer reported an ex parte contact as he was vice chair of the Linwood Neighborhood District Association (NDA) and had a conversation about land use with the land use committee Chair Jesse Tremblay, but did not discuss this project.

Vera Koliass, Associate Planner, presented the staff report via PowerPoint and reviewed the proposal to run a religious-based educational tutoring school that would share space and operate out of the Living Water Community Fellowship Church. She noted the enrollment, staffing, and schedule of the school. She reviewed the approval criteria for a community service use regarding parking, location and use, neighborhood compatibility, and public benefits.

Ms. Koliass reviewed the compatibility criterion and said that the engineering review concluded that the increased trip generation was not significant. Hours of use did not conflict with the church use hours. Staff recommended approval with the recommended findings and conditions with an additional condition for bicycle parking.

Ms. Koliass answered questions from the Commission:

- Regarding the condition for frontage improvements, through the proportionality analysis and with the increased trip generation, the Engineering Director found those improvements were required.
- Any new use in addition to an existing community service use required Type III review.

Chair Hemer called for the applicant representative testimony.

Sonja Souder, 665 Zepher Way, Molalla OR 97038, stated she was the property manager and deaconess of the church. She noted the partnership between the church and Blueberry Tutoring. The church wanted the building to be appropriate for the school and noted the limited income for greater modifications.

Chair Hemer closed public testimony.

Commissioner Jones moved and Commissioner Burns seconded to approve land use application CSU-2017-004 with the findings and conditions as presented. The motion passed unanimously.

5.2 Summary: Summary/File(s): Logus Rd Subdivision
Applicant/Owner: Julian Illingworth
Address: 4543 SE Logus Rd
File(s): S-2016-002, VR-2016-010, PLA-2016-002
Staff: Mary Heberling (*continued from July 25, 2017*)

Chair Hemer called the hearing to order and read the conduct of continued quasi-judicial hearing format into the record and noted the focus of the continued hearing was on the right-of-way variance.

Commissioner Burns declared an ex parte contact, and stated Mr. Seitz, an adjacent property owner to the subject property, approached him after the previous hearing regarding redeveloping Mr. Seitz's property. Commissioner Burns told Mr. Seitz that it was inappropriate for a Commissioner to speak about a potential application.

Mary Heberling, Assistant Planner, presented the staff report via PowerPoint. She reviewed the proposal, the conceptual site plan, and the Melody Ln improved right-of-way (ROW) approved at the previous hearing. The focus of this hearing was regarding the 15 ft ROW dedication for a future connection between Logus Rd and Melody Ln.

Ms. Heberling stated the reason for the dedication was that Melody Ln was at its 400-ft length limit for a dead-end street and required a connection for this subdivision to occur. She added that Commissioner Burns had questioned if the dedication could act as a formal pedestrian pathway before the actual street construction occurred when the lot to the east developed.

Ms. Heberling presented new information and options for the Commission to consider.

- A previously-noted benefit for the formal pedestrian pathway was access by neighborhood children to Lewelling Elementary; however, the boundary for the adjacent properties was actually for Ardenwald Elementary.
- If a formal pathway was created, it would not be required to be paved as a gravel path could be made to be compliant with the Americans with Disabilities Act (ADA).
- Option 1 was to restrict vehicle and pedestrian access, which could limit conflict with the existing driveway and maintained proportionality, but would restrict public pedestrian access to a public ROW.
- Option 2 would allow for an informal pathway which could allow for pedestrian access but still limit conflict with the existing driveway.
- Option 3 was for a formal pedestrian pathway that could provide an ADA-compliant pathway and pedestrian access to nearby locations, but could come with a higher cost to the applicant and conflict and confusion regarding access.

Ms. Heberling reviewed comments received and the decision-making options. She answered questions from the Commission.

- Regarding research on a similar pedestrian pathway near Ardenwald Elementary, it was intended to be a pathway. Similar informal pathways existing in the city where the ROW was unimproved and vehicle access was restricted.
- Due to proportionality and the ROW being provided by the applicant, improvements on that ROW could not be required.
- The developer would be required to improve Melody Ln and dedicate the north-south 15-ft ROW. Once the adjacent property to the east developed, another proportionality analysis would be done to determine if any ROW should be dedicated, but the City would be responsible for finding the funding for the actual road connection.

Chair Hemer called for the applicant's testimony.

Julian Illingworth, 6334 N Curtis Ave Portland, clarified where the current gravel road was and the accessory dwelling unit on Lot 1 was intended to stay. He was in favor of either Option 1 or Option 2 regarding the pedestrian pathway and said the neighbors would likely use the pathway regardless of signage. Regarding ROW improvements for the dedication, Lots 1 and 3 essentially would have already paid their proportionality and so a local improvement district (LID) including those lots would be objectionable.

Chair Hemer closed public testimony.

Planning Commission Deliberation

Commissioner Burns agreed that the disadvantages of Option 3 for the pathway ruled that option out and he would lean toward the informal pedestrian access for the neighborhood. He was in favor of considering a waiver of remonstrance to a future LID to remove a potential hurdle to future improvements.

The Commission agreed and was in favor of Option 2 to allow informal pedestrian access.

Mr. Egner clarified that the Commission could include the waiver of remonstrance as a condition if the proportionality called for it with future development. He added that improvement of that ROW was required for development of the adjacent and nearby properties to the east.

Dan Olsen, City Attorney, added that the condition should include the development of the nearby properties as to prevent one or two property owners shouldering most of the LID cost.

Chair Hemer noted he did not agree with the waiver of remonstrance condition.

Commissioner Burns moved and Commissioner Grau seconded to approve land use applications S-2016-002, VR-2016-010, and PLA-2016-002 for 4543 SE Logus Rd with the recommended findings and conditions as amended to include the conditions for Option 2 for an informal pedestrian pathway access and a waiver of remonstrance with a proportionality clause. The motion passed unanimously.

5.3 Summary/File(s): Kellogg Bridge Replacement
Applicant/Owner: Rick Buen, City of Milwaukie
Address: 11211 SE McLoughlin Blvd
File(s): WG-2017-002, NR-2017-002
Staff: Vera Koliass

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

Vera Koliass, Associate Planner, presented the staff report via PowerPoint. She identified the location of the project within Riverfront/Milwaukie Bay Park and noted the zoning, water quality resource areas, habitat conservation areas, and Willamette greenway overlay. She outlined the project elements and noted the key questions for the Commission to consider regarding the Willamette Greenway objectives.

Ms. Koliass described the project elements that would enhance the area and recreational qualities of the lands along the Willamette River. The proposed bridge design was an improvement and would create a sense of permanence and serve as a gateway. The current state of the area had been scoured due to weather events in recent years and the reconstruction of the bridge would help correct the scour and erosion issues, and the bank stabilization would create fish habitat structures and vegetation to the area. Overall, it was an improvement and repair project. She noted the revised mitigation plan included in the meeting packet.

Ms. Koliass noted the recommendation for approval by the Design and Landmarks Committee, and reviewed the decision-making options.

Staff and the applicant answered questions from the Commission as follows:

- **Rick Buen, Civil Engineer and Applicant**, clarified that the sidewalk to the south of the bridge was an existing sidewalk. An extension of the sidewalk would be part of Phase III of the Riverfront/Milwaukie Bay Park project and was not part of this bridge replacement project.
- **Randy Reeve, Reeve-Sherwood Consulting**, consultant team for the City, responded regarding the removal of the Kellogg Creek dam that although this bridge was set away from the Oregon Department of Transportation (ODOT) bridge, this bridge would be constructed to set the stage for removal of the ODOT bridge by shifting the bridge to the west and built with an adequate opening for the streamflow.

Commissioner Grau moved and Vice Chair Argo seconded to approve land use applications WG-2017-002 and NR-2017-002 with the recommended findings and conditions as presented. The motion passed unanimously.

5.4 Summary/File(s): Project Galaxy Design Review
Applicant/Owner: Kurt Schultz, SERA Architects
Address: 2036 SE Washington St
File(s): DR-2017-001, VR-2017-007
Staff: Vera Kolias

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

Ms. Kolias presented the staff report via PowerPoint. She reviewed the site location, features, and zoning. The proposal was for a 5-story mixed-use building with ground floor retail and commercial and 110 residential units above, with interior vehicle and bicycle parking. The fourth story height bonus was for residential, and the fifth story height bonus was for a Green Globes certification for the building. The variance request was for the 6-ft step back requirement for levels four and five and for the minimum access standards for the garage entrance proposed between Main St and 21st Ave.

The proposal met the downtown design standards but for two. One standard required a 15-ft break in the horizontal building façade along Washington St; the applicant proposed a vertical band of projecting windows and color and material changes to break up the façade. Also, mural art was proposed for either side of the garage entrance. The second standard not met was for 60% of the upper floor windows to be vertically oriented. The proposal met approximately 50% of the requirement and the applicant proposed oversized windows to mitigate the difference.

Ms. Kolias reviewed the Design and Landmarks Committee (DLC) recommendation for approval of the 6-ft step back variance but to require a minimum 4-ft step back on the fifth floor on the 21st Ave and Washington St facades. The DLC also recommended approval of the Design Review application with additional comments regarding cedar paneling alternatives, mural size, additional Washington St canopies, transparency, and street trees. The applicant provided more information as requested by the DLC.

Key questions for the Commission to consider were as follows:

- Did the proposed design sufficiently address the downtown design guidelines and standard purpose statements through the Type III review process?

- **Ms. Kolias** reviewed the standards and purpose statements of the design standards for building façade details and for windows and doors, and noted the applicable design guidelines for Milwaukie character, pedestrian emphasis, architectural features, and lighting and landscaping.
- She said staff believed the proposed design met the guidelines with features for an active storefront to promote a lively downtown and pedestrian experience, views oriented toward the river, integrated art, natural materials, varied architectural features, and prominent corners and entrances.
- Was the variance to the 6-ft step back for the fifth floor reasonable?
 - Ms. Kolias said the proposal included a tripartite façade to break up the bulk and mass of the building, and the shadow boxes on the middle floors and the oversized cornice top created the illusion of the step back.
 - She added that staff recommended approval of the variance with the proposed design. The findings show that the design met the intent of the design standards without strict compliance with the standard.
 - **Ms. Kolias** noted the applicant had provided additional information showing the step back would increase the building height and overall construction cost of the project significantly.
- Should the proposed design address the blank wall facing the Adams Street Connector that faced toward the light rail station? If so, how?
 - Ms. Kolias said a recommended condition of approval was to require a mural be installed on the wall as well as on the northern façade adjacent to the garage entrance door.
 - She noted the applicant provided design examples for a mural design following the DLC meeting.
- Should the proposed design address the future development of 11138 SE Main St (the Bloom building)? If so, how?
 - Ms. Kolias said a multi-story building could be built which would affect the podium and terrace area and views of the subject building. However, the applicant had no control of this and the City could not require the applicant to consider the development of an adjacent property.

Ms. Kolias reviewed the comments received which had been forwarded to the applicant. She reviewed the decision-making options. Staff recommended approval of the design review and variance request applications.

Ms. Kolias and DLC Chair Lauren Loosveldt answered questions from the Commission:

- The proposal met the public area and street tree requirements.
- There was not a step back as currently proposed. **Ms. Loosveldt** noted the DLC felt the shadow boxes created adequate interest to the façade but there was concern about the span of the Washington St façade and requested the 4 ft setback to break that up. The DLC approved of the proposal for a mural on the south elevation wall.
- Regarding the ground floor façade along Washington St, the DLC proposed to increase transparency and break up the brick, and suggested back-painted glass for the murals adjacent to the garage entrance and storefront spandrels.

Chair Hemer called for the applicant's presentation.

Tom Brenneke, Guardian Real Estate Services, 760 SW 9th Ave Portland, was the project developer and noted he was from Milwaukie and felt this project was a catalyst project for downtown.

Kurt Schultz, SERA Architects, 338 NW 5th Ave Portland, was the project applicant and distributed revised proposed plans based on the DLC feedback. He described why the team elected to use the Type III downtown Design Review process rather than the prescriptive development standards as it gave more opportunity for input into the project and more flexibility to create a good project for Milwaukie. He reviewed the project site and elements, and noted the Main St façade was designed with the future Milwaukie Farmers Market along Main St in mind. The residential entrance and amenities would be on 21st Ave to be more transit-oriented, with the retail spaces on the northwest and northeast corners to engage the pedestrian experience. The garage entrance was midblock to be farthest from the nearby intersections, and the project would include stacked mechanized parking to maximize square footage and a bike parking and repair space. He described other elements of the project per level and noted the proposed outdoor space exceeded the City's development requirements. The design elements were intended to be warm and inviting, with a greater amount of glazing, a strong ground floor and cornice, shadow boxes, and dynamic corners.

Mr. Schultz explained the building height and the project elements of residential development and green-certified building that allowed for the 2-story height bonuses but noted that it was below the maximum height by feet allowed. The variance was requested for the step back required for the upper two stories because the step back would reduce the rentable area as well as greatly increase construction cost due to the units no longer being stacked with regard to utilities, etc. He noted the DLC comments were incorporated into the design, and he addressed the analysis of the DLC's proposed 4 ft step back and the complications for that design, regarding stormwater, construction costs, and loss of units. Therefore, the step back would result in the project not being financially feasible.

The applicant answered questions from the Commission and noted that:

- Green Globes certification involved similar standards to LEED certification but with a different scoring system and did its own certification process.
- The footprint of the property restricted where the service entrance and utilities locations could be and informed the location to be placed in the middle of the Washington St façade. The wall murals and other elements would help break up the brick span along Washington St.
- A potential solution to the step back was adding shadowboxes to create the illusion of a step back on the top level.
- The applicant intended to work with the artMOB arts committee to select the artist(s) for the wall art along Washington St.

Chair Hemer called for public testimony.

In Support

Jim Bernard, 10212 SE New Arrow Rd Canby OR, former owner of the subject property, noted as former Milwaukie mayor, there was great effort made to create development interest in downtown Milwaukie with little success. He supported the project and design and believed the project would greatly help Milwaukie grow.

In Opposition

Nathaniel Taylor, 2836 SE Washington St, said he walked the area often and valued the

current view of the skyline and trees. He thought the building design was good but disagreed with the step back variance and noted the intent of the Planning Commission's decision to require the step back. He felt the design could provide a beautiful open corridor and pedestrian environment if it were built to the design standards. The rental units would likely create a more transitory community.

Scott Churchill, 2708 SE Monroe St, said he supported high-quality downtown housing development that followed the requirements of the code. As a former Planning Commissioner and City Councilor, he spent time to ensure that development, particularly in downtown, would have proper bulk and mass and be pedestrian-scaled. The requested variances fell short of the intent of the code and noted the fourth and fifth floors were bonus floors, not an entitlement. The step back was critical for proper bulk and mass and pedestrian-scaled experience and was out of proportion to the existing and future context of downtown buildings. The shadowbox was a protrusion not a substitute for the step back.

Chair Hemer closed public testimony.

Planning Commission Deliberation

Chair Hemer noted that he was on the DLC at the time the downtown code amendments occurred. The 6 ft step back for bonus floors above the allowed 3 floors was a compromise as the city and community were concerned about how a five-story building would look and feel in downtown. He found the shadowbox option interesting and asked **Commissioner Jones** if that design in fact achieved the same result as the step back was intended to do?

- **Commissioner Jones** responded that it did provide an illusion to break up the façade; however, it could be more successful if the step back was possible to provide more shade separation and daylighting, given this was the north side of the building and so would have a significant shadow effect on the businesses to the north. That was his concern about not setting those top floors back. His recommendation was for a 4-ft step back of the fifth floor on the Washington St façade only.

Mr. Schultz brought to the dais an image of the Washington St façade with a hand-drawn shadowbox added to the drawing for reference.

- **Mr. Egner** noted that the drawing was new evidence and therefore the hearing would need to be reopened.

Chair Hemer reopened the public hearing and testimony, and added into the record an exhibit of the added shadowbox drawing.

Mr. Taylor commented that the shadowbox was only illusionary and was massive, hanging over Washington St. The required step back would open Washington St, creating an open canyon effect to the river and preserve the skyline.

Mr. Churchill noted this was new evidence and time was needed to review and comment on it. He requested a continuance of the hearing.

Chair Hemer closed public testimony.

The Commission requested for the applicant to provide a new drawing with the additional shadowbox on the Washington St façade as well as a 3-D rendering of that elevation.

Commissioner Grau moved and Chair Argo seconded to continue the hearing for DR-2017-001 and VR-2017-007 to a date certain of September 12, 2017, to allow for the applicant to submit new evidence within seven days, and to allow for public review and written testimony within the following seven days in response to the new evidence.

6.0 **Worksession Items** – None

7.0 **Planning Department Other Business/Updates**

8.0 **Planning Commission Updates and Discussion Items**

Chair Hemer noted the Sellwood-Milwaukie Sunday Parkways was scheduled for September 24, 2017.

9.0 **Forecast for Future Meetings:**

September 12, 2017 1. Worksession: Comprehensive Plan Advisory Committee Appointment:

2. Public Hearing: CU-2017-001 Eton Ln Vacation Rental

September 26, 2017 1. TBD

Meeting adjourned at approximately 10:27 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



Greg Hemer, Chair