



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

July 23, 2019

Present: Kim Travis, Chair
John Henry Burns, Vice Chair
Greg Hemer
Lauren Loosveldt
Robert Massey

Staff: Denny Egner, Planning Director
Vera Koliass, Associate Planner
Dalton Vodden, Associate Engineer
Justin Gericke, City Attorney

Absent: Adam Argo
Joseph Edge

1.0 Call to Order – Procedural Matters

Chair Travis 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 was available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

2.0 Planning Commission Minutes

2.1 November 13, 2018

Chair Travis stated the word "provide" at the end of the Call to Order sentence should be deleted.

Commissioner Hemer moved and Vice Chair Burns seconded to approve the November 13, 2018 Planning Commission meeting minutes as amended. Motion passed unanimously.

2.2 May 28, 2019

Commissioner Hemer moved and Vice Chair Burns seconded to approve the May 28, 2019 Planning Commission meeting minutes as presented. Motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, noted the City Council had "pinned down" the housing policies at its last meeting. The Comprehensive Plan Advisory Committee (CPAC) would meet on July 30, 2019 to consider the final Block 3 policies; the policies would then come to the Planning Commission and City Council. The online open house received 188 responses so far and would close soon.

4.0 Audience Participation – This was an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

- 5.1 Summary: Elk Rock Estates (Continued from May 25, 2019)
Applicant/Owner: Matthew Gillis, Gillis Properties
Address: 12205/12225 SE 19th Ave
File: NR-2018-005, LC-2018-001, WG-2018-001, VR-2018-014, VR-2018-015
Staff: Vera Kalias, Associate Planner

Chair Travis called the continued hearing to order.

Vera Kalias, Associate Planner, and Dalton Vodden, Associate Engineer, presented the staff report via PowerPoint, noting the site's key features, including a slough bisecting the property, elements of the proposed project, and the variances requested by the applicant. Additional key considerations were as follows:

- Revised materials for proposed stormwater management and bioswale were submitted and distributed to the Commission.
- The cut and fill analysis had not been provided for the 1996 floodplain, but only for the FEMA 100-year floodplain. Also, the bankfull stage had not been identified by the applicant.
- Due to grading along the north property line, drainage impacts to neighboring properties may exist.
- As proposed, stormwater would be piped to a detention area located close to the river, but high flow events in the river could overtop the detention area and trap fish.
- Clarification was needed between the 1996 flood elevations and the FEMA base flood elevation (BFE). Rounding up to a 38 ft elevation would be more appropriate but was not in line with what the applicant submitted.
- Five design alternatives were submitted but did not include an alternative that avoided impacts to the natural resource areas. Avoiding or minimizing impacts was part of the approval criteria for the development.
- Staff had suggested a nine-unit cluster along 19th Ave as an illustrative alternative to avoid impacts to the HCA and floodplain. The applicant claimed that a nine-unit development was not an option because it was below minimum density, would reduce visitor parking for Spring Park, and would block views to the Willamette River. The applicant contended that the proposed 12 units was the only feasible alternative that minimized impacts to the natural resources.
- Additional information was needed from the applicant with regard to an alternative that would locate 12 units closer to 19th Ave and move the cluster away from the HCA as much as possible.
- The proposed mitigation site appeared to be suitable, but challenging due to periodic flooding, weeds, and shallow bedrock. Consideration was needed regarding its appropriateness and a monitoring program would be required to ensure the mitigation plantings were successful.
- A conditional use approval was required due to its location within the Willamette Greenway. Existing public views were currently limited and would not preclude approval of the conditional use.
- Staff believed the height variance for the three-story homes was a reasonable alternative and the structures would comply with the maximum measured height.

Staff responded to questions from the Commission as follows:

- The tax lots did not include the slough. Staff confirmed that any requirement that applied to the Willamette River would also apply to the slough.

- More design details of the stormwater facility were needed before permitting that facility.
- All of the new structures were proposed to have crawl spaces and garages on the lower level. On some designs, all sides of the lower level appeared to be below grade which required additional design considerations in high velocity areas. Based on the current proposal, building permits would not be issued for some buildings due to inadequate height above BFE.
- Water from the property and proposed private street would be piped to a stormwater facility but could back up to the original drains in a very high flow event.
- A specific planting plan for the mitigation area was requested as a condition of approval. Staff would confirm whether the madrone trees on the site were considered a natural species and if they were appropriate in a floodplain. Staff's interpretation of the Willamette Greenway code considered views from a public right-of-way or public space to the river, but not from private property to the Greenway.
- The applicant's alternatives for a cluster development in the natural resources area were inadequate and alternatives were needed that felt and looked like a single-family home subdivision.
- The applicant would need to provide the bankfull elevation before a permit would be approved. The private street and most of the buildings would be built on fill above BFE.
- The additional materials provided to the Commission included correspondence from the applicant's environmental and engineering consultants, an email from the City's engineering staff concerning the discrepancy in the data conversion for the flood elevation.

Applicant Presentation

Matt Gillis, Applicant, stated he had been working on the application for the last 1½ years and had made consistent adjustments trying to meet the criteria. The project was designed with natural elements to tie into the neighborhood, met Willamette Greenway criteria, and satisfied mitigation requirements.

- After natural resource deductions, the site was zoned for a minimum of 12 units to a maximum of 18. The proposed plan was the most practical option to balance all code requirements and planning requests.
- No practical way existed to avoid the HCA because it covered approximately 80% of the site. A nine-unit cluster was not financially feasible. The proposed plan allowed for Elk Rock and trees beyond the houses to remain visible to 19th Ave.
- The current condition of the site had little environmental or riparian value. The project would benefit the natural resources area through mitigation by removing invasive species and planting trees and native shrubs totaling 40,000 sq ft of mitigation.
- The difficulties with alternatives related to grade, cut and fill requirements, location in the HCA, and greenway views.

Todd Iselin, Iselin Architects, stated he had been working with Mr. Gillis for about two years and had considered 40 or 50 different options for the design and layout of the site, including small cluster units and several different attached options. Based on the neighborhood and the feedback received, detached housing was desired.

- The cluster was located as high as possible on the site upon learning a map adjustment could not be done for the HCA area. By developing the upper section as much as possible, mitigating and enhancing the rest of the site was possible.
- The driveway slope limited the emergency vehicle turnaround location.

- He noted the site's challenges regarding correct flood elevation information, flood construction, river data, etc.
- The team sought the Commission's input on the project and hoped for some conditions that allowed them to move ahead. An environmental consultant and a civil engineer were available for questions.
- **Mr. Gillis** continued the presentation. He noted a geotechnical study showed the houses could be built on the site with standard flood vents and described how flood vents would function. The applicant asked the Commission to approve the proposal with conditions, acknowledging many considerations needed to be made.
- The requested number of the letter of map revision (LOMR) had been supplied in the most recent materials.

Ken Valentine stated he was the civil engineer on the project. He responded to key issues as follows:

- Prior to this hearing, the design had been based on the FEMA 100-year flood level, which differed from the 1996 flood level. He noted adjustments could be made to the elevations.
- The bankfull stage could be interpreted numerous ways, sometimes as the top of the bank, and sometimes as a two-year event, as Metro indicated. The applicant could provide that information.
- The site would be graded to allow most stormwater to drain to the stormwater facility which was designed based on the City of Portland's Stormwater Management Manual for a vegetated swale. A similar facility was at Milwaukie Bay Park which was below the 100-year floodplain line. It was feasible to put a water quality facility below the floodplain line because two-year storm events or lower were intended to be treated, not the 100-year events.
- The staff report stated it was necessary to raise the road elevation by 3 inches, which could easily be done. The centerline of the roadway was 1 ft above the 100-year floodplain and the road was crowned, so the gutters would have potentially been below that 1 ft.
- The floodplain model of the Willamette River was done in 1978, but the team found a recent study for the Tilikum Bridge crossing which had a no-rise analysis, LOMR, and velocity studies. By comparing the study to the project site, the velocity rate was believed to be much lower than 5 ft per second.
- The stormwater management facility would be a vegetated swale as shown by the landscape plan and would improve water quality before discharging to the river.

John McConnaughey, Environmental Technology Consultants, noted he had distributed a letter to the Commission. Regarding the proposed mitigation area, he explained that floodplains and riparian areas were the most valuable habitat areas, which was why the application focused on mitigation in these areas.

The applicant's team addressed questions from the Commissioners as follows:

- A Homeowner's Association (HOA) would be responsible for maintaining the mitigation for the standard two-year period or longer if conditioned; a bond would ensure the success of the mitigation.
- The criteria required access and views to the Greenway. The applicant was not opposed to alternatives for public access but, at this point, the criteria had been met.
- Only one driveway was planned, and the applicant was not requesting a variance.
- **Mr. Gillis** stated he had talked with Milo Denham at the beginning of the project and had spoken at the Island Station Neighborhood District Association (NDA) meeting.
- The Comprehensive Plan addressed maintaining the single-family character of the

neighborhood, which was zoned R-5. For any variation of the plan, the excavation and the cut and fill would disturb the HCA, and an additional driveway would also push the houses into the HCA and block views.

- Although the code stated to avoid, minimize, and mitigate to the extent practicable, clustering near 19th Ave was not the best option due to impact on views.
- A nearby tree with an inactive nest would not be removed or otherwise affected by the development and was at least 50 ft away from the proposed structures.
- The applicant confirmed that all of staff's recommended conditions of approval could be met.

Chair Travis called for public testimony.

Lorna Murray, 6245 SW Capital Hwy, Portland, stated that once completed, the site would be better than before the applicant had purchased it. She said she supported the proposed project.

Milo Denham, 12106 SE 19th Ave, clarified he was testifying as a citizen, not as the Island Station NDA Chair, nor as a budget committee member. He lived close to the proposed development and supported the project. The NDA had understood that even higher densities were allowed on the two subject sites, so a 12-unit proposal was appealing. He liked the proposed home designs and believed the project would complement the neighborhood. He was not in support of public access through the property and noted there was public access to the river through Spring Park and Elk Rock Island.

- Parking was a key concern. He requested parking be added on one side of the accessway, instead of requiring sidewalks.
- He was pleased to see the Commission's review of the key areas of the floodplain, natural resource areas, and the Willamette Greenway, and he appreciated their work.

Pam Denham, 12106 SE 19th Ave, stated she was the Island Station land use committee chair but was speaking as a private citizen. She believed the proposed development was thoughtfully designed and appreciated the applicant's communication with the neighborhood.

- Views would be impacted no matter what was constructed on the site, but the proposal included view corridors.
- She was concerned about traffic as 19th Ave was a shared roadway for pedestrians, bicycles, and vehicles. She suggested stop signs at 19th Ave, Sparrow St, Bluebird, and at 22nd Ave to help drivers and visitors to the new housing adjust to the shared roadway.
- She thought space for sidewalks would be better used for parking.

Chris Roberts, 12203 SE 19th Ave, stated he had just purchased his home neighboring the subject sites, and had learned of the development. He believed there was no good reason to build in the floodplain as climate change had increased flooding events and would continue to do so. He was not against development, but the current site seemed like an obvious place to not develop.

Applicant Rebuttal

Mr. Robinson noted a revised schedule had been discussed with staff during the recess. On behalf of the applicant, he asked the Commission to hold the record open for additional written testimony until August 6 followed by a period for rebuttal to any submissions by August 13. Staff would issue a report on August 27, and the applicant would submit final written arguments on September 3. The Commission would deliberate to a tentative decision on September 10, adopt

findings, and make a final decision on October 8. The applicant had extended the 120-day period until November 22 if the Commission agreed to the revised schedule. In case of an appeal, that would allow enough time for the Council to at least schedule the hearing. The applicant would grant reasonable extensions if more time was required for the City to render a final decision on the application. He addressed questions raised by the Commissioners and additional concerns as follows:

- Criteria regarding views were derived from Goal 15, the Willamette River Greenway Goal, and the City's code embodied some of those factors in Section 19.401.6. Goal 15 referred to the river and not the Greenway. If the applicant were to construct the houses at the street on 19th Ave, the view impact would be greater than what the applicant proposed.
- The applicant would address in writing all five criteria regarding residential clusters in Code Section 19.402.
- Regarding engineering staff's response on the design flood height, he recommended clarification from the city attorney about the flood elevations, i.e. 1996 flood elevation versus the FEMA 100-year flood elevation.
- The applicant agreed with all the conditions of approval, including the extended 10-year mitigation monitoring period.

Commissioner Hemer moved and Vice Chair Burns seconded to close the public hearing and leave the record open for written testimony, and to continue the hearing to a date certain of September 10, 2019 for deliberation and a tentative decision. Motion passed unanimously.

Chair Travis closed the public hearing.

- 5.2 Summary: Lake Rd & Kuehn Rd Public Right-of-Way Annexation
Applicant/Owner: City of Milwaukie
Address: SE Lake Rd and SE Kuehn Rd near 4900 SE Lake Rd
File: A-2019-002
Staff: Denny Egner for Brett Kever, Associate Planner

Denny Egner, Planning Director, presented the staff report and explained the right-of-way annexation process. He addressed clarifying questions and noted the annexed property would be zoned like the adjacent property with the right-of-way center line being the dividing line between two different zones. The right-of-way annexation included both the street and sidewalk.

Vice Chair Burns moved and Commissioner Massey seconded to recommend approval to City Council of the annexation A-2019-002 including adoption of the proposed ordinance and exhibits found in Attachment 1. Motion passed unanimously.

6.0 Worksession Items — None

7.0 Planning Department Other Business/Updates

- 7.1 Street Renaming—Keil Crossing Subdivision

Mr. Egner stated Milwaukie Police Department had requested renaming a section of street in the Keil Crossing Subdivision because the current addresses on 43rd Ave could be confused with Portland addresses in the 911 emergency response system.

The Commission agreed the name Keil St was appropriate given the name was associated with the historic house that had occupied the property.

Commissioner Massey moved and Vice Chair Burns seconded to recommend to City Council that 43rd Ave be renamed Keil St to reflect the historical connection in the neighborhood. Motion passed unanimously.

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

Mr. Egner stated the revised Block 3 policies for the Comprehensive Plan update would be distributed tomorrow. About 50 to 60 people attended the open house. A report would be generated from the compiled materials.

Commissioner Hemer requested that the map for the Block 3 discussion indicate high, medium, and low densities in color.

9.0 Forecast for Future Meetings:

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| August 13, 2019 | 1. Public Hearing: VR-2019-004 Home Occupation Variance |
| | 2. Worksession: Hillside Master Plan |
| | 3. Worksession: Comp Plan Block 3 Policies |
| August 27, 2019 | 1. Public Hearing: Continuation of NR-2018-005 Elk Rock Estates (Tentative) |
| Sept. 10, 2019 | 1. Public Hearing: Code Amendments for Downtown Design Rev. (Target Date, Tentative) |
| | 2. Public Hearing: S-2018-003 Railroad Ave Subdivision |

Meeting adjourned at approximately 9:29 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II


~~Kim Travis, Chair~~

John Burns, Vice-Chair