

**CITY OF MILWAUKIE
PLANNING COMMISSION
Milwaukie City Hall
10722 SE Main Street
TUESDAY, December 12, 2017
6:30 PM**

COMMISSIONERS PRESENT

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

STAFF PRESENT

Denny Egner, Planning Director
Vera Koliass, Associate Planner

COMMISSIONERS ABSENT

Greg Hemer, Chair

1.0 Call to Order – Procedural Matters*

Vice Chair Argo 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 - None

3.0 Information Items

Denny Egner, Planning Director, stated no Planning Commission meeting would be held on December 26, 2017. The next meeting would be January 9, 2018.

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: North Milwaukie Industrial Area (NMIA) Comprehensive Plan and Code Amendments – 2nd Hearing
Applicant: City of Milwaukie
File: ZA-2017-003, CPA-2017-002
Staff: Vera Koliass/Amy Koski

Vice Chair Argo reconvened the public hearing and read the conduct of legislative hearing format into the record.

Vera Koliass, Associate Planner, highlighted the NMIA Plan project and reviewed the proposed Code amendments along with key issues for the Commission's consideration.

- A memorandum was distributed to the Commission from Chuck Eaton, Engineering Director and Floodplain Manager, regarding development in the floodplain, specifically on the Mill End Store site. Contrary to the testimony received from Roger Sutherland at the last

hearing, the existing footprint of the building could be rebuilt. The building would have to be flood proofed, or brought 1 ft above the floodplain for any residential use.

Ian Carlton, ECONorthwest, summarized the Development Feasibility Study and concluded that from a developer's perspective, retrofitting, as opposed to tearing down the existing buildings and building new, was the most viable option for the NMIA area. He addressed questions from the Commission as follows:

- Fair market value for the properties was based on the current zoning and current economic uses. The study did model what a developer would be willing to pay for the land in future cases, but the financial return was not significant enough in most cases to justify large-scale investments. In many cases, developers would not be willing to build even if given the land for free.
- The broad analysis looked at an inexpensive and expensive retrofit cost, as well as a low and high parking alternative, but that would not account for the nuances of every building. Closer analyses into four sites took into account existing structures and their retrofit costs, such as seismic upgrades and historic preservation.
- The highest and best use might have little to do with the number of employees in the building or jobs-per-acre, but rather what an owner was willing to pay to occupy the space compared to the cost of delivering the occupyable space. For example, an Amazon warehouse run by robots might be the highest and best use for a site, yet has a relatively low number of jobs per acre.

Vice Chair Argo called for public testimony.

In Support

Eric Hovee, 2408 Main St, Vancouver, WA, believed the ECONorthwest report regarding the Mill End Store was overly optimistic because the additional issues and costs related to being in the floodplain were not addressed. He reviewed the potential development options and related financial challenges for the Mill End site. New development on the site was difficult because rents in Milwaukie for industrial or flex space were about half of those in Portland. Due to the floodplain, the property had a negative land value, which made it unmarketable. The Mill End Store's owner believed there was a viable alternative use with residential and keeping the store. Not many of these types of situations would come along, so he encouraged the Commission's support of a mixed-use overlay.

Jerry Baysinger, 1006 SE Grand Ave, Ste 300, Portland, noted page 17 of the staff report contained proposed language for the mixed-use overlay zone. He and Peter Stark had met with staff earlier to draft language, which was shared with the Commission. He highlighted the proposed language as follows:

- If an owner in the area develops or redevelops, the same opportunity should be available for the other properties. His concept showed 140 residential units but, to build community, other properties should be encouraged to redevelop similarly.
- The current Code allowed the Mill End Store to exist as a grandfathered use but, unless it was wiped out by a disaster, the grandfathering would be lost simply by volunteering to do the development. He recommended the grandfathering be allowed to survive a redevelopment not caused by a disaster.
- The uses allowed prior to the date of the adoption of the ordinance should not be required to meet the development standards for the zone.

Peter Stark, 2939 NW Cornell Rd, supported the overlay as well as removing the sunset provision to allow adjacent properties the same option.

- He suggested allowing any existing building in the area to be retained and, if redeveloped, to retain that building's properties. In the case of the Mill End Store, a limited amount of parking and square footage would be defined by the existing use, not by zoning.
- Regarding the floodplain issue, he believed Metro Code took precedence over city code. He presented a document provided by Mr. Sutherland who cited the Metro Code, which stated that because the building floods, the building was calculated as part of the floodplain. With that change, flood proofing the building was not allowed, nor was cut and fill. The building had to be elevated.
- The bottom line was a money issue. The owners of the Mill End Store could not build unless they had some way to subsidize the cost to take care of the flooding issue. The only real solution would be uses that pay for the additional cost to develop.

Staff answered questions from the Commission and provided information as follows:

- Staff had not seen nor responded to the documents Mr. Baysinger and Mr. Stark presented to the Commission. If properties did not take advantage of the residential component, it would go away. The sunset was tied to the residential use, not the entire overlay.
- The proposed code would limit retail use on the site to 20,000 sq ft, but the existing retail use was more than 60,000 sq ft. The code could be written to state, "Existing retail uses and their existing square footage are allowed in the overlay," so no other 60,000 sq ft retail use would be allowed. Normally, if a nonconforming use stopped, it would revert back to what was allowed under the code which, in this case, would be 20,000 sq ft.
- If the development included only the Mill End Store and apartments, and the code required only the number of parking spots that currently existed, parking may or may not be enough for a future 60,000 sq ft Mill End Store, depending on the amount of residential use.
- Staff asked the Commission to consider if the district was to have more residential or only residential to help the few properties to convert. Would the limit be for just the Mill End Store or would it apply to any retail? At some point, new development would trigger conformance with the code.
- The language presented by Mr. Baysinger and Mr. Stark created good policy questions and needed further discussion.
- How to quantify substantial development or redevelopment also needed to be determined.

Mr. Stark clarified he was only concerned with the Mill End Store; the proposed language would only apply to the overlay area, not the entire district.

Mr. Carlton stated one model in the ECONorthwest study had an open ground floor, which would take the floodplain into consideration, but they were not experts in costing waterproofing a structure.

Vice Chair Argo closed the public hearing and called for a brief recess. He reconvened the meeting and called for deliberation.

The Commission discussed the key questions from staff and agreed to the following:

- Marijuana production should be permitted only as a conditional use in the NMIA.
- Setbacks and landscaping were essential for key streets where pedestrian activity was desired. Larger front yard setbacks could be allowed on key streets but a limit should be placed on how much parking was allowed between the building and the street. Parking would not be allowed for smaller setbacks.

- A ratio for permitted parking should allow for accessible parking spaces. If a parking ratio were applied, the maximum setback would need to be 50 ft to allow for landscaping.
- The Commission suggested that the key streets include Main St and 17th Ave because of the bus routes.
- Staff would clarify which side of the key streets the code would apply to, and would consider all of Ochoco St including the area east of the Goodwill Store.
- The Commission agreed to keep the current code requirement of 15% for landscaping and to avoid using any Water Quality Resources (WQRs) or Habitat Conservation Areas (HCAs) that might exist on the site in calculating landscaping percentages. Landscaping standards applied throughout the area, not just to key streets.
- Staff would review the City of Portland's code which had a dollar threshold for redevelopment of a nonconforming site and return to the Commission with more information.
- For street-facing facades on key streets, a 30% ground-floor glazing or an alternative 20% glazing should be required with the remaining to be a green wall, art mural, etc.
- Flexible-use space should be required on the street-facing first floor for key streets and would be predominantly for major redevelopment or new construction.
 - Staff would return with more information regarding what triggered the design standards on key streets.
- A mixed-use overlay zone with a 10-year sunset period on the eligibility to take advantage of the residential provision.
 - Discussion continued about extending the overlay zone's provisions beyond the 10-year sunset and the potential for additional redevelopment, besides the Mill End Store, within the sunset. Commissioners agreed that that it was not their intention that this be a residential zone.
 - An overlay with a 10-year sunset fulfilled the spirit of the plan and met the goals and objectives of the NMIA, but also recognized a viable opportunity for the Mill End Store to redevelop.
- Other retail uses, such as big box stores, should not be allowed within the overlay, so the language regarding the Mill End Store's redevelopment should be tightly crafted.

Commissioner Burns asked if anything could be done to provide public access to and increase setbacks from Johnson Creek, which was one of the most important natural resources in Milwaukie.

Mr. Egner replied that could be an objective in future plans. Staff would think about possible incentives to be added to the code for greater setbacks or public access.

It was moved by Commissioner Grau and seconded by Commissioner Jones to continue the hearing for applications ZA-2017-003, CPA-2017-002 to the January 9, 2018 Planning Commission meeting. The motion passed unanimously.

6.0 Worksession Items - None

7.0 Planning Department Other Business/Updates

7.1 Planning Commission Notebook Code Supplemental Pages.

This item was not addressed.

8.0 Planning Commission Committee Updates and Discussion Items – This is an opportunity for comment or discussion for items not on the agenda. There were none.

9.0 Forecast for Future Meetings:

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| January 9, 2018 | 1. Public Hearing: ZA-2017-003/CPA-2017-002 NMIA Code and Comp Plan Amendments (3rd Hearing) |
| January 23, 2018 | 1. Public Hearing: HR-2017-001 Milwaukie High School Historic Resource Deletion |

Meeting adjourned at approximately 9:00 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



Adam Argo, Vice Chair