



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
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DECISION, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A VARIANCE FOR A FREESTANDING SIGN AT 101 NE HIGHWAY 99W

- DOCKET:** VR 2-17 (Variance)
- REQUEST:** The applicant has requested a variance to reduce the required setbacks for the proposed addition of an electronic changeable copy sign to the existing freestanding sign on the property. The applicant is also requesting a reduced clearance from the base of the sign cabinet to the ground than the clearance that is normally required for signs adjacent to arterial streets.
- LOCATION:** The subject sign is located on the property at 101 NE Highway 99W. The subject site is more specifically described as Tax Lot 4700, Section 16CB, T. 4 S., R. 4 W., W.M.
- ZONING:** C-3 (General Commercial)
- APPLICANT:** Jian Koid, on behalf of Double R Products
- STAFF:** Chuck Darnell, Associate Planner
- DATE DEEMED COMPLETE:** October 31, 2017
- HEARINGS BODY:** McMinnville Planning Commission
- DATE & TIME:** December 21, 2017. Civic Hall, 200 NE 2nd Street, McMinnville, Oregon
- COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Oregon Department of Transportation, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Their comments are provided in this exhibit.

DECISION

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the variance request (VR 2-17).

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DECISION: APPROVAL
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Planning Commission: Roger A. Hall Date: 12-27-2017
 Roger Hall, Chair of the McMinnville Planning Commission

Planning Department: HR Date: 12-27-2017
 Heather Richards, Planning Director

APPLICATION SUMMARY:

The applicant has requested a variance to reduce the required setbacks for the proposed addition of an electronic changeable copy sign to the existing freestanding sign on the property. The applicant is also requesting a reduced clearance from the base of the sign cabinet to the ground than the clearance that is normally required for signs adjacent to arterial streets.

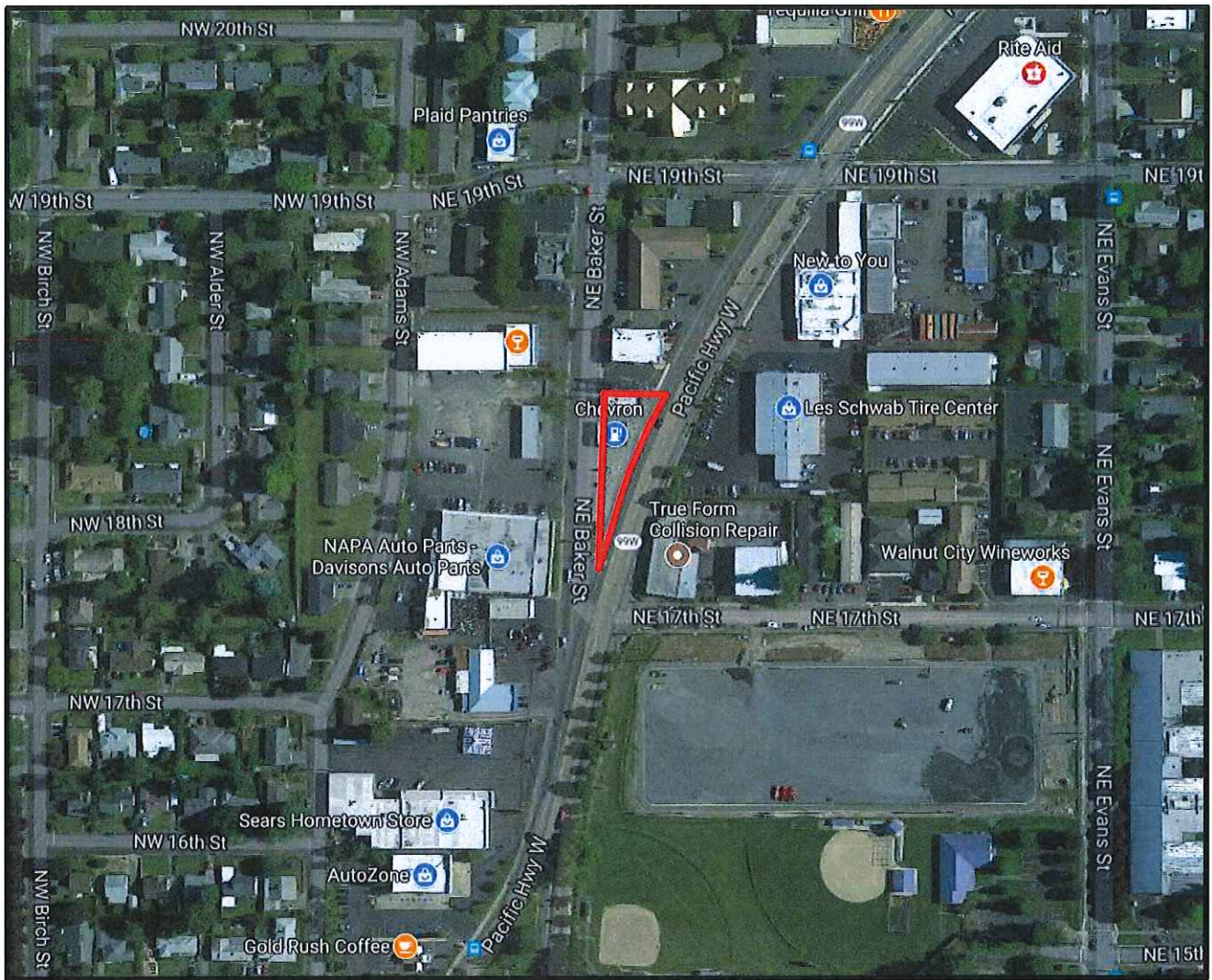
The sign in question is an existing freestanding sign that is associated with the Chevron gas station located at 101 NE Highway 99W. The property is zoned C-3 General Commercial.

The subject sign and site are identified below:



Attachments:

Attachment 1 – Application and Attachments



The existing freestanding sign is 22 feet in height, which exceeds the maximum height for freestanding signs in commercial zones. The applicant is proposing to reduce the height of the freestanding sign to 20 feet in height, which is the maximum height allowed by the McMinnville Zoning Ordinance in Section 17.62.070 (C)(1) for freestanding signs on commercially zoned property.

As part of the alteration of the freestanding sign, the applicant would like to update the changeable copy cabinet on the freestanding sign. The existing changeable copy cabinet is a manual changeable copy cabinet, which means that the gas prices and numbers are actual panels that are manually changed. The applicant is proposing to replace this cabinet with new sign faces that include electronic changeable copy (ECC) for the gas prices and numbers.

The existing freestanding sign is located on the southernmost point of the subject site, which is a unique shaped lot including a very narrow strip of land bounded on the east by NE Highway 99W and on the west by NE Baker Street. The applicant is proposing to alter the sign and add an ECC component to the freestanding sign, but is also proposing to keep the sign in the same location as it exists today. This creates the basis for the variance request. The existing sign is located in the narrow portion of the site, and is not setback from either the west or east property lines. The McMinnville Zoning Ordinance, in Section 17.62.070 (E)(4), requires that ECC signs be set at least ten (10) feet from all property lines. Therefore, the applicant is requesting a variance from the ten (10) foot setback requirement for the ECC portion of the freestanding sign.

The applicant is also requesting a variance from the required clearance for freestanding signs adjacent to arterial streets. Both NE Baker Street and NE Highway 99W are designated as arterial streets in the McMinnville Transportation System Plan. Section 17.54.050 (F) of the McMinnville Zoning Ordinance requires the following:

- F. Yards required along arterial streets. Except in zones where greater setbacks are required, a minimum five (5) foot yard shall be provided where a lot or parcel abuts an arterial street, as those streets are defined in the City's Transportation Master Plan. The required five (5) foot yard shall be maintained as a clear vision area as defined in Section 17.54.080 except that the following uses may be allowed when alternatives are unavailable:
1. The exceptions described in Section 17.54.080.
 2. Signs and signposts provided that the body of the sign is below three (3) feet in height or above eight (8) feet in height when measured from the top of the curb, or where no curb exists, eight and one-half (8.5) feet from the edge of the pavement or top of asphalt measured at the property line.

The proposed sign would be located less than five (5) feet from both the west and east property lines. The sign cabinets would therefore normally be required to maintain a clearance of at least eight (8) feet from grade to provide adequate clear vision. The applicant is requesting a variance from the required eight (8) foot clearance requirement to allow the lowest point of the cabinet to be seven (7) feet and four (4) inches above grade.

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COMMENTS:

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Oregon Department of Transportation, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments had been received:

- McMinnville Engineering Department:

We have reviewed proposed VR 2-17, and do not have any comments.

- McMinnville Fire Department:

We have no issues with this variance.

- Oregon Department of Transportation:

Thank you for notifying the Oregon Department of Transportation (ODOT) of the variance application. ODOT has no concerns related to the applicant's proposal.

- McMinnville Water and Light:

MW&L has no comments on this application.

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FINDINGS OF FACT

1. The applicant, Jian Koid on behalf of Double R Products, has requested a variance to reduce the required setbacks for the proposed addition of an electronic changeable copy sign to the existing freestanding sign on the property. The applicant is also requesting a reduced clearance from the base of the sign cabinet to the ground than the clearance that is normally required for signs adjacent to arterial streets.
2. The property on which the subject sign is located is 101 NE Highway 99W. The subject site is more specifically described as Tax Lot 4700, Section 16CB, T. 4 S., R. 4 W., W.M.
3. The subject property is currently zoned C-3 (General Commercial), and is designated as Commercial on the McMinnville Comprehensive Plan Map, 1980.
4. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Oregon Department of Transportation, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. No comments in opposition were provided to the Planning Department.
5. Notice of the public hearing was provided by the City of McMinnville in the December 12, 2017, edition of the News-Register. No public comments were received prior to the public hearing.
6. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

CONCLUSIONARY FINDINGS:**McMinnville's Comprehensive Plan:**

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF MCMINNVILLE.

Policy 188.00: The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

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McMinnville's City Code:

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

Chapter 17.54 – General Regulations

17.54.050 Yards [...]

- F. Yards required along arterial streets. Except in zones where greater setbacks are required, a minimum five (5) foot yard shall be provided where a lot or parcel abuts an arterial street, as those streets are defined in the City's Transportation Master Plan. The required five (5) foot yard shall be maintained as a clear vision area as defined in Section 17.54.080 except that the following uses may be allowed when alternatives are unavailable:
1. The exceptions described in Section 17.54.080.
 2. Signs and signposts provided that the body of the sign is below three (3) feet in height or above eight (8) feet in height when measured from the top of the curb, or where no curb exists, eight and one-half (8.5) feet from the edge of the pavement or top of asphalt measured at the property line.

Finding: The variance request is for a reduced clearance from the normally required eight (8) feet from the bottom of the sign body to the top of the curb, also measured in this scenario as the grade adjacent to the sign.

Chapter 17.62 - Signs

17.62.010 Purpose. The City Council finds that signs provide an important medium through which individuals and businesses may convey a variety of messages. However, left completely unregulated, signs can become a threat to public safety and a traffic hazard as well as an obstruction to the aesthetic appeal of McMinnville's unique landscape.

The standards contained in this chapter are primarily intended to balance the needs of businesses and individuals to convey their messages through signs, and the right of the public to be protected against the unrestricted proliferation of signs and their effect on public and traffic safety and the aesthetic qualities of the City such as vistas and gateways. In an attempt to achieve that balance, the purpose of this chapter is to:

- A. Improve the visual qualities of McMinnville's streetscape environment through the use of equitably applied sign height, size, and location standards;
- B. Provide minimum, consistent, and enforceable sign standards by regulating sign location, size, height, illumination, construction, and maintenance;
- C. Minimize visual clutter caused by signs by limiting their numbers and duration of use;
- D. Protect citizen safety by prohibiting hazardous signs;
- E. Ensure compliance with state and federal laws regarding advertising by providing rules and standards that are content neutral; and
- F. Provide for near term and longer term improvements to signage through the use of appropriate amortization and incentive policies.

Finding: Section 17.62.010 is satisfied by the decision in that the Planning Commission finds that the approval of the variance request will not result in a situation that would be materially detrimental to the purpose of the Signs chapter of the McMinnville Zoning Ordinance, as described in more detail below.

17.62.070 Permanent Sign Regulations. Permanent signs may be erected and maintained only in compliance with the following specific provisions: [...]

- E. Electronic changeable copy signs are subject to the following standards:

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1. One (1) electronic changeable copy sign is permitted per site or multi-tenant complex and shall only be allowed as part of a permanent freestanding or wall sign.
2. The electronic changeable copy portion of a freestanding sign may be no higher than twelve (12) feet above grade.
3. The electronic changeable copy portion of a sign may not exceed twenty-four (24) square feet in area.
4. Electronic changeable copy signs must be set at least ten (10) feet from all property lines.
5. The electronic changeable copy portion of a sign will have its area calculated at a rate two (2) times that of other signs.
6. On sites or multi-tenant complexes on which an electronic changeable copy sign is located, temporary signage is limited to that described in Section 17.62.060(B)(2) and (3).
7. Electronic changeable copy signs must be permanently mounted to the ground or a structure. [...]

Finding: The variance request is for a reduced setback of the electronic changeable copy portion of the freestanding sign from the normally required ten (10) feet from all property lines. All other requirements for electronic changeable copy signs would be satisfied by the signage proposed by the applicant.

17.74.100 Variance-Planning Commission Authority. The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

Finding: Section 17.74.100 is satisfied in that the Planning Commission found that special and unusual circumstances related to a specific piece of property, as described in more detail below, and therefore authorizes the variance.

17.74.110 Conditions for Granting Variance. A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;

Finding: The applicant has argued that the unique lot size of the subject site results in the need for the requested variance from the ECC setback and arterial yard clearance requirements. The subject site is unique in that the southernmost point of the site is a very narrow, triangular portion of property bounded on both sides by public right-of-way. The location of the existing sign is suitable for a freestanding sign in general, but would not allow for the addition of ECC signage to the freestanding sign because the ten (10) foot setback requirements would not be satisfied.

The applicant is further arguing that there is no location on the site that would be suitable for relocation of the freestanding sign to allow for the addition of ECC signage. The use of the site as a gas station results in further site limitation and complications in attempting to locate a freestanding sign in a location that would meet the ECC setback requirements. The site contains underground storage tanks, underground water cleaning systems, and underground monitoring wells required to be maintained by the Oregon Department of Environmental Quality (DEQ). The applicant has provided

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site plans showing the locations of the underground equipment and the minimum clearances required from the underground monitoring wells. These clearances, along with the existing circulation patterns through the uniquely shaped and sized lot, do result in a difficulty in locating a freestanding ECC sign and meeting required setbacks.

In terms of the reduced clearance from grade for the base of the cabinet, the applicant has argued that the unique size and shape of the lot again create the need for the variance. The typical eight (8) foot clearance requirement and five (5) foot setback is to ensure adequate clear vision exists beneath the sign for motorists traveling in the right-of-way and making turning movements between streets. The intersection of NE Baker Street and NE Highway 99W, which are the two right-of-ways immediately adjacent to the freestanding sign, is a unique intersection in terms of intersection geometry. The stopping point for southbound traffic on NE Baker Street is actually much further south than the southernmost point of the subject property. The applicant has provided an image of the sightlines from this location, which shows that the eight (8) inch reduction in cabinet height will not impact clear vision for motorists in the vicinity. For westbound/southbound traffic on NE Highway 99W, right turns onto northbound NE Baker Street are not permitted, so the lower sign in this location would not impact those turning movements at the intersection. The Engineering Department and the Oregon Department of Transportation (ODOT) have also reviewed the applicant's request, and neither department has any concerns with the reduced sign height impacting clear vision on the adjacent right-of-ways. The image of the sightlines from the stop sign on NE Baker Street looking north, as provided by the applicant, is shown below:



- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

Finding: The existing use of the property as a gas station results in a state requirement to display gas prices on site. The applicant is attempting to meet that requirement and utilize new technology that is becoming more of a standard in the gas station industry, which is the ECC signage, to more efficiently update and display gas prices on site. The applicant is arguing that the variance will allow for the property owner to utilize this technology in the most practical location on the site, given the existing site constraints described in more detail above. Each property in McMinnville is allowed to have one (1) ECC sign for the entire site, and the applicant also would like to utilize the existing freestanding sign location to allow for the gas prices to be visible from both streets adjacent to the property.

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- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

Finding: The purpose of the Signs chapter of the McMinnville Zoning Ordinance is, in part, to “improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards.” Also, the purpose speaks to minimizing “visual clutter caused by signs by limiting their numbers and duration of use”. The applicant is updating the freestanding sign on the property to meet other required standards for freestanding signs on commercial property. The sign will be reduced in height to the maximum allowed for freestanding signs, and will also be reduced in overall surface area by reducing the overall size of the cabinets. The site only has one freestanding identification sign, which is under the maximum number allowed, and does not unnecessarily clutter the streetscape in this location. Therefore, the applicant is arguing that the variance is not detrimental to the purposes of the McMinnville Zoning Ordinance.

The applicant is also arguing that the variance would not be detrimental to other property in the zone, as it would not negatively impact any properties or block sightlines to other properties. Overall, staff believes that the variance for the ECC setbacks and minimum clearance will not be materially detrimental, given the site constraints and the property owner’s attempts to have the signage on the site altered to be more consistent with other sign regulations.

- D. The variance requested is the minimum variance which would alleviate the hardship.

Finding: Given the site constraints, as described above in more detail, the ECC setback variance requested is the minimum variance that would alleviate the hardship. The applicant has argued that there is no other practical location for the freestanding sign, and the site constraints create a difficulty in meeting the ECC setbacks. The applicant is arguing that the existing location of the freestanding sign is the most practical location, which results in their request for the minimum variance to alleviate the hardship. The variance for the reduced clearance from grade for the base of the cabinet is also the minimum variance to alleviate the hardship. The applicant is lowering the entire sign to meet the maximum height requirement, and is also removing one (1) other existing cabinet from the base of the existing set of cabinets. This results in the lowest point of the proposed sign being only eight (8) inches shorter than the standard clearance requirement, which is the minimum variance to alleviate the hardship.

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