



Photo No.1: This is a photo illustrating the canopy over the two fueling station dispensers.

Conditional Use Permit Application

- CU 2-20: Fueling Station
- 855 NE Marsh Lane
- Applicant: McMinnville Water & Light, Samuel Justice

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PROCEDURE & ACTION

- Quasi-judicial hearing & procedure
- Final decision by Planning Commission unless appealed to City Council

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PROPOSAL

- Conditional Use Permit application for a card-lock fueling station on property in an M-1 industrial zone, listed as a “service station” in the Zoning Ordinance.
- This is approximately ½ acre of an 18-acre site housing MWL’s office and facilities (warehouse, fleet and equipment yard, etc.)

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ZONING REQUIREMENTS

M-1 (Light Industrial) Zone:

- A Conditional Use Permit is required for a service station on property in the M-1 zone
- Uses in the M-1 zone are subject to use and design standards specified and referenced in that chapter (17.39.040):
 - Yard requirements
 - Height
 - Perimeter treatment
 - Parking (Chapter 17.60)
 - Clear vision (Chapter 17.54)
 - Landscaping Chapter 17.57)

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ZONING REQUIREMENTS

M-1 (Light Industrial) Zone, continued:

- **17.39.050.** Environmental Standards: There is a general requirement that uses in the M-1 shall comply with applicable federal, state, and local regulations pertaining to noise, odor, air, and water pollution.

Prior to building/occupancy permits, the Planning Director may require submission of evidence demonstrating compliance with applicable environmental regulations and necessary permits.

- **Other.** Some zoning districts have use-specific standards for certain uses. There are no use-specific standards for a service station in the M-1 zone.

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CRITERIA

Comprehensive Plan: *(p. 78 of packet)*

- Goals and Policies in Volume II

Zoning Ordinance: *(p. 89 of packet)*

- Conditional Use Permit Criteria in Section 17.74.030
- Conditions as needed per 17.74.040

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CRITERIA

In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

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CRITERIA

- A. The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;
- B. That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;

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CRITERIA

- D. That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;
- E. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;
- F. The proposal will preserve environmental assets of particular interest to the community;
- G. The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes

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CONDITIONS

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions which it finds necessary to avoid a detrimental environmental impact and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include, but need not be limited to, the following:

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CONDITIONS (cont.)

- A. Limiting the manner in which the use is conducted including restrictions on the time a certain activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor;
- B. Establishing a special yard or other open space, lot area, or dimension;
- C. Limiting the height, size, or location of a building or other structure;
- D. Designating the size, number, location and nature of vehicle access points;
- E. Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way;
- F. Designating the size, location, screening, drainage, surfacing, or other improvement of a parking area or truck loading area;

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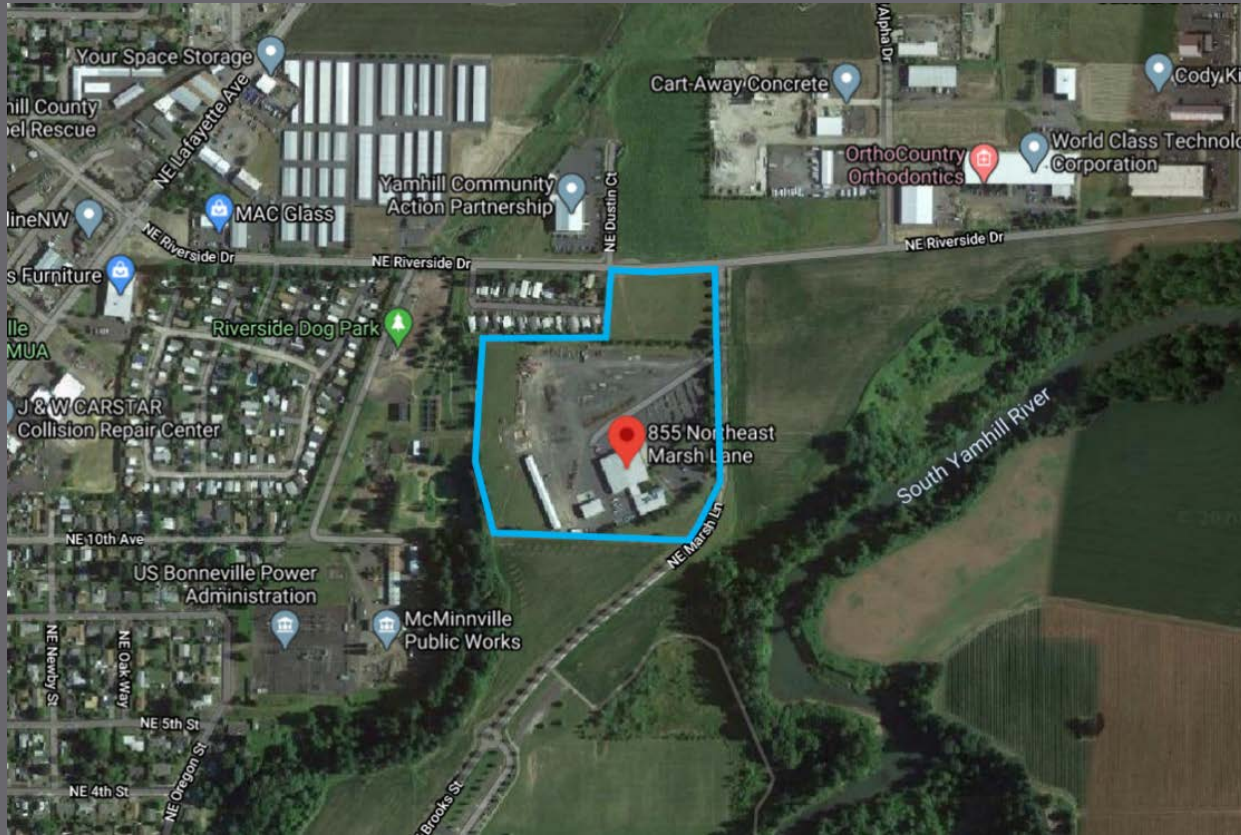
CONDITIONS (cont.)

- G. Limiting or otherwise designating the number, size, location, height and lighting of signs;
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding;
- I. Requiring diking, screening, landscaping, or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance;
- J. Designating the size, height, location, and materials for a fence;
- K. Protecting and preserving existing trees, vegetation, water resource, wildlife habitat, or other significant natural resource;
- L. Such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the intent and purposes set forth in this ordinance.

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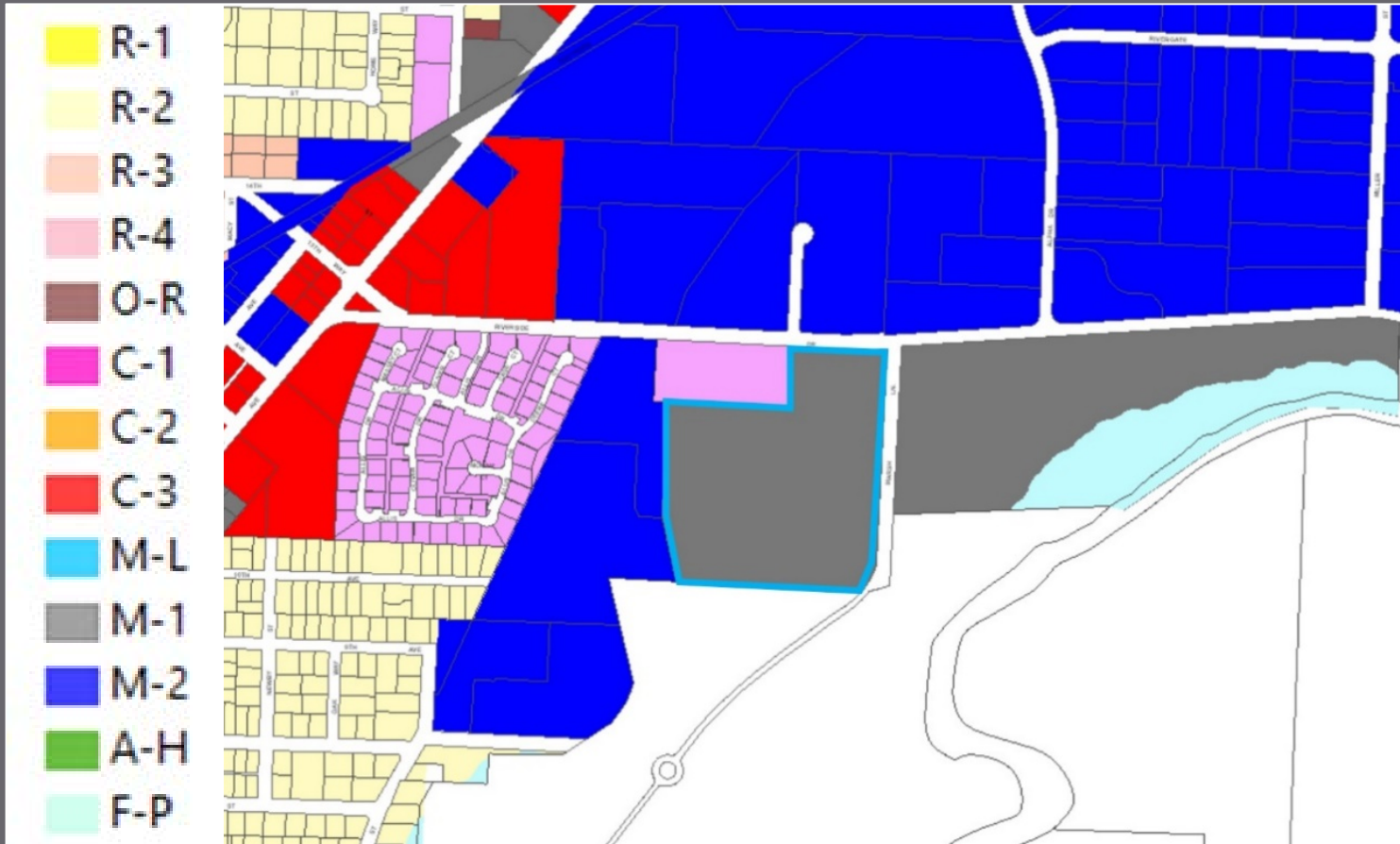
LOCATION



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ZONING



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LOCATION



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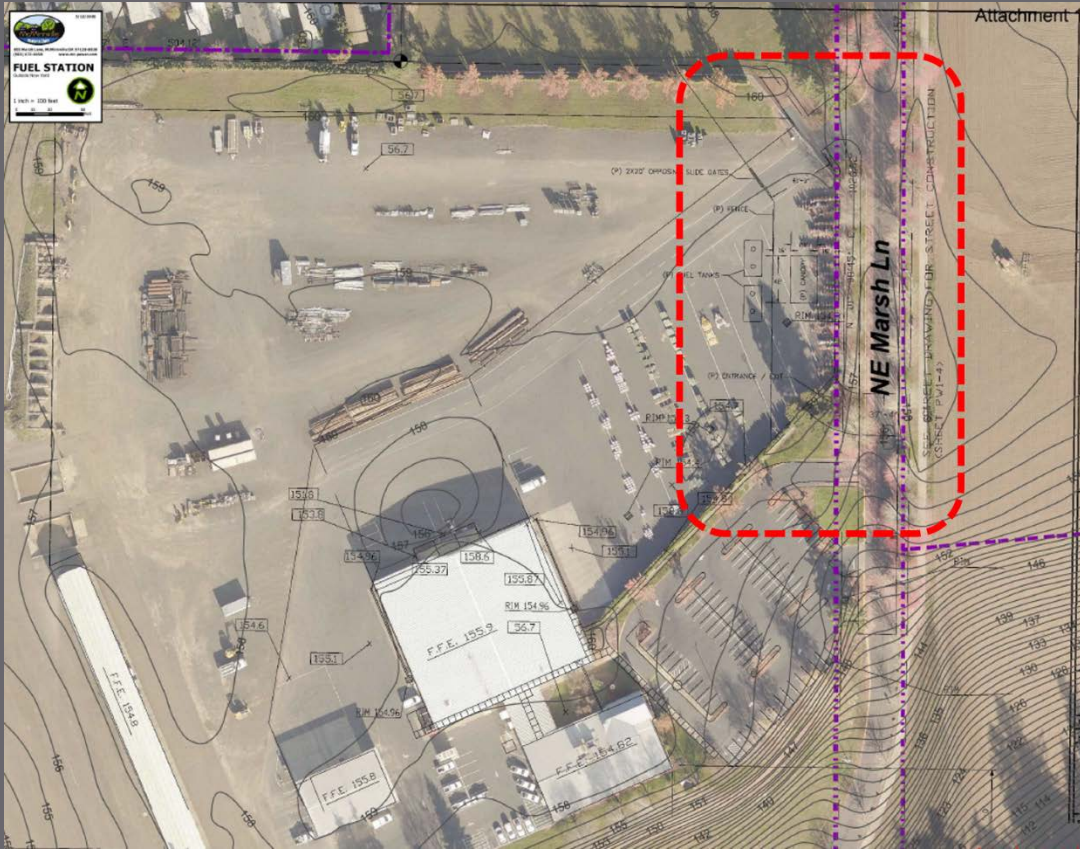
LOCATION



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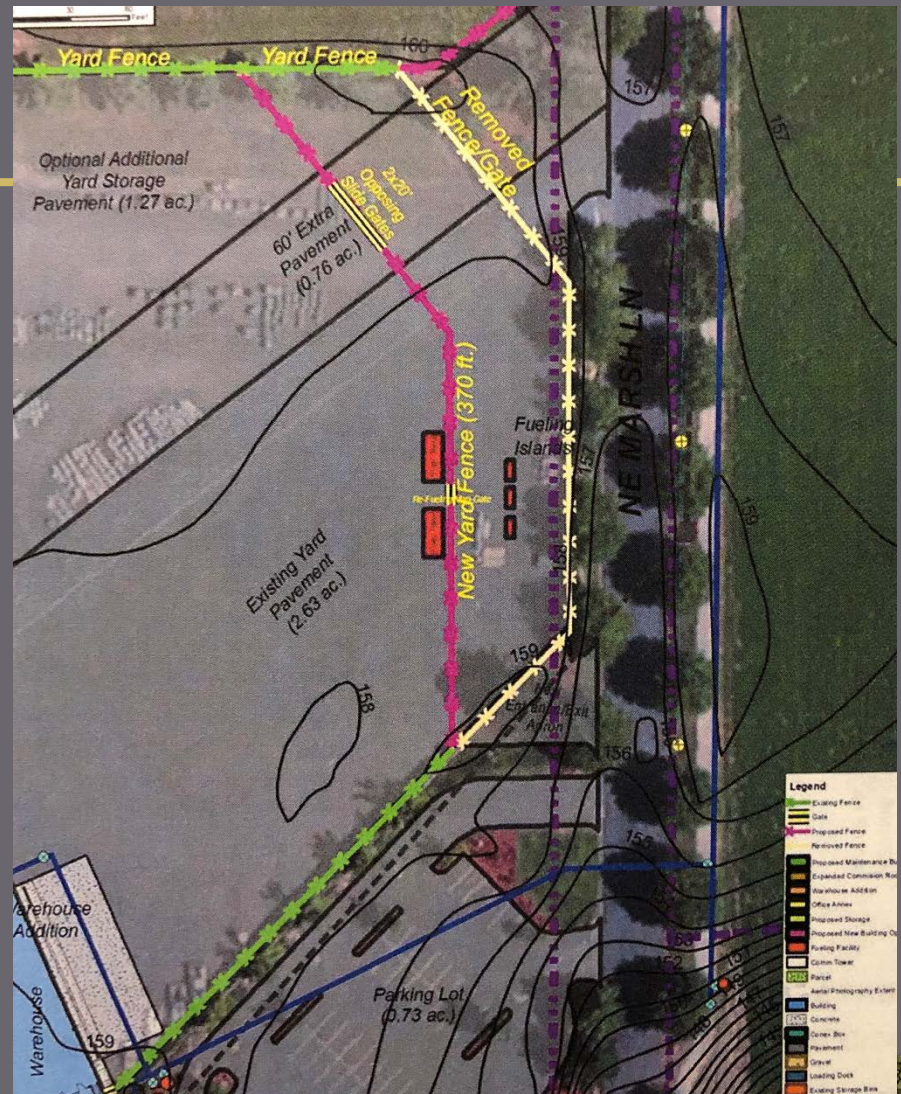
SITE PLAN – Option 1



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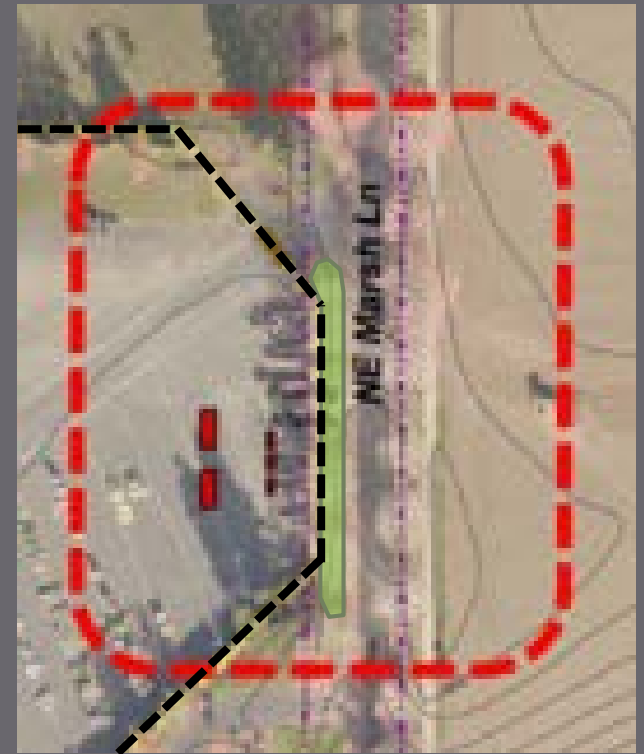
SITE PLAN Option 1



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SITE PLAN – Option 2



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FACILITY – REPRESENTATIVE IMAGES



Photo No.1: This is a photo illustrating the canopy over the two fueling station dispensers.



Photo No.2: This is a photo of a 12,000 gallon fuel tank.



Photo No. 3: This is a photo of a 20,000 gallon fuel tank.

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RECOMMENDATION

- Staff found each of the applicable criteria satisfied or satisfied with conditions
- Staff recommends Approval with Conditions in Section II of Decision Document (p. 74 of packet), as revised to reflect a change to Condition #4 as presented.

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RECOMMENDED CONDITIONS, p. 74

1. Prior to issuance of a building permit or construction, the applicant shall:
 - a. Submit the final site plan with Option 1 or Option 2 consistent with the preliminary site plan, and submit the final elevations for the canopy consistent with the provided photo.
 - b. Submit a landscape plan application for review and approval by the Landscape Review Committee, consistent with the proposed fencing, screening and landscaping described in the application. The landscape plan shall be consistent with the provisions of Chapter 17.57 and the applicable perimeter treatment and buffer yard standards of Section 17.39.040. Obtain approval of the landscape plan prior to issuance of building permits.
 - c. Submit a final lighting plan that demonstrates canopy lighting will be downcast and lighting will not create glare on adjoining properties or the public right-of-way.

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RECOMMENDED CONDITIONS, p. 74

d. Submit plans for sidewalks and driveway approaches along the project's frontage. PROWAG compliant sidewalks and driveways, 5' in width, will need to be constructed adjacent to the Project's frontage as part of the Project. Meandering of the sidewalk would be allowed if necessary to preserve existing trees.

e. **NOTE:** The existing sanitary sewer main is not shown on the conceptual drawings. No structures shall be located within the existing sanitary sewer easement.

f. Apply for a sign permit for any proposed signage.

g. Obtain all necessary local, state, and federal permits.

2. All site work and construction shall be completed prior to use or occupancy, or financial surety provided as may be authorized for any site work that has not been completed.

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RECOMMENDED CONDITIONS, p. 74

3. This approval is for the improvements, use, and operating characteristics described in the application. No major deviation from the approved characteristics shall occur without prior approval in accordance with the procedures for amendment in Chapter 17.74. The Planning Director shall determine what constitutes a minor or major deviation. The approval is for use of the card-lock fueling station by specified fleet vehicles. It is not approved for general public use.

4. This conditional use permit approval shall be terminated if the proposed use does not commence within one year of the effective date of this approval, if the use once commenced lapses for any single period of time that exceeds one year in duration, if there is a failure to comply with conditions of approval, or for any other reason specified in Section 17.74.060 of the Zoning Ordinance. The determination for termination shall be made in accordance with the procedures in Section 17.74.060 of the Zoning Ordinance.

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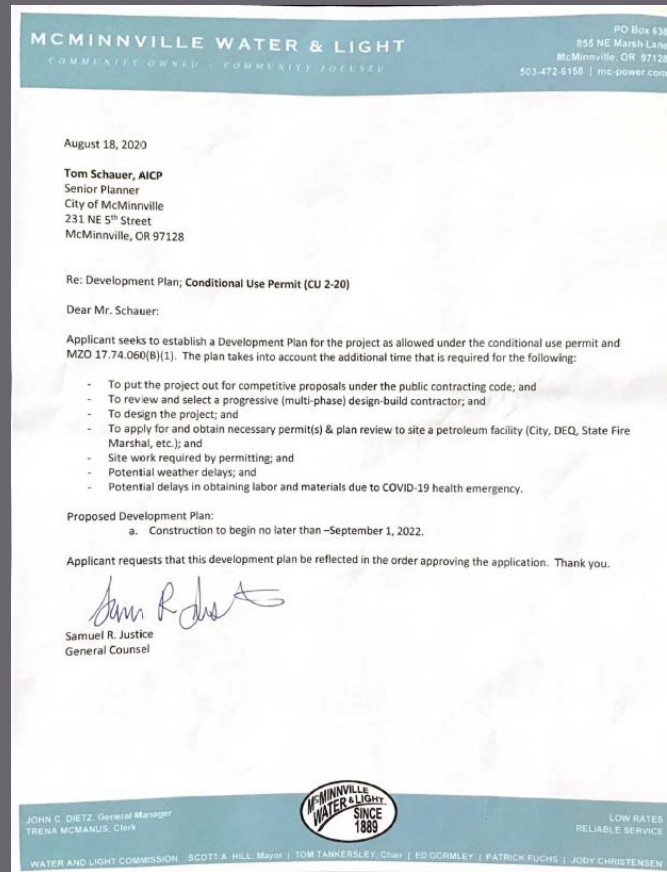
Recommended Revision to Condition 4

- 17.74.060(B)(1). Each conditional use permit issued after the effective date of this ordinance codified in this section shall be terminated if ... construction or remodeling for the conditional use as approved has not been started within one year of the date of the date specified on a development schedule approved with the conditional use, or in case no such development schedule was approved, within one year of the effective date of approval.

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Recommended Revision to Condition 4



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Recommended Revision to Condition 4

Applicant seeks to establish a Development Plan for the project as allowed under the conditional use permit and MZO 17.74.060(B)(1). The plan takes into account the additional time that is required for the following:

- To put the project out for competitive proposals under the public contracting code; and
- To review and select a progressive (multi-phase) design-build contractor; and
- To design the project; and
- To apply for and obtain necessary permit(s) & plan review to site a petroleum facility (City, DEQ, State Fire Marshal, etc.); and
- Site work required by permitting; and
- Potential weather delays; and
- Potential delays in obtaining labor and materials due to COVID-19 health emergency.

Proposed Development Plan:

- a. Construction to begin no later than –September 1, 2022.

Applicant requests that this development plan be reflected in the order approving the application. Thank you.

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Recommended Revision to Condition 4

Condition 4: This conditional use permit approval shall be terminated if ~~the proposed use does not commence within one year of the effective date of this approval~~ construction has not been started by September 1, 2022 as specified in the applicant's development schedule, if the use once commenced lapses for any single period of time that exceeds one year in duration, if there is a failure to comply with conditions of approval, or for any other reason specified in Section 17.74.060 of the Zoning Ordinance. The determination for termination shall be made in accordance with the procedures in Section 17.74.060 of the Zoning Ordinance.

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Other Regulatory Review

- Also governed by EPA Spill Prevention, Control, and Countermeasure (SPCC) Rule
- DEQ Permitting
- State Fire Marshal Permitting
- Canopy Subject to Building / Electrical Permitting

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Other Regulatory Review

- Questions related to conditions:
- Fire/Life/Safety:
 - Can't adopt conditions that would be standards which would pre-empt state codes
 - Avoid applying conditions on an ad-hoc basis that would be applicable to all equivalent uses
 - If not pre-empted, that should be done legislatively rather than as conditions of a quasi-judicial application
 - (Service stations in C-3 commercial zone are a permitted use, but conditional in M-1. Conditions should relate to location of facility in M-1 and compatibility, not to engineering standards for service centers as a class.

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CONCLUDES STAFF PRESENTATION

- Staff recommends Approval with Conditions in Section II of Decision Document (p. 74 of packet), as revised to reflect the change to Condition #4 as presented.
- Questions for Staff?
- Public Testimony

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