



City of McMinnville
Planning Department
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MINUTES

June 27, 2019
Planning Commission
Regular Meeting

6:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Commissioners: Erin Butler, Martin Chroust-Masin, Susan Dirks, Christopher Knapp, Gary Langenwalter, Roger Lizut, Amanda Perron, and Lori Schanche

Members Absent: None

Staff Present: Chuck Darnell – Senior Planner, David Koch – City Attorney, Heather Richards – Planning Director, and Tom Schauer – Senior Planner

1. Call to Order

Chair Hall called the meeting to order at 6:30 p.m.

2. Citizen Comments

None

3. Approval of Minutes

- **May 16, 2019 Planning Commission Minutes**

6:32 Commissioner Dirks moved to approve the May 16, 2019 Planning Commission minutes. The motion was seconded by Commissioner Langenwalter and passed unanimously.

4. Public Hearing:

A. Legislative Hearing. G 3-19 (Zoning Ordinance Amendment “Floating Zone) (Exhibit 2)

Request: Amendment to the McMinnville Zoning Ordinance to add a new Section, Chapter 17.49: Innovative Housing Pilot Project Floating Zone. This amendment would establish provisions for the Innovative Housing Pilot Project Floating zone, but it would not rezone any properties. It would establish a designated eligibility area. Only property owners within this area would be eligible to apply to have the floating zone designation applied to a property through a future land use application, which would require a separately noticed public hearing process.

Applicant: City of McMinnville

- 6:33 Opening Statement: Chair Hall read the opening statement and described the application.
- 6:35 Disclosures: Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter.

John Ashton, McMinnville resident, had talked with neighbors bordering the proposed floating zone who had not been notified of this hearing. Before a decision was made he thought they needed to be contacted for input as it directly impacted them.

Planning Director Richards said they had extended the notification procedures for this application by sending letters out to every property owner in this area. They could do another notice with a larger surrounding area since the hearing was being recommended to be continued.

City Attorney Koch clarified the City met what was legally required for notifications. He thought the Commission had jurisdiction to proceed with this matter.

There was consensus to direct staff to extend the notification to the properties bordering the proposed floating zone area.

Chair Hall asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

- 6:40 Staff Presentation: Planning Director Richards said this was a recommendation from the Affordable Housing Task Force to address housing deficiencies in McMinnville especially for lower income housing. There was a surplus of industrial land in the City and a deficit of residential land. It was not intended to rezone any property, but this was an overlay zone to encourage select projects on a few pieces of property within this specific area. It was a combination zoning ordinance amendment to put in place a floating zone and a competitive Request For Proposals process for specific projects. This was one potential solution to the housing issues in the City.

Senior Planner Schauer said this would create a new chapter in the zoning ordinance for a floating zone. The chapter would create provisions for the floating zone and would establish the area to be eligible to apply for the designation. It did not rezone any properties or approve any pilot projects. If approved, the City would solicit two pilot projects through a Request For Proposals process and the projects selected would be able to apply for the floating zone designation. That would happen concurrently with a development plan for the property. The applicant would be required to follow all of the requirements for a rezone application. He described the work of the Affordable Housing Task Force and the Homelessness Subcommittee in bringing forward opportunities for affordable housing for lowest income residents as well as to address homelessness for seniors, veterans, youth, and victims of domestic violence. The Task Force recommended that the floating zone and RFP process as well as associated fees be sent to the Planning Commission for consideration and public input. The objectives of the proposal were to provide innovative solutions to critical needs, provide opportunities for willing property owners to come forward with solutions, and provide services to house people and help them transition to permanent housing. There would be an RFP process to make sure the projects fit with the sites where they would be located and the regulations would be more flexible but they would still have to follow design and development standards so the projects matched the quality and character of the surrounding area. The hope

was that these projects would become best practice and used as a model and replicated to meet needs. There was a shortage of residential land and the Economic Opportunities Analysis identified a surplus of industrial land, some of which could be used for this purpose. However, they wanted to make sure there were no adverse impacts on the industrial uses in the area.

Senior Planner Schauer then discussed the applicable approval criteria. The application had to be consistent with the Comprehensive Plan, compatible with surrounding uses, used innovative land use and regulations to address housing needs in the community, addressed adequate urban services, addressed transportation facilities, and was vetted by a public process. The application also had to comply with the purpose of the zoning ordinance including meeting all of the minimum requirements. Staff thought this application met all of the criteria. The number of pilot projects was limited to a maximum of two, there were criteria to address site selection, and there were design and development standards in place so the projects avoided conflicts and mitigated any potential impacts. Staff recommended a continuance of the hearing to July to provide an additional opportunity for public testimony.

7:04 Commission Questions: Commissioner Chroust-Masin asked if other cities had used this program before.

Senior Planner Schauer said they were putting two tools together, pilot projects and floating zone. The floating zone dated back to the 1930s and there had been recent proposals to use it for LEED sustainability standards in neighborhoods. Pilot projects were used fairly extensively for different housing types where they limited the number of projects to look at something that could be considered for a broader application, such as standards for Accessory Dwelling Units or cottage clusters.

Commissioner Chroust-Masin asked who the applicants would be.

Planning Director Richards said they had dialogue with non-profits like Hope on the Hill who wanted to do a transitional housing/vocational work force project and United Way who also wanted to do a project and were looking for property owners to partner with.

Commissioner Chroust-Masin said most likely the funding would come from these organizations.

Planning Director Richards said that was correct. The City did not have a project nor did they have funding for a project. The City's role was regulatory to help provide a tool for this need in the community. These projects had already been conceptualized and were out in the community.

Commissioner Chroust-Masin asked what the minimum expectations were for these projects.

Senior Planner Schauer said that was in the RFP criteria. There were minimum thresholds applications had to meet to qualify and there was ranking criteria that would evaluate which projects would rise to the top that would be selected.

Commissioner Dirks asked if the language in the RFP would be fleshed out, such as who would be reviewing the proposals and how they would decide on the issue of compatibility since it was not part of the ordinance to be approved.

Senior Planner Schauer said there were criteria for selecting the pilot projects and those selected would apply for land use approval where there were also applicable criteria and a public hearing. They had not established who the RFP review committee would be.

Planning Director Richards said the review committee would be established by the Council. They wanted to see if this was something the community wanted to move forward. It was always intended that the committee would be representative of community stakeholders. The RFP process would be enabled separately by resolution.

Commissioner Dirks asked how this would be temporary housing instead of permanent.

Senior Planner Schauer said it was intentionally undefined. This was intended to be transitional housing and the improvements made would be more temporary in nature. This was to allow the more permanent housing to be done in residential areas, especially if there was need for returning the property back to industrial use or more residential land became available. It would be projects such as tiny homes on smaller foundations or services in a building that might eventually be converted to an industrial use instead of a two story apartment building that would be a permanent fixture.

Planning Director Richards said they had not defined a timeframe for it. They did not want to lose their industrial land supply permanently. It was a way to meet an interim need, which was undefined at this time, but would not be a permanent loss of industrial land.

Commissioner Langenwaller stated if senior women were on a fixed income and the rents were getting too high, they could be in this temporary housing for the rest of their lives.

Senior Planner Schauer said this might be transitional housing for that population before finding permanent subsidized housing.

Commissioner Langenwaller asked who would want to create these transitional housing units. It was a possibility that no one would apply for this type of project.

Commissioner Schanche said they could have a very broad group reviewing the RFP proposals. She thought partial points should be allowed to be given.

Commissioner Chroust-Masin asked what would happen if a project was built, and six months later they wanted to build an industrial project in its place.

Planning Director Richards said this was private property and it would have to be worked out with the property owner and applicant. The City's role was regulatory and if the property owner decided they had a better offer for industrial, they would work it out with the organization that built the project. The City was just setting up the environment for the projects to occur.

Senior Planner Schauer said it was a straightforward process to remove the floating zone on a property.

7:28 Public Testimony:

Nick Scarla was a property owner in this area but had not been contacted. Not very many properties in this area were vacant and he questioned why they did not contact those with vacant property.

Planning Director Richards said they had sampled a few property owners and talked with economic development partners. They were not soliciting properties, but were trying to figure out if this was something that the community wanted as a potential tool. They had not spoken with every property owner.

Fred Plews, McMinnville resident, asked about the objective and identified need for this proposal.

Planning Director Richards explained the Affordable Housing Task Force put this together to provide immediate shelter for people while they were looking for permanent shelter that was most likely subsidized. It was also an opportunity to provide vocational workforce training and partner people with the industrial businesses that were in the City.

Mr. Plews had been in manufacturing all of his life and an active partner in developing over 30 acres of industrial land in McMinnville and some in Newberg. They needed industry in the City and it was not a simple process to develop a piece of land. He had lived in this town when there was no industrial land and had worked hard to create the current industrial area. He wanted to know if the objective still was to protect what had been developed. He did not think housing on this land was appropriate.

Alan Amerson, property owner in this area, had one of the original buildings in this area from 1985. He thought they needed the industrial land to be used as industrial. Residential did not fit the bill for this area, especially tiny homes. He then discussed the homeless situation in the area and how when he offered someone a job they did not want to take it and later threatened to burn his house down.

Walter Gowell, McMinnville resident, was representing his client, Joseph Cassin, who owned property in this area. Mr. Cassin was concerned about the floating zone concept and compatibility, especially if there were conflicts and incompatibility between a proposed residential project and industrial site. He wanted to know who would be responsible to mitigate that conflict and what protections the ordinance would provide to the existing property owners who had vacant industrial land or existing industrial buildings to assure the uses of their land were not limited by a floating zone project. He offered some suggested wording for the ordinance under purposes, adding that the floating zone would not materially affect the use of adjacent and nearby properties that were industrially zoned. He offered another change, this one to the development standards, that the 500 foot buffer zone between industrial and residential not apply. The ordinance should also assure that the industrial businesses were protected from nuisance complaints from people who moved into these projects as industrial sites had possible three shifts per day and might be noisy, smelly, and had traffic coming in and out. The responsibility for mitigation should be the residential developer, not the industrial businesses. Mr. Gowell also represented another property owner in this area and both that owner and Mr. Cassin bordered a potential floating zone site.

Commissioner Schanche asked how they could determine if a project would materially affect an industrial property.

Mr. Gowell explained it came down to the development conditions imposed on the project. These should be on the developer, not on the industrial neighbor.

Thomas Vail, property owner in this area, said he was making comments so he could be eligible to appeal to LUBA if needed. He owned a 2 acre parcel next to Mr. Cassin. He asked if there was no direct fiscal impact created by this proposal if that meant there would be no enforcement of anything put into code. He thought the current homeless issue was a failure to enforce laws that were currently on the books. It was stated this would not rezone any property, however the effect was to rezone up to two properties and he saw no difference. If residential was put in the industrial zone it was no longer an industrial zone. Only 7% of the jobs in McMinnville were production worker jobs. He did not think there would be much availability for workforce training. Many of the properties in this area bordered railroad right-of-way which was against the statement in the Planning Commission's goals for residential. Residential in an industrial zone changed the character of the industrial zone dramatically. He asked about the 20 foot yard requirement and thought a lot of the parcel would be eaten up by the parking and yard requirements and not much would be left for housing. There should be some method to indemnify the industrial property owners from the loss of value on their properties.

Planning Director Richards said the fiscal impact was relative to hard dollars out the door from the City budget. Because this action was just putting text into the zoning code and was not actually a land use action for a specific project there was no fiscal impact.

Mr. Vail objected to starting this process that had the effect of a code that did not have money set aside to enforce.

Bob Emerick, property owner in this area, discussed the impact of compatibility. He had a compost facility and transfer facility. These served the community as all of the waste and recycling generated in the City went through these facilities. They were in an industrial area, and were noisy, smelly, and people were working all hours of the day and night. He asked them to be careful because this change could impact the whole City.

Doug Hurl, property owner, stated this was an industrial area. They had not been able to expand the Urban Growth Boundary and there were very few developable residential acres. They were now looking to the industrial area. He did not think there was a surplus of industrial land and this area was not the right area for residential. They needed to focus on expanding the Urban Growth Boundary. He did not think they would fix the homeless situation through a floating zone.

Commissioner Chroust-Masin moved to continue the hearing for G 3-19 to July 18, 2019. The motion was seconded by Commissioner Langenwalter and passed unanimously.

8:21 The Commission took a short break.

B. Quasi-Judicial Hearing. CPA 2-19 (Comprehensive Plan Map Amendment), ZC 2-19 (Zone Change), PDA 1-19 (Planned Development Amendment), and CU 2-19 (Conditional Use Permit) (Exhibit 3)

Request: Approval of four concurrent actions. The actions include: 1) Comprehensive Plan Map Amendment from a mix of Residential and Commercial designations to only Residential; 2) Zone Change from mix of R-1 (Single Family Residential) and EF-

80 (remnant County Exclusive Farm Use zone from prior to annexation) to only R-1 (Single Family Residential); 3) Planned Development Amendment to remove the subject property from the Planned Development Overlay District governed by Ordinance 4633; 4) Conditional Use Permit to allow expansion of existing electrical power substation in the R-1 zone. The existing parcel contains multiple Comprehensive Plan and Zoning designations, and the proposal would bring the entire parcel under one Comprehensive Plan and Zoning designation to allow for the development of a use that is listed as a conditional use in the underlying R-1 zone. The site is the location of an existing electrical power substation, and the approvals listed above would allow for the expansion of the electrical power substation to serve future development in northern and western McMinnville.

Location: The subject site located at 1901 NW Baker Creek Road, and is more specifically described as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

Applicant: Samuel Justice, on behalf of McMinnville Water & Light

- 8:32 Opening Statement: City Attorney Koch read the opening statement and reviewed the hearing procedures.
- 8:35 Disclosures: Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. He asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none. Chair Hall asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none. Chair Hall asked if any Commissioner had visited the site. If so, did they wish to discuss the visit to the site? Several members of the Commission had visited the site, but had no comments to make on the visits.
- 8:36 Staff Presentation: Senior Planner Darnell said this was a request for four concurrent land use applications, Comprehensive Plan Map amendment, Zone Change, Planned Development amendment, and Conditional Use Permit. He explained the site was the existing Baker Creek substation owned by McMinnville Water and Light. He then gave a history of the property's annexation, Comprehensive Plan Map amendment and Planned Development adoption, and Conditional Use for the current substation and how in 2018 the property lines had been adjusted in order to expand the substation. The requests tonight were for a Comprehensive Plan Map amendment from a mix of residential and commercial designations to only residential, zone change from the mix of R-1 (Single Family Residential) and EF-80 (remnant County Exclusive Farm Use zone from prior to annexation) to only R-1 (Single Family Residential), Planned Development amendment to remove the subject property from the Planned Development Overlay District governed by Ordinance 4633, and Conditional Use Permit to allow expansion of the existing substation in the R-1 zone. The expansion would double the current infrastructure to the west. He then discussed the review criteria. The applications had to be consistent with the Comprehensive Plan Goals and Policies. There was a deficit in the City in both commercial and residential land and the reduction of the .8 acres of commercial and putting it into residential was not substantial. Also the residential land would be used for public services and infrastructure to support residential growth. There was support for expansion of electrical facilities for growth in the Comprehensive Plan. The proposed amendment had to be orderly and timely and this change would allow for uniform planning in the development of the site. The surrounding area was a mix of residential and commercial and it was not inconsistent to make this property all residential. With the residential zoning there were stricter standards for use of the site. Other substations in the City were located

on residential lands as well. R-1 zoning was identified as a needed zone in the Buildable Lands Inventory. Utilities and services could be provided to the site. The applicant recently dedicated right-of-way and public utility easements along Baker Creek Road for future improvements. Since the proposed use would be residential, it no longer aligned with the Planned Development area which was for commercial use. It made sense to remove the property from the Planned Development area. Staff recommended a condition of approval that all other provisions of Ordinance 4633 would remain in effect for the remainder of the property. The applicant had provided a site plan for the proposed expansion. There were specific policies and goals in the Comprehensive Plan for energy facilities and how they were incorporated into the community. To address issues with compatibility with the surrounding area, staff proposed conditions of approval. One was that the applicant complete right-of-way improvements on Baker Creek Road at the time of development. Another was that they coordinate and schedule the improvements of the right-of-way with the nearby property owner. Regarding the site design and operations, the setbacks were larger than they were for the existing substation, ranging from 40 to 50 feet from the surrounding property lines to allow for separation of the use. The applicant was also proposing screening and landscaping around the site. There would be a site obscuring fence around the perimeter and landscaping that would be a mixture of shrubs and trees around the fence. Along Baker Creek Road there would be denser plantings to provide additional screening between the public sidewalk and the facility. The improvements to Baker Creek Road would be sidewalks and planter strips with street trees where possible outside of the BPA easement which ran north to south along the site. Staff added conditions that required landscaping consistent with the submitted landscape plan, required planting of street trees in the right-of-way, and reiterated some of the lighting descriptions the applicant had provided which would eliminate the access and maintenance lighting. McMinnville Water and Light had suggested some changes to the conditions. There already was coordination with the surrounding property owner for the construction of Baker Creek Road. Staff suggested amending the condition to align with the timeframe that the applicant had in the purchase agreement with that property owner. The other suggested change was to the condition for landscaping. The concerns were related to the full screening and heights suggested due to security and functionality of the site. Staff proposed to keep the requirement for shrubs in a linear row around the perimeter, but take out that they had to grow to the six foot height at maturity. The shrubs would still need to be evergreen to provide year-round screening. The language about the trees would be changed to allow them to be a maximum height of 25 feet, but not so short that they did not provide screening above the fence level. Staff also suggested requiring the fence materials be submitted to the Planning Director for review. Staff recommended approval of the four applications with the conditions as amended.

8:55 Commission Questions: Commissioner Schanche had some concerns about the landscaping and being consistent with the surrounding area. There was also not much room for the landscaping and she was concerned about what would happen when the road and sidewalks came in. She asked about a road to the east and how the applicant would need an external 20 foot buffer.

Senior Planner Darnell clarified the road was Meadows Drive which would be extended to the north and there would be a road with sidewalks along the east side of the site. It was also the location of the BPA trail that ran north to south in this area.

Commissioner Butler asked why they were requesting to rezone the property to residential when no one would be living there and the majority of the site was commercial.

Senior Planner Darnell agreed the eventual use would not be residential. The code did not have a zone that was for public utilities. The applicant was proposing a zone that allowed the intended use through a Conditional Use which would be required to be reviewed against the criteria and applied conditions that would reduce some of the impacts of the development. The existing substation was zoned as R-1 as well as the other utility uses in the City.

Commissioner Dirks asked for clarification on the landscaping.

Senior Planner Darnell said the Landscape Review Committee would be looking at the landscaping plan. What was proposed in the plan was a mixture of shrubs.

Commissioner Langenwaller discussed Condition 4 and fencing.

Senior Planner Darnell clarified where the proposed perimeter fencing, landscaping, and white two rail fence would be located.

9:06 Applicant's Testimony: Sam Justice, representing the McMinnville Water and Light Commission, gave a history of Water and Light who had been a customer owned utility since 1889. These applications and future expansion of the substation were for long term planning. The substation transformer intended for the site was already on order. Construction of the site was largely going to be conducted by their own linemen. He supported staff's recommendation for approval. Their primary concern was for the safety and reliability of the site.

Public Testimony:

9:09 Proponents: None

9:10 Opponents: None

9:10 Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

9:11 Commission Deliberation: Commissioner Schanche was not thrilled with the landscape plan.

Commissioner Dirks said they had to consider the security of the site. The Landscape Review Committee would review the details and could make changes to the plan.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwaller MOVED to RECOMMEND the City Council APPROVE CPA 2-19 (Comprehensive Plan Map Amendment). SECONDED by Commissioner Dirks. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Butler MOVED to RECOMMEND the City Council APPROVE ZC 2-19 (Zone Change). SECONDED by Commissioner Langenwaller. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwaller MOVED to RECOMMEND the City Council APPROVE PDA 1-19 (Planned Development Amendment) subject to the conditions of approval provided in the decision document. SECONDED by Commissioner Perron. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Knapp MOVED to RECOMMEND the City Council APPROVE CU 2-19 (Conditional Use Permit) subject to the conditions of approval provided in the decision document with amendments. SECONDED by Commissioner Chroust-Masin. The motion PASSED 9-0.

5. Commissioner/Committee Member Comments

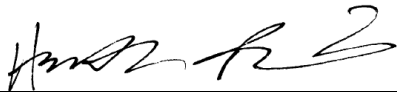
None

6. Staff Comments

9:22 Planning Director Richards gave an update on the Oakridge Meadows Planned Development amendment and tentative subdivision plan. The Commission had recommended approval of these applications to the Council, however staff found in the code the opportunity to bundle all the decisions and move them forward at the same time to avoid awkwardness with the appeals time period. The applicant chose to bundle the applications to the Council and there would be a public hearing on them on July 23. The applicant had extended the deadline to August 13.

7. Adjournment

Chair Hall adjourned the meeting at 9:24 p.m.



Heather Richards
Secretary