

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

November 6, 2007

Mayor Bernard called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Council Present: Mayor Bernard and Councilors Barnes, Collette, and Stone

Staff Present: City Manager Mike Swanson, Community Development / Public Works Director Kenny Asher, Resource and Economic Development Specialist Alex Campbell, Planning Director Katie Mangle, Operations Director Paul Shirey, Information Coordinator Grady Wheeler, Community Services Director JoAnn Herrigel

South downtown / Cash Spot Discussion

Mr. Asher discussed the Cash Spot and light rail planning, Kronberg Park, the Farmers' Market, and interest in Sternwheeler Rose. Those discussions were continuing. He and Ms. Herrigel proposed the concept of all of these working together at the south end of Main and integration with the urban grid.

Jerry Gast, urban designer, worked on some drawings. He introduced John and Joan Shipley who owned the post office and archery building. He and Alex spoke with the Shipley's, and they were interested in understanding what the city intended for that part of town and were interested in some level of participation. Staff had also spoken with Dr. Boulari.

Mr. Gast when he did studies earlier this year he looked at the downtown. The City had accomplished a lot with McLoughlin Boulevard improvements and North Main, Riverfront design and Texaco site. The south end of downtown was lagging a bit, but the greatest opportunity was there to connect to open space and put all of the pieces together. He specifically focused on the archery/post office building and the railroad track cutting through it, Kellogg Creek, and Main where it turned into Lake. He looked at all of the projects, creek restoration, potential new bridge on McLoughlin Boulevard and pedestrian connection under the bridge, ties to Kronberg Park, Lake Road Max station, streetscape improvements, and better pedestrian connections to the High School and Riverfront Park. He looked at the potential Max station and examined the feasibility of a plaza that would become a strong focus for the Farmers' Market, Public events and festivals, and an informal meeting place. This would be unique in the Portland area for a city of this size. This would create an attractive setting for private investment and property improvements.

Mr. Gast explained the basic plan and pointed the features out on a drawing. The center and focus would be a public plaza. The new Lake Road MAX station with streetscape improvements and pedestrian improvements to Milwaukie High School. Pedestrian linkages with a trail down to the restored creek bed and another trail to Robert Kronberg Park on down to McLoughlin Boulevard and Riverfront Park. He proposed a parking structure at the Cash Spot with presumably ground floor retail. There is potential for new investment and development on site to the east of the Max station and possible relocation of the post office. It is a possible building for Dark Horse or another company. There

was potential for a mixed-use development with ground floor office and retail similar to what was going to be built across the street from City Hall.

There would be a good amount of public parking on the street with diagonal parking and attractive landscaping. He showed a perspective drawing of the area with the plaza, Max station, and bus drop off area on the north side of the plaza. All the streets would still be through. There would be a street path down from the High School and under the bridge to the park. He indicated the potential new building on the southeast of the plaza and potential redevelopment, and a parking structure on the Cash Spot property. It depended on economics and further study but when you get to the top floor there would be great views of the river and Dunthorpe so the potential was there to develop a couple stories of something else. The way the site is dug out really works well for parking. Right now you can have almost two levels of parking below the street level. There are not that many new ideas, but rather he was tying together things that are already in process, and had been discussed. They had added a few things but not every thing was new. Urban design is intended to tie everything together. The Plaza could accommodate the Farmers' Market, which could also spill over into the streets surrounding the plaza on Sundays. The Max station would likely be a center-loading stop. There was a fairly steep grade down toward the south and then a lesser grade towards the west so it would probably be a plaza that has some steps where you could sit on them and have a water feature or tower of some kind. The idea is to make a good portion of the plaza level so it could be used for public events. He compared the Plaza to Pioneer Courthouse Square and said it was about half the size. He said you don't want the plaza to be too large because you want to have enough activity in it. For a town the size of Milwaukie he didn't think you would want a plaza the same size as Pioneer Courthouse Square because it would be hard to generate enough activity. You would be able to see the tower from McLoughlin Boulevard. He said very few cities in the US had this kind of Plaza, and arguably Portland had the finest. Once you have one there are so many things that you can do if you schedule things right and have management that cleans and maintains it. There could be holiday events, Christmas, Pumpkin Patch, summer events, and the Farmer's Market. There should be a water feature and there has to be some kind of food and drink in a public plaza, which could be a cart. Another important note was that you couldn't have a public plaza unless you have surrounding activity such as buildings. Having buildings around generated activities, and people living there would surveillance the area. He showed Mill Valley, which is just north of San Francisco that had a great little public plaza that used to be an old train depot. They have a bookstore and a restaurant and they have outdoor eating areas and then people meet there before they go for bike rides or use it as a meeting place. He also showed a plaza in Chattanooga, TN and how they handled underneath a highway bridge, which is a difficult design element. They created a stepping and pedestrian space that goes under it and it shows that with some creativity you can take a space like that and really make it into something.

Mayor Bernard said this was exactly the vision they had of what we could have and it is why the City purchased the Cash Spot and was working toward Creek restoration.

Mr. Gast said the foundation had already been laid with the start of a lot of new projects.

Councilor Barnes said she would love to see a restaurant on top of the Cash Spot property to overlook the river. She said it would be a great area for a year round market or perhaps a market with roll up doors.

CITY COUNCIL WORK SESSION – NOVEMBER 6, 2007

APPROVED MINUTES

Page 2 of 7

Ms. Collette said she was excited and that she had hoped to see more housing on the triangular spot for access from condos to greenspace. It may be possible to do something like that on top of the Cash Spot site. It seems like if you were going to be that close to wonderful park space it would be a premium quality housing.

Mr. Gast said some of the existing buildings did not have a strong street frontage. If these developments start to happen one could see a lot of improvements in development.

Mayor Bernard commented that some of that was his property and he had no intention of developing it at this time. He clarified that they were not talking about voting tonight on re-development of this site or spending any money on it. This was just a concept, and it was consistent with the downtown plan and he would love to be able to do it some day.

Mr. Asher was not surprised the Council liked it because it was a phenomenal concept. We have a unique set of circumstances. When you have a traditional Main Street that terminates it is a very compelling thing to anchor it with a public plaza, and to have that public space be adjacent to a system of open space that isn't self contained but actually gets you places. One of the most important things about making something like this happen is having a strong enough concept or idea that people get excited about it and buy into it. That is the first thing that we have in our favor. Also, in our favor is some site control as we have site control on the Cash Spot and in the public rights-of-way. This kind of project required a partnership between the property owners and the City and Metro and TriMet. They have a strong concept and there are some projects in motion including the riverfront park and Kellogg Creek dam removal and restoration. The big challenge is that it is going to take a lot of money. This would take a lot of money for the public areas, and the City would have to grapple with that. If this group was at consensus that this was worth pursuing then he suggested letting staff determine what needed to occur next. The concept plan is the easiest step. They needed to take the concept plan and move it into something that is more real. They will need to talk to property owners to find out if there is any willingness to work with the City on something like this. They have to talk to TriMet about the opportunities for TOD and transit. We haven't yet reached out to the neighborhoods or the downtown businesses and we need to pull them into the planning process. That would launch it into a planning and development phase, which would have to deal with the financing and details of development and light rail.

Councilor Barnes said that she would like to have staff to go to each of the neighborhood associations and show them the concept plan.

Briefing on Proposed Residential Facility

Mr. Swanson explained the purpose of this meeting was to transmit information to the Council. He had originally hoped the city attorney would be here, but they do not typically ask him to be at work sessions, so we may ask him to come to the next meeting.

The use that is being proposed is a secure residential treatment facility for adults with mental illness, some of whom are under the jurisdiction of the Oregon Psychiatric Security Review Board. The population that they are looking at is 5 persons with severe persistent mental health illness, 8 with mental illness who are under the jurisdiction of the Psychiatric Security Review Board, which are people that if it weren't for the finding that they are mentally ill would be judged

guilty of a crime, and 2 who are Clackamas County Community Health patients. He wanted to make it clear what parties were involved in this particular proposal. One is the non-profit that will own and operate the facility, which is Oregon Regional Behavioral Services (ORBS). The second party is the Psychiatric Security Review Board, which is a state review board. The third party is the state mental health division, which is also a state agency. The fourth is Clackamas County who will through administration of the community development block grant (CDBG) funding through HUD propose to provide the money to purchase the property at 2808 SE Balfour. Those are the parties who are teaming up and proposing this facility. An important date to remember is November 15 which is when the Clackamas County Commissioners will be considering the question of whether to allocate the CDBG monies. The staff report from the county was provided to him late last week and it is the staff report that will be in front of the commissioners when they consider their decision on November 15. The proposal is for a 24/7 operation that runs 365 days per year. The County staff report says there will be 7 staff per shift, which he hasn't confirmed. It would be a secure facility and they are proposing a wooden fence and then inside a chain link fence, locked doors, security cameras and light of sight for all entry and exits. He stressed that there are no notice requirements and another party to this was the Federal Congress and the Federal Fair Housing Act (FFHA). ORBS has laid out a plan for canvassing and talking with the neighborhoods. Next is the consideration by the BOC of the CDBG funding proposal on November 15. He passed out an outline of FFHA communication guidelines. The City is subject to FFHA in regards to this particular proposal and there are a number of restrictions on the City. He read some of those restrictions. Project communication education should be addressed to the neighborhood affected and not to the community at large, the project communication can include a public meeting to educate the immediate neighborhood and answer questions or concerns regarding facility, written materials disseminated for project communication should include language that the materials are set for education and informational purposes only. Project communication although intended to educate only cannot have the effect of facilitating opposition that leads the County to a determination to locate the project to another neighborhood to avoid opposition. Those were basically the kinds of things the City operates under as regards to proposals that are subject to the FFHA.

Mr. Swanson said at about the same time he also learned the County Corrections Division felt it had funding to open the vacant beds at the McBrod facility, and he did not believe the two arms of the County had talked to each other. Talking about this required some measured response. He said the planning staff would prefer to subject the proposed facility to a higher level of review to ensure compatibility of the institution with the surrounding residential neighborhood; however, under the law the City's ability to mitigate potential impacts is severely limited and most mitigation measures are left to the discretion of the developer.

Ms. Mangle said they became familiar with this proposal when they conducted a pre-application conference. The key question was what type of permitting process would they be subject to. The FFHA requires the City to subject residential homes or facilities to the same standards as any other residential house. What concerned her right away was the size of the facility, and due to the size this was not a residential home. She had copies of the plans that were reviewed in the pre-application conference and to her seemed more of an institution than a home, and made them look very closely at what we are required to do with regards to City code and Oregon statute and the FFHA. She spent

CITY COUNCIL WORK SESSION – NOVEMBER 6, 2007

APPROVED MINUTES

Page 4 of 7

about two months to answer the question of what process they have to go through, which normally takes place in about two weeks. Unfortunately, they came to the conclusion that their hands are tied. There is nothing in the City code that limits the number of people who are in a house. The requirement is that it has to operate as a single housekeeping unit. In this building there will be 15 individual bedrooms, a shared kitchen facility, some offices and holding rooms but nothing that anyone couldn't include in a very large house. As long as it operates as a single housekeeping unit and has less than 15 residents it is defined as a residential facility and is subject to the protection of the FFHA. Staff worked closely with City Attorney Monahan to come to that conclusion. They put a lot of work in trying to understand that. Though they cannot prohibit this type of facility in any zone they were hoping that they would either guide it towards a zone that is designed for higher density residential as opposed to this lower residential zone. The code did have some provisions that addressed mitigating impacts, but it didn't apply to this institutional facility. It would be allowed for a building permit, but would be subject to residential home review just like every other house is. The Milwaukie code does have some provisions that address aesthetics of homes that would apply to this facility. The current City code does not limit the number of cars that can be parked on a residential lot so there is not a standard that they could apply to the large parking lot, which was not pleasing to her.

Councilor Barnes understood this was contingent upon CDBG money from the County so politically we have to put pressure on the BCC to get this stopped.

Ms. Mangle said from her standpoint they are very limited on the land use side.

Mr. Asher said it is already in the CDBG final funding plan, so money for this size population was already approved by the BCC as part of their master plan. At the time of that approval it was potentially to be sited in Oregon City. For some reason that site did not work out. We would have taken note of it at that time if it had said the proposed site was in Milwaukie, but it was after the funding was approved that this site was identified. The County also tried to site this facility in Sandy, and he had more detail as to why that didn't work out.

Councilor Barnes suggested finding out why it didn't work in those two cities and how we can prevent it.

Mr. Asher said that he believed the City of Sandy actually purchased the property that was the proposed site.

A member of the audience believed it had to do with siting with other community types of facilities such as a pre-school and senior facility.

Ms. Mangle said in the course of their research they did talk to other cities including Portland, Pendleton and a few others where ORBS has successfully cited these facilities, and they all for the same reasons came to the same conclusions that we eventually came to in terms of the requirements that the City needs to allow this. She clarified that they don't currently have an application, but there was a pre-application conference so they gave them the best information at that time. If further information comes that would allow them to draw a different conclusion they could still come to that conclusion. No decision had been made at this point on an application. They are expecting that an application will be coming in the next few months.

Ms. Collette asked if they had made an offer on the property already?

Mr. Swanson said he believed escrow closes on December 18 and is likely subject to all the needed approvals.

Mayor Bernard was concerned about the City codes and the ability to build large assisted living facilities. He asked about landscaping requirements.

Ms. Mangle said they did regulate coverage of the area but did not require landscaping. You can't build structures all over a residential lot, but they do not regulate what is on it, whether it is a parking lot or gravel. She said that is on our code fix list because it has come up in the past and needs to be looked at. Whatever they apply would apply to everyone.

Councilor Barnes asked if there was a limit on the number of parking spaces on a residential lot.

Ms. Mangle said there were minimums but no maximums. This could be addressed in the future.

Councilor Barnes said we need to head this off now, as Milwaukie is becoming a magnet. 24 parking spaces for a house was not even plausible for a family.

Mr. Swanson said within Clackamas County there are 63 beds in 10 group homes distributed throughout. Oregon City has 5 and 30 of the residents, Milwaukie has 3 group homes and 24 residents, Wilsonville has 1 home and 5 residents and Gladstone has 1 with 4 residents. There are 6 foster homes owned by private individuals that house persons with mental illness, Oregon City had 1 home with 5 residents, Clackamas 1 with 5 residents, Milwaukie 2 with 10 residents and Lake Oswego 2 with 10 residents. A lot of group homes that they had dealt with have residents that are recovering or developmentally disabled. The real problem here is the population.

Councilor Barnes said there is a group home up the street from where she lives and one behind them and she didn't have a problem with those, but these were people who were in prison if they had not copped this plea. There is a difference and it is about safety.

Mr. Asher said there is a process that ORBS uses to get to know a community and he thinks the County and ORBS have talked about what they would do in the way of outreach and when they would do it, but he didn't have those details.

Ms. Mangle said that ORBS is working with Chief Kanzler to do that and he shared their lack of enthusiasm for the project but they are working closely with the Chief.

Ronn Palmer understood that there would be inpatient residents and outpatients coming in from other areas for day treatment.

Mr. Swanson had not heard about that.

Councilor Barnes said we should get some more details, and then they need to talk with the BCC about their concerns.

Mayor Bernard recommended that concerned individuals attend the November 15 meeting of BCC.

Discussion to reschedule the first meeting in January

Council consensus was to change the first meeting in January from January 1 to January 2.

Riverfront Board Appointments Discussion

Mayor Bernard said that most of the members on the Riverfront Board have terms that are about to expire. He asked if council should interview the board members.

Councilor Barnes asked if there had been any interest in the Riverfront Board.

Ms. DuVal said that there has been no advertising for the Riverfront Board and that 3 of the 4 members expressed an interest in remaining on the Board.

Councilor Stone thought it should be advertised for a month to see if there is any interest.

Mayor Bernard said that they would need to extend the terms of the current board to allow for advertising.

Consensus was to extend the current terms of the Riverfront Board members for one month.

Mayor Bernard adjourned the work session at 6:35 p.m.

Pat DuVal

Pat DuVal, City Recorder

AGENDA
WORK SESSION
MILWAUKIE CITY COUNCIL
NOVEMBER 6, 2007

MILWAUKIE CITY HALL

Second Floor Conference Room
10722 SE Main Street

A light dinner will be served.

WORK SESSION – 5:30 p.m.

Discussion Items:

| | <u>Time</u> | <u>Topic</u> | <u>Presenter</u> |
|----|-------------|--|------------------|
| 1. | 5:30 p.m. | South Downtown / Cash Spot Discussion | Kenny Asher |
| 2. | 6:00 p.m. | Briefing on Proposed Residential Facility | Katie Mangle |
| 3. | 6:15 p.m. | Discuss Rescheduling First Meeting Date for January 2008 | Mayor Bernard |
| 3. | 6:30 p.m. | Discuss Riverfront Board Appointments | Mayor Bernard |
| 4. | 6:45 p.m. | Adjourn | |

EXECUTIVE SESSION

Executive Session: The Milwaukie City Council may go into Executive Session pursuant to ORS 192.660(2). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the one previous to it.
- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Kenneth Asher, Community Development & Public Works Director

Subject: Cash Spot/South Downtown Redevelopment Discussion 2

Date: October 24, 2007 for the November 6 Meeting

Action Requested

None. This is the continuation of a staff-council discussion started in May 2007 regarding the city's long-term vision for city-owned property at the Cash Spot site and the surrounding south downtown area.

Background

At a council work session in April 2007, Community Services staff presented the possibility of leasing the Cash Spot property to a commercial charter boat enterprise. These discussions are ongoing. At the April meeting, one councilor remarked on the need for a larger discussion about the long-term use of the site and vision for the larger south downtown area. Staff had already shared some ideas with Council at a late 2006 work session, which started to tie together a number of redevelopment and open space projects, including:

- Kellogg Lake Bridge Replacement and Dam Removal
- Kellogg Creek restoration
- Riverfront Park design and development
- Robert Kronberg park improvements
- Cash Spot site redevelopment

On May 1, 2007, staff and council held a work session discussion about the future of south downtown. It was noted that, in addition to the projects listed above, several other activities were beginning to inform the eventual configuration and utilization of the south downtown area. These activities include:

- South Corridor Phase 2 Light Rail and a possible Lake Road station location
- Redevelopment of the Town Center site and the pending relocation of the Farmer's Market
- Transportation System Plan (TSP) Update and community interest in public parking facilities
- Possible short term lease arrangement with the Sternwheeler Rose at the Cash Spot site
- Future redevelopment of the Kellogg Wastewater Treatment Plant
- Continued redevelopment and revitalization of downtown and, specifically, the retail spine on Main Street

Since May, several of these activities have progressed, bringing the south downtown opportunity into sharper focus:

- Light Rail planning is approaching a decision point about where to locate stations. A Lake Road station is one of several candidates.
- Discussions have started regarding the relocation of the Farmers Market to south downtown.
- Main Street redevelopment has advanced, with new restaurants opening in several locations, progress on redevelopment of the Town Center site, and renovation underway at the northwest corner of Monroe and Main.
- The TSP update is nearly complete, with new detail about the city's vision for the how the Cash Spot site can provide structured parking for downtown
- The City and TriMet have started discussions as to the potential shared use of a parking structure on the Cash Spot site
- The future of the treatment plant is still unresolved, however the County is moving to clarify the long-term wastewater solution for north Clackamas County, and the City is updating its Wastewater Master Plan, which will help sort out the issues (a Council Work Session on this topic is scheduled for November 20)
- Environmental and financing discussions are progressing between city staff and governmental partners on both the Kellogg Creek restoration project and the Riverfront Park plan.
- An arts committee is under discussion that could help bring a focus on creative vitality to the economic development opportunities in south downtown.
- Lease discussions with the Sternwheeler Rose are progressing, and the Cash Spot property is beginning to show the effects of its non-use.

The May discussion revealed that the Council remained strongly committed to the principal organizing ideas for south downtown in the Downtown Plan, which are to create an Arts/Entertainment/Office Area with a pedestrian focus, structured parking, "anchor" buildings for the Main Street armature, and adjacencies to a new Kellogg

Creek Park and Riverfront Park (i.e. strengthened connections between downtown and the open space network).¹

Council noted that the Cash Spot site was opportune for structured parking, especially given the grade change between Main Street and McLoughlin.² Council noted that the Main Street side of the site could be used for retail, and the parking itself could be used on the weekends for overflow parking for parks users and Farmers Market patrons. The market itself was seen as an important feature of the area – a vision was discussed that placed the market in a public plaza with a water feature. It was mentioned that the plaza could be designed to complement a public building like a museum (potentially to display Dark Horse collectibles). Nearby housing and connectivity across McLoughlin to Riverfront Park were also mentioned as important, as was connectivity to Kellogg and Kronberg parks. One councilor noted that all the outdoor activities shouldn't be focused on one end of town.

Based on this input from council, as well as ideas presented in the Downtown Plan, Community Development staff has worked on a concept that could lay the foundation for future planning, fundraising and redevelopment in south downtown. The purpose of this work session is to review this concept and discuss its merits, challenges and, if desired, possible next steps.

Council's support for the concept will help facilitate staff conversations with other departments, governments, property owners, Milwaukie businesses and residents and other stakeholders about the city's intentions for the south end. Decisions ranging from light rail station location, to the current use of the Cash Spot property, to the ultimate location of the Milwaukie Farmers Market, to the design of Robert Kronberg park, will be informed if the City can arrive at a clear and collective view of south downtown's desired future.

Gerry Gast of Gast Hillmer Urban Design will be on hand to present the concept and answer questions.

Concurrence

None, as there is no action with which to concur. However Community Development has engaged this work in consultation with the Community Services and Planning Departments. The Directors of Planning and Community Services concur with the notion that the current crop of projects in the south downtown area should be brought together into a unified vision. The Planning and Community Services Directors are looking forward to hearing and understanding the concept.

¹ See Land Use Framework Plan sections 1.14 and 1.15 on pages 15 and 16

² One councilor disagreed, stating that the Cash Spot property was prime riverfront property and that a parking structure might be better sited elsewhere.

Fiscal Impact

None

Work Load Impacts

There is no action and therefore no workload impact. A show of support from Council would begin a discussion about next steps for south downtown planning. In that case, the Community Development would begin a series of discussions with the City Manager and other departments to consider how to move the concept forward. This effort would be absorbed into the Community Development workplan, and could become a focus area for the Community Development Department this year and in future years. A prolonged commitment to south downtown redevelopment would have workload impacts in other departments in future years. These can be planned accordingly.

Alternatives

None, as there is no requested action.

Attachments

None



To: Mayor and City Council

Through: Mike Swanson, City Manager
Kenny Asher, Community Development and Public Works Director

From: Katie Mangle, Planning Director

Subject: Residential Treatment Facility Proposed at 2808 SE Balfour St.

Date: October 25, 2007 for Council Work Session on November 6, 2007

Action Requested

None. This is a briefing for information only on a situation that has arisen in the community.

Background

A non-profit organization has expressed its intention to locate a mid-sized residential treatment facility in the Ardenwald neighborhood. The City has determined that such a facility is allowed in low density residential zones and may be constructed through the standard building permit process. The purpose of this memo is to 1) outline staff's understanding of the proposal, 2) address some central concerns, and 3) explain how the realities of state law and the municipal code establish the process that will be applicable in this case. No development application has been received; this briefing is intended to prepare Council for questions likely to arise in the community.

On August 9, 2007, staff conducted a Pre-Application meeting with a representative of Oregon Regional Behavioral Services (ORBS) to discuss a proposal to establish a 15-bed residential treatment facility at 2808 SE Balfour Street. The facility would serve the mentally ill, providing an initial residence for patients newly released from the state mental hospital as they transition into more independent living situations. The project includes an 8,500 square-foot one-story building and a 24-space paved parking lot. It would be a secure facility, with limited access and staff on site 24 hours a day.

In 1988, the Federal Fair Housing Act gave residential homes and residential treatment facilities the same status as single-family houses in residential zones. The Fair Housing Act made it illegal to require an extra review process for residential homes or residential

treatment facilities in residential zones. The law states that this review process should not be any different than that required for a single-family dwelling. Essentially, the Act established that there shall be no different standard applied to a dwelling that houses unrelated individuals with disabilities than would be applied to a dwelling that houses individuals without disabilities, whether they are related (as a family) or not (as housemates).

Concerns

While understanding the principles of the Fair Housing Act and the importance of preventing discrimination in housing development in Milwaukie, staff was nonetheless concerned that the City have an adequate opportunity to evaluate such a project, assess its potential impacts, and establish conditions to mitigate negative impacts on the neighboring area. Unlike the average single-family home in Milwaukie, the proposed facility includes 15 bedrooms, a 24-hour staff, and a striped parking lot designed to accommodate up to 24 vehicles. Concerns that relate to the impacts of the proposed facility include:

- How much new traffic would the proposed facility generate? What measures could be required by the City to mitigate for any traffic impacts?
- Will there be any way to control visitation hours at the facility?
- How many staff will be employed, and what will be the patterns of shift changes?
- How will the parking area be landscaped and/or screened?
- How will the overall site be landscaped and/or screened?
- What is the lighting plan for the site, both for the exterior of the building and for the parking area?

With these concerns in mind, Planning staff worked closely with the City Attorney to determine a review process that would meet City, state and federal regulations.

The Review Process

The following points outline Planning staff's understanding of the proposal in relation to the Oregon Revised Statutes (ORS) and the Milwaukie Municipal Code (MMC):

- Oregon state law includes definitions for "residential home" and "residential facility" (ORS 197.660), with the essential difference being the number of residents (see Attachment 1). A "residential home" provides care for five or fewer people; a "residential facility" serves from six to 15 people. With room for 15 residents, the proposed facility would qualify as a "residential facility" according to state law.
- In 1991, the State Attorney General's office produced an opinion that interpreted the standards for siting residential facilities (ORS 197.667) to mean that local jurisdictions must allow residential facilities wherever single-family detached dwellings are allowed.

- In late 1993 and early 1994, in response to the potential filing of a Federal Fair Housing Act complaint against it, the City amended its zoning code (File #ZA-94-02). The amendment revised the definitions of “family” and “residential home” to remove any limit to the number of people each would include. A pre-existing definition for “residential care facility” (established in 1989) was removed and replaced with the current definition of “congregate housing facility.”
- According to staff reports supporting the 1994 zoning amendment, the definition of “residential home” was amended to incorporate the pre-existing “residential care facility” definition. The “congregate housing facility” definition was established to cover those residential facilities that exceed “single housekeeping unit” status.
- Residential homes are outright permitted uses in zones that allow single-family detached houses (i.e., all residential zones). That is, any facility proposed for 15 residents or less and operated as a single housekeeping unit is to be treated as a residential home and allowed outright in any residential zone.

Conclusions

As a residential home, the proposed ORBS facility cannot be subjected to any more rigorous a review process than would be involved with a building permit for a “regular” single family house; the City is not in a position to impose additional requirements. Development standards of the underlying R-7 zone (MMC Section 19.302) and design standards for new single-family construction do apply (MMC Section 19.425). Some key requirements that will apply include the following:

- Adequate on-site management of all stormwater.
- The building must incorporate at least three of the 12 residential design features listed in MMC Subsection 19.425.B.
- At least 12 percent of the area of the exterior building elevation that faces SE Balfour Street must be comprised of windows.
- The development will be subject to all the same public improvement requirements (sidewalks, streets, sewer, storm, etc.) as any other new single-family residence.
- An adequate turnaround maneuvering area will be established at the end of SE Balfour Street.
- Signage will be limited to that which is permitted in all residential zones.
- Perimeter fencing will be limited to a maximum height of six feet along side and rear yards, 42 inches in the required front yard, with no barbed wire.

In summary, Planning staff would prefer to subject the proposed facility to a higher level of review to ensure compatibility of the institution with the surrounding residential neighborhood. However, under the law, the City’s ability to mitigate potential impacts severely limited, and most mitigation measures left to the discretion of the developer.

Concurrence

Planning staff worked closely with Bill Monahan, the City Attorney, to establish review requirements for the proposed development.

Fiscal Impact

None

Work Load Impacts

None

Alternatives

None

Attachments

None