



City of McMinnville
Planning Department
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EXHIBIT 5 - STAFF REPORT

DATE: December 16, 2021
TO: Planning Commission
FROM: Adam Tate, Associate Planner
SUBJECT: Public Hearing - VR 3-21 for a Variance on Fence Height for 1936 NE Lafayette Avenue

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

OBJECTIVE/S: Strategically plan for short and long-term growth and development that will create enduring value for the community

Report in Brief:

This proceeding is a quasi-judicial public hearing of the Planning Commission to consider an application for a variance on fence height for a 4.6-acre lot at 1936 NE Lafayette Avenue (Tax Lot R4415 01900). The applicant is requesting a variance from the seven-foot height limitation to ten feet for security fencing.

The Planning Commission will make a final decision on the application. A final decision of the Planning Commission may be appealed to the City Council as provided in Section 17.72.180 of the Zoning Ordinance. The Planning Commission hearing is conducted in accordance with quasi-judicial hearing procedures, and the application is subject to the 120-day processing timeline. The application was deemed complete on October 20, 2021.

Background:

The subject property is a 4.6-acre lot at 1936 NE Lafayette Avenue between NE Orchard Avenue on the South and 20th Street to the North which serves as the school bus yard/storage and maintenance area for McMinnville School District run by First Student.

The subject property and surrounding properties are zoned M-2 General Industrial. Industrial uses dominate the area, though the site is adjacent to one commercial property zoned C-3. The site is along the railroad which borders the Eastern edge of the lot.

The variance would authorize an exemption Section 17.54.090, *Fences*, Title 17, *Zoning Ordinance*, of the McMinnville Municipal Code which limits fence heights to seven feet per the following:

“A fence placed along an interior side or rear property line shall not exceed the height of seven (7) feet. The construction of a fence greater than six (6) feet in height requires a building permit.”

The applicant has provided documentation of why this property merits such an exemption in order to properly secure the school bus yard. The property is currently surrounded by a 5-foot-tall chain link fence topped by some barbed wire which brings the total height to between 6 and 7-feet. The applicant alleges that this is inadequate security for such a large lot with such high value assets, especially where it borders the railroad tracks which provides easy access for trespassers with criminal intent of theft and/or vandalism.

“The unnecessary hardship avoided by granting this variance is the threat of dangerous criminal activity. The size and nature of a fleet of school busses makes it impossible to store them indoors. Protecting the safety and security of dozens of employees and ensuring several thousands of dollars’ worth of highly desirable business assets are not at risk of theft or vandalism.”

The applicant proposes a second, security fence to be inset one foot from the existing perimeter fence. This new fence will be, “a “a 10-foot tall, suspended wire security alarm system behind the existing perimeter fence. With a 12-volt DC battery-operated, pulsed low voltage system, independent of the main power grid.”

The applicant asks for a variance to exceed the 7-foot height limit because, “the current perimeter fence is between 6-7 ft tall. If the Amarak system was installed at the same height, it would be simple for an intruder to prop a ladder up to the perimeter fence and simply scale both the perimeter fence and AMAROK system together. This would render the system useless. Through our 30 years of installation and research, we have determined that 10ft is the minimum height to not only prevent, but deter crime and trespass.

The applicant has also demonstrated the proposal wouldn’t create a visual obstruction for the zone; “The security system is nearly invisible by design and will not negatively impact the desired aesthetics of the area. The system is safety tested and certified and can in no way medically harm a person or animal that touches it.”

The proposal is not in conflict with goals and policies of the Comprehensive Plan.

Public Comments

Notice of the proposed application was mailed to property owners and published in the newspaper. As of the date of this Staff Report, no public comments were received.

Agency Comments

Notice of the proposed application was sent to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; and Northwest Natural Gas. All had no comments or concerns except for the Building Department and the City Attorney which made the following statements.

Building Dept: No building permit necessary but they will need to work directly with Yamhill County on any necessary electrical permitting. <https://www.co.yamhill.or.us/content/electrical-permits>

City Attorney: Q: Is the system/fence fully contained within the person’s property? A: Yes
Reply: Okay great. I have no further questions or issues with the application.

Attachments:

Attachment A: VR 1-19 Decision Document

Planning Commission Options (for Quasi-Judicial Hearing):

- 1) **APPROVE** of the application as proposed by the applicant with the conditions recommended in the attached Decision Document, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the denial, specifying which criteria are not satisfied, or specifying how the applicant has failed to meet the burden of proof to demonstrate all criteria are satisfied, in the motion to deny.

Staff Recommendation:

Staff has reviewed the proposal for consistency with the applicable criteria. Absent any new evidence or findings to the contrary presented during the hearing, staff finds that, the application submitted by the applicant and the record contain sufficient evidence to find the applicable criteria are satisfied.

Staff **RECOMMENDS APPROVAL** of the application.

Suggested Motions:

BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, THE MATERIALS SUBMITTED BY THE APPLICANT, AND EVIDENCE IN THE RECORD, I MOVE THAT THE PLANNING COMMISSION APPROVE THE DECISION DOCUMENT AND APPROVE THE VARIANCE APPLICATION VR 3-21.

Attachments:

Attachment A: VR 1-19 Decision Document

Exhibit 1. Vicinity Map & Aerial Photo

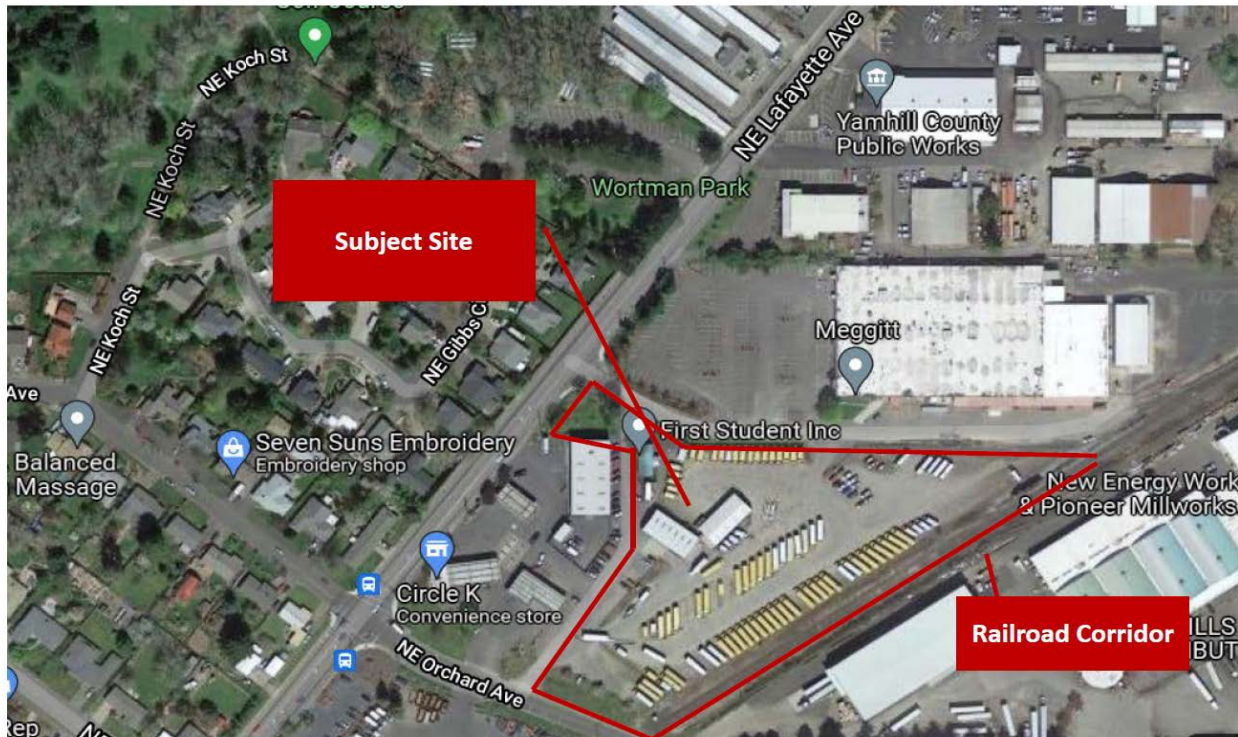


Exhibit 2. Zoning Map

