

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, January 13, 2009
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman, Vice-Chair
Lisa Batey
Teresa Bresaw
Scott Churchill

STAFF PRESENT

Katie Mangle, Planning Director
Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Paulette Qutub

1.0 CALL TO ORDER

Chair Klein called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

2.0 PROCEDURAL MATTERS

3.0 PLANNING COMMISSION MINUTES

3.1 October 14, 2008

Commissioner Bresaw moved to approve the October 14, 2008 meeting minutes as presented. Vice-Chair Newman seconded the motion, which passed 5 to 0 to 1 with Commissioner Batey abstaining.

3.2 November 10, 2008

3.3 November 25, 2008

The Commission consented to defer discussion and approval of the November 10, 2008 and November 25, 2008 meeting minutes due to a number of inaudible sections.

Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org.

4.0 INFORMATION ITEMS–City Council Minutes

City Council Minutes can be found on the City website at www.cityofmilwaukie.org.

5.0 PUBLIC COMMENT

Ed Parecki confirmed that the plainer of the two façades reviewed by the Commission would be utilized for the front façade of the Jefferson St building project he was managing. Construction of the outside façade had not yet begun due to the weather, but the interior was almost finished.

- His building was ready for a tenant to finish the interior, but he was unsure who the tenant would be so the resulting impacts were uncertain.

- He proposed that the Planning Commission consider a temporary, three- to five-year moratorium on the public area improvements ordinance.
- He had heard many comments about how beautiful the work was on the Main and Monroe building. However, he questioned what impact that façade actually had on the City's infrastructure.
 - The project was completed four to six months ago and he was still unable to lease the building. Therefore his remodeling project had no impact to the City's infrastructure, proving his point that the actual work done to a building's exterior did not impact the City in any way.
- The public area improvements requirement ordinance had not provided benefits to the City for eight or nine years. With a temporary moratorium, perhaps owners who were considering improvements to their buildings would proceed, enabling them to help beautify the city.
 - The public area improvements requirement also detracted business from coming to Milwaukie because tenants making improvements to building interiors also had to pay for public area improvements. Prospective tenants might go to other cities where public area improvements were not required.
- He questioned whether public area improvements were needed. He did not want commonality among buildings because uniqueness was important.
 - Repairing uneven sidewalks was different than improvements.
- All the public area improvements were completed for the North Main project, but the building was still vacant two years later. He was uncertain of the solution, but believed the City needed to think differently.
- He believed self-funding for public area requirements, similar to what the City used for its light rail contribution, was one option for the City. Then, the City could do what it wanted without making requirements of property owners and detracting potential business.
 - Another funding source was urban renewal, which he did not like, but needed to study further.
- Milwaukie needed to welcome businesses. If public area requirements were removed, maybe building owners would start improving their properties.
 - He cited Dark Horse and his next door neighbor, Mr. Dietrich, as property owners who had not made improvements to their properties because of the public area requirements.

Commissioner Churchill agreed it might make sense to remove public area requirements in circumstances that did not directly impact traffic, such as façade improvements. During the downturn in the economy, improvements could be completed at a lower cost. However, the City did have an interest in completing public area improvements. Perhaps they could be done through a different mechanism, such as a deferred program where developers would agree to improvements that could be deferred out three to five years. This might prime the pump for development by improving façades to attract more downtown businesses.

Katie Mangle, Planning Director assured staff would be contacting Mr. Parecki and other regular Milwaukie developers to discuss proposed changes to the public area requirements section in relation to updates being made as part of the Transportation Code Amendment project (TCA). Public comment would also be accepted when the draft was presented to the Planning Commission.

6.0 PUBLIC HEARINGS - None

7.0 WORKSESSION ITEMS

- 7.1 Urban Renewal – Staff and Commission will view a video presentation by Jeff Tashman, a local expert on urban renewal, to prepare for upcoming discussions of using urban renewal as a tool for funding downtown projects.
Staff Person: Katie Mangle

Ms. Mangle stated that the urban renewal discussion was postponed, likely to February, to allow staff time to prepare a presentation more in context with current City issues and projects.

- 7.2 Planning Commission Agenda –Proposed new format.
Staff Person: Katie Mangle

Ms. Mangle reviewed the new agenda template proposed by staff and requested feedback from the Planning Commission. Key discussion points included:

- Public Hearing Procedure now more clearly addressed Meeting Continuance, which was added as Item 11 on the back of the agenda. The Chair’s scripts would also be updated accordingly.
 - Changing the word "party" to “person” in the second sentence was suggested to help clarify that anyone, even those who had not yet participated, could request an opportunity to present additional information at another time.
- The agenda would not be printed in color.
- Items 3.0, 7.0, and 8.0 were discussed as follows:
 - Item 3.0 Informational Items remained for items to be announced at the start of the meeting, such as agenda changes, introducing new staff, door-locking issues, etc. The information could be incorporated into other parts of the agenda, such as in Procedural Items (Item 1.0).
 - Items 7.0 Other Business/Updates was intended for staff to prepare and update the Commission about projects noted on the agenda.
 - Item 8.0 Discussion Items was for Commissioners’ comments about items not on the agenda.
 - Specifying ‘from the Planning Department’ in Item 7.0 and ‘from Planning Commissioners’ in Item 8.0 was suggested to make the items’ intent more clear.

Agenda Items 9.0 and 10.0 were addressed at this time.

9.0 OLD BUSINESS—None.

10.0 OTHER BUSINESS/UPDATES

- 10.1 Officer Elections

Bill Monahan, City Attorney clarified questions regarding term limits by citing the bylaws, which stated that Commissioner terms were four years long and Commission members could serve no more than two consecutive terms. However, City Council might waive the limitation if it was in the public interest to do so.

Ms. Mangle offered to check with Pat Duval about whether mid-term appointments counted as full terms. Vice-Chair Newman had been appointed to fill a partial term and

then reappointed for another term, having received a letter from Council. She confirmed that Chair Klein was just completing his first term.

Commissioner Bresaw nominated Jeff Klein to remain as the 2009 Planning Commission Chair. Commissioner Batey seconded the nomination, which passed unanimously.

Chair Klein nominated Dick Newman to remain as the 2009 Planning Commission Vice-Chair. Commissioner Bresaw seconded the motion, which passed unanimously.

8.0 DISCUSSION ITEMS

Ms. Mangle provided updates requested via email by Commissioner Batey and addressed Commissioners' questions as follows:

- According to Brett Kelter, Associate Planner, only the prohibited materials criteria of the Design Guidelines applied to Mr. Parecki's project, so at this point, staff only had to monitor the project regarding the materials used.
- The Northside Plan for North Clackamas Park would come to the Planning Commission, but probably not for some time since the preapplication conference was scheduled for the next week.
 - North Clackamas Park did a community process over the past year, so there was a lot of public involvement regarding planning trail improvements, a new bridge over Camas Creek, a dog area, etc. Staff felt many proposed changes would meet the minor modification criteria, because the passive recreation improvements would not intensify the park's use.
 - The project would come before the Commission, not as a Community Service Use (CSU), but as a Water Quality Resource (WQR) application primarily because of the bridge going over Camas Creek.
- She explained that Ms. Shanks had watched the Camas Creek revegetation very closely during construction of the ball fields. The applicant had planted everything required as of opening day, but staff had not monitored ongoing conditions since the fields had opened. She believed the Stewardship Committee and Friends of North Clackamas Park were watching that more closely.
- At Chair Klein's request, she confirmed she would invite John Mantay to discuss any potential secondary communications or negotiations regarding the Northside Plan application with the Commission.
- All the signs on the Portland Mechanical building were allowed by Code.
 - Repetitiveness of signs could not be addressed. The roof sign's approval was based on the frontage of the building, not the size of the wall. The sign was approved even though a sign already existed on the side of the building facing the same direction as the roof sign.
 - Three separate categories of signs were permitted and signage was not limited to one category or the other.
 - Citing Chapter 14.24.010, which addressed the removal of signs that had holes, peeling paint, or were broken, she believed the City could contact Portland Mechanical about the sign's condition.
- The Casa de Tamales sign placed on a van parked at Scott St could not be opposed because the van was an operating vehicle. However, the person twirling the Casa de Tamales sign at Harrison St and McLoughlin Blvd was not allowed by Code because it was a moving sign. Safety was also a concern because the base of the twirling

sign was not on the sidewalk but out in the street. The City's compliance officer had been asked to investigate the matter.

- Regarding the potential annexation south of the Island Station, a property owner along the river wanted to subdivide the land, change to a lower density zone, and annex into the City. The land was successfully subdivided in the County, and then the owner sold the property. The property owner's attorney said the new owner still planned to request a zone change and annexation from the City. The owner could not build without annexing because City sewer service was needed.
- Staff would follow up with an update regarding the landscaping height along the east edge of the high school.
- Two separate proposals existed for the Thomason site where demolition was taking place. Willamette Jet Boat would construct a new office building where the old building had been demolished, and D & R Masonry would occupy the existing round building across the street.
 - Both proposals would be required to have parking lot improvements. The building on the west side might be required to do landscaping as well.

Vice-Chair Newman asked whether the Planning Commission or City Council should address questions such as those posed by Mr. Parecki.

- **Ms. Mangle** explained that Ms. Shanks went before City Council for feedback about the initial direction of updating the public area requirements code. City Council directed staff to find a way to better balance the costs without reducing standards for consistency, sidewalks, and lighting, and to consider other funding sources for the public to help make the improvements as well. Public area improvement costs should not rest completely on the shoulders of developers.
- Urban renewal was one of the tools being investigated. Grants were another tool. The City had received a \$150,000 grant from Metro to make sidewalk improvements, although it would not be enough because the cost to make all the improvements for one block was estimated at \$400,000.

Chair Klein sympathized with Mr. Parecki and Mr. Dietrich, but in reality, the issues must go hand in hand. If he did not find value in his property and did not think prospective tenants would invest the money, then asking citizens to pay for public improvements was not necessarily the best approach.

- Sidewalks increase the value of a home, so why shouldn't residents living on a street pay for its upgraded public improvements? Why should the public pay to upgrade the public area [improvements] in front of a building when the property owner would benefit from the increased property value? No profit would return to the City, except in increased tax revenue.
- At some point, public improvements had to be completed, especially if a standard was to be maintained downtown. When should public funds be used to help kick start development, and then should public funding stop? If a moratorium was enacted, Mr. Parecki believed the City would get the public area improvements when tenants moved, but tenants would not move in if \$20,000 to \$40,000 was required for public area [improvements] in front of a building.

Commissioner Churchill believed Mr. Parecki's idea of rear-loading development costs had merit. A developer could offer tenants improvement dollars in a lease where public area improvements were buried, but draw tenants in with street façade improvements, which might dramatically increase tenancy. A moratorium on public area improvements

would provide even more of a blank check.

- The public area improvements process might have stopped Mr. Dietrich from making improvements to his property, according to what he had heard, but he did not believe Dark Horse was waiting for a public area improvements hiatus to put money into improving its property. Their corner display had not changed in four years. He suspected the ownership had decided to put their money elsewhere.
- In tough economic times, there was value in encouraging developers to improve the visual blight in downtown Milwaukie and other areas. Then public area improvements could be completed when the project really did qualify for public area improvements.

Commissioner Batey understood that the draft revision used impacts as the trigger for public area improvement requirements, eliminating the percentage of value trigger. Therefore, a purely cosmetic façade restoration would not trigger public area improvements.

Ms. Mangle believed that was the way the draft was written. If only exterior changes were made, no public area improvements would be required unless impacts could be established.

- She noted that although Mr. Parecki described his improvements as a façade project, he actually remodeled the entire building, preparing it for everything but the tenant improvements. Rear-loading the public area improvements was essentially what Mr. Parecki was doing with his Main and Monroe building.
- The same policies would apply to downtown and the rest of the city. She suggested holding a separate worksession to discuss the issue. Honest feedback was important because the issue would go to public hearing in a few months.
- She was not certain what requirements Mr. Fetty's new building on Harrison Ave had triggered. The project only required a building permit, but something must have been triggered because a new use and new building were added. She could not recall what the requirements were, but knew Mr. Fetty had paid SDCs.

Chair Klein believed a worksession would be helpful. He suggested that discussions also include other areas like 42nd Ave and King Ave, Milwaukie Marketplace, Harrison St and Hwy 224, which were all areas that would benefit from improvements.

Commissioner Churchill reported that the court hearing regarding the Fetty project essentially came down to the follow-up communication the Planning staff had with Mr. Fetty clarifying that he would have a certain amount of latitude to take pictures out front, but no specific time frame had been determined.

- He learned that every detail in the review process needed to be carefully crafted, especially when allowing an exception to a denied use downtown.
- Mr. Fetty made the case that he was just doing photographic work to update his website, but no definition of a reasonable amount of time was given. That clarification was provided by staff, not the Commission, so that detail resulted in an abuse of the intent.
- Mr. Fetty was not fined. From a legal standpoint, no definition of what a reasonable amount of time had existed.

Ms. Mangle stated Ms. Shanks was also surprised that the judge did not look back to the Planning Commission decision, but instead basing his decision on staff's letter, which was not what staff expected. She agreed with Commissioner Churchill's

assessment.

Commissioner Churchill said that the judge informed him that he had not considered the outcome of the Commission and that the onus should not be on the defendant to define what the City was requiring of him. He believed the judge's comment was that cars being left out overnight would have been beyond a reasonable period of time.

Chair Klein reminded that the Code compliance officer's purpose was not to seek monetary justice, but to gain compliance. The court case might not have been won, but the battle was won when he and Ms. Shanks had spoken with Mr. Fetty.

- Mr. Fetty's intention was to push the envelope as far as possible to take advantage of the situation. But in driving by the site, he no longer saw Mr. Fetty pushing that envelope. Moving to the new location would also alleviate those issues.
- He added that he had been upset by other decisions coming from the Code compliance system.

Commissioner Churchill was disappointed that Mr. Fetty's intent as to circumvent the Code. The Commission wanted to support and encourage new businesses downtown, but had to be more cautious.

Ms. Mangle recalled feeling that several Commissioners wanted to deny the IFC application, but felt that they could not. She wanted the Commissioners to feel comfortable. If anyone had a gut-level concern, they could call staff to help research and pay more attention to the applicable finding. It was difficult to stay on top of all the details, and staff wanted to help the Commission focus on the important points of an application.

Agenda Item 9.0 and Item 10.1 Officer Elections were addressed following Agenda Item 7.0 Worksession.

The Commission addressed Agenda Item 11.0 at this time.

11.0 NEXT MEETING: January 27, 2009

11.1 CSU-08-04 Bridge City Community Church Sign Review

11.2 CSU-08-05 Pond House Application—Booktique bookstore run by Friends of Ledding Library Uses

Ms. Mangle noted that the Bridge City Community Church sign application was for an unlit monument sign.

- She clarified that the Booktique nonprofit was a retail use, which was not allowed in the underlying zone, so a CSU overlay was required for approval.
- Staff was also preparing to update the Commission about the Parking Code if time permitted.

Chair Klein noted that the effects of a reader board sign could be seen on Tacoma Ave past New Seasons. The sign slowed traffic and could not be seen until one was right on it because of a post in front of it.

Forecast for Future Meetings:

February 10, 2009 –Hillside Project Briefing with Housing Authority of Clackamas
County Staff

Meeting adjourned at approximately 7:50 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription for
Alicia Stoutenburg, Administrative Specialist II



Jeff Klein, Chair