



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

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

October 25, 2022

Present: Lauren Loosveldt, Chair
Joseph Edge, Vice chair
Amy Erdt
Greg Hemer
Robert Massey
Jacob Sherman

Staff: Justin Gericke, City Attorney
Brett Kelter, Senior Planner
Adam Heroux, Associate Planner
Laura Weigel, Planning Manager

Absent: Joshua Freeman

Council: Lisa Batey
Kathy Hyzy

(00:10:24)

1.0 Call to Order — Procedural Matters*

Chair Loosveldt called the meeting to order at 6:30 p.m., read the conduct of meeting format into the record, and Native Lands Acknowledgment.

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

(00:11:25)

2.0 Planning Commission Minutes

August 23, 2022, minutes were approved with a 7-0 vote.

(00:12:05)

3.0 Information Items

No information was presented for this portion of the meeting.

(00:12:18)

4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:12:50)

5.0 Community Involvement Advisory Committee (CIAC)

Laura Weigel requested that follow-up items from the joint Neighborhood District Association (NDA) / Community Involvement Advisory Committee (CIAC) meeting be

revisited during the November 8, 2022, Planning Commission meeting. The Commission agreed to Weigel's request. **Commissioner Hemer** expressed his disappointment with the NDA representation at the October 11, 2022 meeting. **Hemer** encouraged staff and commissioners to create a more robust public process for the Transportation Systems Plan (TSP). **Chair Loosveldt** expressed her disappointment with the lack of NDA participation at the October 11, 2022, meeting. **Weigel** stated Jason Wachs, Community Engagement Coordinator, provided outreach to the NDAs about the meeting. **Weigel** also speculated that COVID could still be influencing in-person participation. **Weigel** assured Hemer that there will be additional opportunities for the public to engage in the TSP process. **Weigel** shared that public engagement online has been good for the Housing Capacity Needs Analysis Survey. **Loosveldt** spoke to the city's efforts to capture community engagement and applauded the city's strategies. **Commissioner Sherman** also noted his disappointment in the lack of NDA turnout and expressed his desire to find a solution. **Commissioner Massey** stated there was only one chair present at the NDA Leadership meeting and speculated the lack of leadership presence influenced the minimal NDA participation during the joint NDA/CIAC meeting. **Massey** asked Hemer if his concern is that the TSP Citizen Advisory Group is too small and does not adequately represent the community. **Hemer** stated that his concern is that people feel like their public input is not going to matter. **Hemer** pointed out that the Engage Milwaukie website collects input from the community but there is a lack of reporting back to the community. **Weigel** reiterated that her department has done extensive public outreach around all the land use projects that happened during COVID and that survey results were reported. **Hemer** noted that the Engage Milwaukie surveys do not allow for public comment. **Weigel** shared that there is a recommendation to Council to add a 7th position to the TSP Advisory Committee; to ensure all neighborhoods are represented on the committee. **Weigel** noted an additional recommendation is being made to add a second Public Safety Advisory Committee member to the TSP Advisory Council. **Hemer** explained he is going to create a report to detail findings that are of concern. **Commissioner Erdt** cautioned that any public comments shared from the Engage Milwaukie site should only be shared if a disclosure to share is on the site. **Erdt** shared her positive experience with community conversations and stated the community is engaged. **Erdt** expressed her desire to bridge the gap between community conversations and community participation in a more structured forum. **Sherman** referenced the International Association for Public Participation and the spectrum of public participation. **Sherman** stated there might be a mismatch between the type of community participation being solicited verses the type of participation the community would like. **Looseveldt** encouraged the Commission to share information and feedback about the conversations they are having, as a member of the community, with other residents.

(00:32:27)

6.0 Work Session Items

6.1 Parks Discussion

Councilor Hyzy presented to the Commission information about the City of Milwaukie's potential withdraw from North Clackamas Parks and Recreation

(NCPRD). **Hyzy** shared that City Council added a third goal in 2022; the goal to improve Milwaukie's Park System and Services. **Hyzy** explained how the two original goals, 1) Climate Change and Resilience and 2) Equity, Justice and Inclusion are relevant and supportive of the third goal. **Hyzy** highlighted the benefits of parks: livability, health, reduction in carbon dioxide, equitable access to greenspace, and community engagement. **Hyzy** reviewed current parks funding, decision making entities and Milwaukie's dedication to parks improvements. **Hyzy** noted that making the transition away from NCPRD means that Milwaukie will have more control over its parks. **Hyzy** summarized the next steps: public engagement, analysis of funding alternatives and possible revision of parks master plan. **Justin Gericke** announced a new parks website <https://www.ourmilwaukieparks.com/> and the public Parks Forum scheduled for November 10th at 6pm at the Ledding Library.

Commissioner Sherman clarified that Milwaukie has 3.93 dedicated park acreage per 1,000 residents and the State of Oregon Comprehensive Outdoor Recreation Plan guidance recommends 6.25 acres to 13.5 acres per 1,000 residents. **Councilor Batey** pointed out NCPRD's postponement of building Milwaukie Bay Park. **Councilor Hyzy** stated that over the past year, all council members, have testified at the Clackamas County Board of Commissioners to express their concerns with NCPRD.

Commissioner Sherman asked Councilors if they had heard concerns about the District Advisory Committee potentially trying to reallocate the System Development Charges (SDCs). **Councilor Batey** explained that NCPRD is looking to eliminate the required allocation of SDCs to the zones in which they were collected from; this revision would allow NCPRD to spend SDCs collected in one zone to be spent in another zone. **Councilor Hyzy** referenced the new buildings coming online in Milwaukie and speculated that roughly three million dollars in SDCs to be collected. **Hyzy** stated NCPRD is looking to pool SDCs starting as soon as January 2023.

Vice Chair Edge asked if the Councilors thought the SDC rate at .54 per \$1,000. tax rate is too low to cover expenses. **Edge** asked specifically about natural and connected habitat maintenance. **Councilor Hyzy** stated that she could not speak to the tax rate but noted that if given the authority, the City, will allocate money in alignment with values. **Hyzy** explained that city staff are currently maintaining areas, like retention ponds. **Hyzy** acknowledged that part of the work that needs to happen is to take the time to analyze the SDC rate.

Commissioner Massey asked why the county commission is slowing down the city's departure. **Councilor Batey** stated she thought some of the commission's motivation is to capture Milwaukie's SDCs and to apply those funds to the Concord Project. **Batey** shared that only Commissioner Savas lives in the district and that he often drives the direction of the District Advisory Committee (DAC). **Batey** elaborated on the Concord School Project and noted NCPRD's desire to make the old school into a community center. **Hyzy** reiterated that this is not an us and them issue. **Hyzy** explained that Milwaukie makes things happen because

of the work that the city is doing to achieve its goals. **Commissioner Hemer** asked why a separate board of governors couldn't be created if the Board of County Commissioners is the problem. **Batey** explained that this idea was something presented to the voters in 2014 but that the idea was also comingled with a rate hike, and it ultimately did not pass with the voters. **Batey** summarized that if a 5-year levy passes and Milwaukie leaves the district, a parks master planning process will happen. **Batey** stated that it would be through the master planning process that Milwaukie would discover what people want and how best to move forward with funding. **Chair Loosveldt** suggested not using the word master when referring to the parks planning process due to its negative connotation. **Batey** announced that the Parks Town Hall meeting will be November 10th 6-7:30 at the library.

(01:24:57)

7.0 Hearing Items

(01:25:03)

7.1 ZA-2022-006, Code Amendments: EV Charging Infrastructure

Brett Kolver, cited the Milwaukie Municipal Code (MMC) where the criteria can be found: MMC Section 19.902 Amendments to Maps and Ordinances and MMC Section 19.1008 Type V Review. **Kolver** reviewed the new state requirements for Electric Vehicle (EV) charging infrastructure, citing House Bill 2180 and the Climate Friendly & Equitable Communities (CFEC) Rulemaking. **Kolver** explained that House Bill 2180 is being implemented through the building code. **Kolver** shared that the climate friendly rules need to be adopted by the end of March 2023. **Kolver** stated that both HB 2180 and CFEC are applicable to new construction. **Kolver** reviewed the different levels of EV charging infrastructure. **Kolver** defined EV Capable, EV Ready, and EV Installed. **Kolver** reiterated that the goal of the new rules is to provide infrastructure that supports EV charging and that the new state rules do not require installed EV chargers nor EV-ready wiring and outlet, only conduit to parking spaces and room in the electrical panel.

Adam Heroux named the equity considerations that will be directly impacted by the new rules. **Heroux** reviewed the goals within the Climate Action Plan related to EV charging. **Heroux** shared with the Commission that City Council supported increased requirements beyond the CFEC and HB 2180 standards and requested compliance options that prioritize installed chargers. **Heroux** explained the commercial and residential compliance scenarios for minimum compliance with the new state rules and the proposed enhanced compliance options that expand the number of EV spaces above the minimum requirements. **Heroux** stated that applicants choosing to meet the minimum requirements are asked to include 5% installed chargers in commercial buildings and 10% installed chargers in multifamily residential and mixed-use buildings. **Heroux** reviewed the approval criteria for Type V Code Amendments and the decision-making options.

Commissioner Hemer confirmed that the compliance scenario chart in the staff report is the most current. **Commissioner Sherman** suggested that the compliance scenario table be made into two different tables in the code, one for commercial and one for residential. **Brett Kelper** clarified that the compliance table was for illustration purposes only and will not be included in the code. The amendments are divided into two short sections that clearly outline the different standards for commercial and residential development. **Commissioner Massey** asked how the new proposal aligns with the state building code restrictions. **Kelper** explained that providing the option for EV-charger installation versus required installation means that the proposed amendments are not subverting the building code.

Chair Loosveldt called for any public testimony—there was none.

Vice Chair Edge commended staff on their efforts to consolidate and present the amendments in a user-friendly manner while also fulfilling City Council's goals. **Chair Loosveldt** applauded staff on their due diligence and efforts to provide well-thought-out code amendments. **Commissioner Sherman** stated he liked the two pathways presented.

ZA-2022-006, Code Amendments: EV Charging Infrastructure, was approved for recommendation by a 6-0 vote.

(01:47:03)

7.2 ZA-2022-003, Code Amendments: Downtown Design Review

Brett Kelper, cited the Milwaukie Municipal Code (MMC) where the criteria can be found: MMC Section 19.902 Amendments to Maps and Ordinances and MMC Section 19.1008 Type V Review. **Kelper** reviewed the current code, citing the Downtown Development Standards (MMC 19.304), Downtown Design Standards (MMC 19.508), and Downtown Design Guidelines (separate document). **Kelper** pointed out challenges due to the misalignment between design standards and guidelines. **Kelper** stated that the unclear applicability of guidelines created barriers and confusion for applicants, staff, and reviewers. **Kelper** noted that some of the development standards that impact design have needed a variance instead of being funneled through the design review process. **Kelper** shared the proposed solutions: revised sections of related code (MMC 19.304, 19.508, 19.907), alignment of design guidelines and design standards and the elimination of gaps, establishment of two review paths for downtown projects (Type I & II), and repeal of the Downtown Design Guidelines document. **Kelper** named the key changes to code:

- moving design-related developments standards into design standards,
- expanding design standards from seven to 14,
- applying downtown design standards to multifamily buildings downtown,
- allowing all new buildings that meet design standards to get Type I review,
- updating most graphics

Brett Kveler recapped the Commission's work session conversation from September 27th and clarified the actions taken post work session. **Kveler** noted: the creation of a simplified list of Type I and Type II activities, the continued requirement of a 6-ft step back above the base maximum height, added provision to address blank walls on street-visible facades, and an increased max floor area ratio (FAR) to be consistent with max building height. **Kveler** called out two specific recommendations that the Commission had for Council: (1) the development of a process that would require public art be integrated into new buildings and (2) exploration of ways to expand public involvement earlier in the development process. **Kveler** reviewed the approval criteria for Type V code amendments.

Vice Chair Edge asked if the purpose of this project is to make sure there are standards for all the guidelines and guidelines for all the standards. **Edge** pointed out that it seems the amendments seek to align information. **Brett Kveler** stated there is relatively little new code and more rearranging, clarifying, and extracting the most important information from the Downtown Design Guidelines. **Edge** asked if there was much discussion amongst the Design Landmarks Committee (DLC) about public art standards. **Kveler** said there was not much discussion. **Edge** asked if the DLC recommended that the Commission do away with the 6-ft step back. **Kveler** said the DLC noted it as a question to be raised with the Commission and that the DLC did not have a strong single point recommendation about the step back. **Commissioner Hemer** asked if the requirement for a clear and objective path effectively eliminates the ability to have a public art requirement. **Kveler** stated the staff report tries to highlight the complicated factors that make it difficult for public art to be put into a clear and objective process. **Hemer** asked if it is the planning department's job to write the rules for public art. **Kveler** explained that a purpose statement, clear and objective standards, and discretionary guidelines would need to be developed to establish a public art standard. **Kveler** noted that the development of a public art program did not seem immediately accessible. **Commissioner Sherman** expressed the ambiguity that often exists within the Type III review process regarding what is a public benefit. **Sherman** noted that an applicant could tell the commission what the art is. **Kveler** noted that a process where the applicant can show staff that they are meeting the standards for public art would eliminate the need for a discretionary review in front of the commission. **Sherman** gave examples of potential standards and noted how interpretive discussions about what is art could be avoided. **Kveler** stated that the challenge would be to craft language that is specific enough to identify public art options while also being flexible enough for a developer to incorporate the type of public art they want without having the application go through a Type III review process solely because of the ambiguity of the public art.

Commissioner Massey commended the planning team on simplifying the downtown design process and expressed not wanting to miss the opportunity to incorporate a public art standard into the downtown design review process. **Commissioner Hemer** expressed concern over introducing a discretionary review

process for public art within the Type I review process. **Brett Kolver** confirmed that a discretionary process within the Type I review would not be appropriate, as it would conflict with the clear and objective standards. **Justin Gericke** explained that the applicant has the right to build once they meet the clear and objective criteria and diverting any part of the Type I process towards a discretionary component eliminates the intent of the Type I process. **Hemer** stated that a list of public art options would be needed. **Gericke** noted that the list could be endless. **Elizabeth Decker**, the consultant on this amendment project, explained that public art was not discussed in depth during the project because there are no public art standards in the current downtown design review code. **Vice Chair Edge** asked if the Type I process could require a certain amount of space be set aside for art. **Kolver** said yes, a space set aside for public art could be defined. **Edge** asked if the space and art design itself were not comingled and only the space set-aside was a factor in the Type I review process, would the Type I review meet the legal requirements. **Gericke** stated he needed to think about the process and was not sure if a space requirement was a good element to include within the clear and objective process. **Edge** explained that a building's certificate of occupancy would not be tied to the public art design but rather that a separate review process would exist to look at proposed public art design. **Gericke** said that the separate public art design review process would need to be established so that the developer would be aware of what is being asked of them. **Edge** asked if a fee in lieu of public art option could work, with funds going towards public art. **Gericke** stated that a fee in lieu of art still involves the establishment of another program. **Edge** wondered if a 1%-for-the-arts type of program would be something appropriate for the commission to explore. **Edge** explained that 1% of the development fee could be set aside for art. **Edge** asked **Gericke** if the commission's role could include recommendations to Council regarding possible avenues for the creation of a required public art component for new development. **Gericke** said both the fee in lieu of option and the 1% allocation of funds could be explored. **Gericke** clarified that the commission could make a recommendation to Council to consider options for the creation of a public arts requirement. **Sherman** stated his optimism for finding a path to public art.

Commissioner Sherman inquired about the wording within the staff report regarding public notice. **Brett Kolver** listed some of the various public notice methods that might be utilized: mailings, electronic, NDA new Letter, and signage at the site.

Vice Chair Edge stated that the public art discussion has been going on for a long time. **Edge** specified that the time is right to conclude this project with its current scope. **Edge** noted he is hopeful that public art can be formulated into clear and objective language within code but did not feel the time was right to hold up the current project. **Edge** recommended approval for the current project. **Edge** stated Council needs to be aware of how important public art is, especially in the downtown. **Edge** noted that the public art conversation needs to be robust, include various entities, and needs to evolve in a meaningful way.

Chair Loosveldt agreed with Edge's statements. **Commissioner Hemer** acknowledged that the current amount of work done to align code is robust. However, **Hemer** announced his desire to not move the work forward without the inclusion of public art and noted this may be the only real opportunity to address this topic and get something done. **Hemer** expressed frustration about past attempts to move the public art discussion into implementation. **Commissioner Massey** stated he shared Hemer's concern. **Commissioner Sherman** agreed with Hemer that now is the opportunity to do something. **Sherman** stated he was concerned that the public art topic would not find its way back into discussion. **Commissioner Erdt** asked what delaying the recommendation of the code amendments would mean for staff. **Laura Weigel** said it meant that staff would need to look at work plans and consider the complexity of the ask. **Weigel** acknowledged an uncertain timeline. **Edge** stated a city-wide public art program is what is needed to properly address this issue. **Edge** declared it is not the work of the commission to come up with such program. **Sherman** expressed that framing it as a program is not necessary and is over-complicating it.

Commissioner Sherman made a motion to continue the hearing to January 24, 2023. **Commissioner Massey** second the motion.

ZA-2022-003, Code Amendments: Downtown Design Review Commission was continued to January 24, 2023, with a 4-2 vote.

(02:54:37)

8.0 Planning Department/Planning Commission Other Business/Updates

No items discussed.

(02:54:50)

9.0 Forecast for Future Meetings

| | | |
|-------------------|-----------------------|---|
| November 8, 2022 | Hearing Item(s): | 1. CU-2022-003 – Barbara Lynn Way conditional use for vacation rental |
| | Work Session Item(s): | 1. Code Amendments: Climate-Friendly and Equitable Communities (tentative) |
| December 13, 2022 | Hearing Item(s): | 1. VR-2022-009 – Alpha Stone Works variance to design standards in MUTSA zone 2. Code Amendments: Climate Friendly and Equitable Communities |
| | Work Session Item(s): | 1. Draft Housing Capacity Analysis |

Meeting adjourned at approximately 9:26 p.m.

Respectfully submitted,

Suzanne Couttouw, Administrative Specialist II