



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

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**DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS
FOR THE APPROVAL OF A MINOR PARTITION AT 1145 NE LAFAYETTE AVENUE.**

DOCKET: MP 3-18 (Minor Partition)

REQUEST: The applicant is requesting a minor partition to partition an approximately 21,500 square foot parcel of land into two (2) parcels approximately 10,000 and 11,500 square feet in size.

LOCATION: The subject site is located at 1145 NE Lafayette Avenue and is more specifically described as Tax Lot 5600, Section 16DC, T. 4 S., R. 4 W., W.M.

ZONING: C-3 (General Commercial). The site is also located in Zone 2 of the Northeast Gateway Planned Development Overlay District.

APPLICANT: Cellar Ridge Construction

STAFF: Chuck Darnell, Senior Planner

DATE DEEMED COMPLETE: June 1, 2018

HEARINGS BODY: McMinnville Planning Director

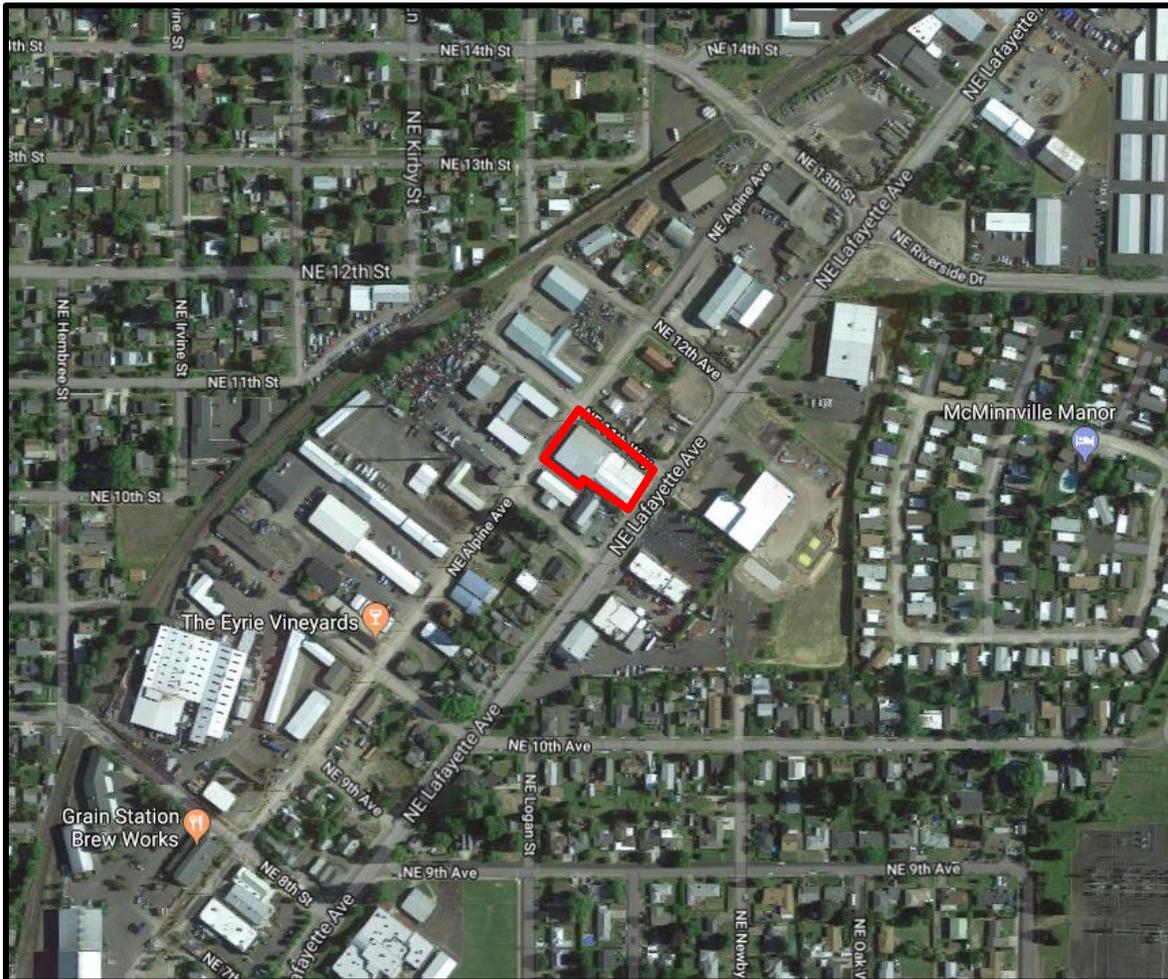
DATE & TIME: July 17, 2018

COMMENTS: This matter was referred 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. Their comments are provided in this exhibit.

APPLICATION SUMMARY:

The applicant is requesting approval to partition an approximately 21,500 square foot parcel of land into two (2) parcels approximately 10,000 and 11,500 square feet in size. The property in question is fully developed with buildings, all of which are connected and make up one large building on the site. As part of the partition, the applicant is proposing to demolish a breezeway that currently connects two separate buildings along the proposed partition line.

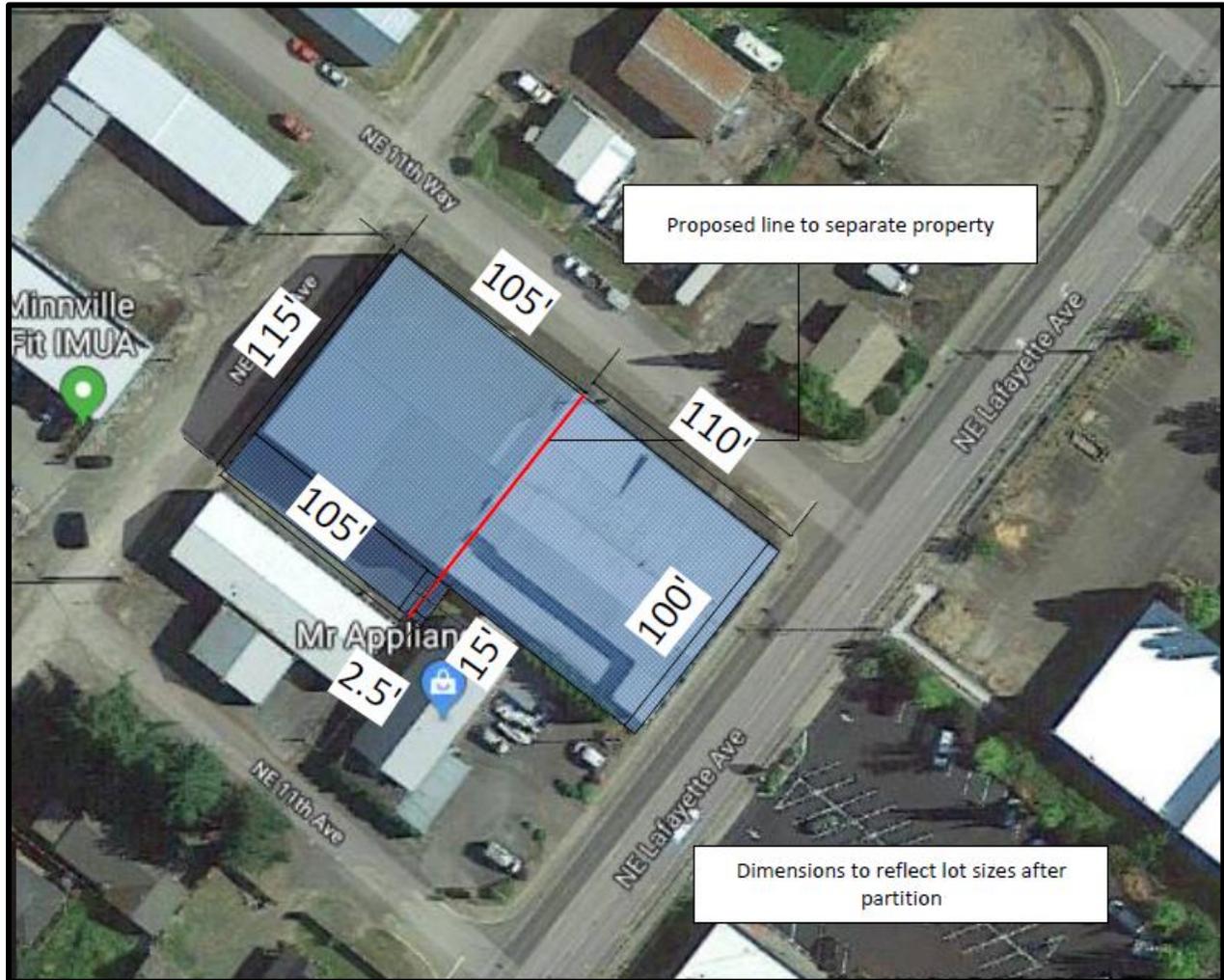
The location of the existing property proposed to be partitioned can be seen below:



Attachments:

Attachment 1 – Application and Attachments

The proposed partition map can be seen below:



CONDITIONS OF APPROVAL:

The following conditions of approval shall be required:

MP 3-18 is **approved** subject to the following conditions:

1. That the applicant shall apply for a demolition permit to deconstruct the breezeway between the two new parcels created by the partition. The demolition of the breezeway, and any subsequent changes to the exterior walls of the buildings to remain, shall follow all applicable Building Code requirements, as determined by the McMinnville Building Official. The demolition permit work shall be inspected and finalized by the Building Department prior to the City's approval of the final plat.
2. That the applicant shall submit an application for development review consistent with Section 5 of the Northeast Gateway Planned Development ordinance (Ordinance No. 4971) prior to any final changes to Parcel 1 and Parcel 2 related to the buildings' final façade material, any window replacement/modification, or any other activity listed in Section 3 (D) of the Northeast Gateway Planned Development ordinance that would require development review. The future development review will be completed separately for each of the newly separated buildings on each of the parcels created by the partition.

Attachments:

Attachment 1 – Application and Attachments

3. That the applicant shall construct public right-of-way improvements along the 11th Way frontage of the property, consistent with either the local street standards in Section 17.53.101(B) of the McMinnville Municipal Code or one of the draft streetscape standards for the Northeast Gateway District. Due to the Alpine Avenue right-of-way adjacent to the property being included in a future public improvement project, full public right-of-way improvements will not be required. In lieu of full right-of-way improvements, the applicant shall construct an accessible sidewalk path along the Alpine Avenue frontage meeting current Public Right-of-Way Accessibility Guidelines (PROWAG) standards. The required public right-of-way improvements may be deferred to be completed prior to any final Certificate of Occupancy being issued for future building permit activity on either Parcel 1 or Parcel 2, provided that the applicant bonds for the public right-of-way improvements prior to the City's approval of the final plat.
4. That prior to the City's approval of the final plat, the property owner shall sign and record a waiver of the right of remonstrance for the future improvement of Alpine Avenue to City standards, to include a public sidewalk, utilities, travel lanes, and other public improvements. At the appropriate time, the applicant shall contact the City Engineering Department (503) 434-7312 to request the preparation of the waiver document for the owner's signature and recording.
5. The applicant shall submit a draft copy of the partition plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two copies of the final partition plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.
6. The applicant shall submit to the City Engineer, for review and approval, a utility plan for the subject site. At a minimum, this plan shall indicate the manner in which separate sanitary sewer, storm sewer, and water services will be provided to each of the proposed lots. Each lot will need to be served by a separate connection to a public sewer main. McMinnville Water and Light may require electric and water service upgrades to serve each lot, as described in the comments provided on the application and documented in the Decision Document. Easements and maintenance agreements as may be required by the City Engineer for the provision, extension and maintenance of these utilities shall be submitted to the City Engineer for review and approval prior to filing of the final plat. All required utilities shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat.
7. That approval of this tentative plat will expire 12 (twelve) months after the date of issuance of this letter. If the final plat has not been submitted prior to expiration of the tentative plat, or a written request for an extension of this approval has not been submitted and approved within that same period, the applicant must resubmit a tentative plat for further consideration, and comply with regulations and conditions applicable at that time.

ATTACHMENTS:

1. MP 3-18 Application and Attachments (on file with Planning Department)

COMMENTS:

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police 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, Frontier Communications, Comcast, Northwest Natural Gas. The following comments had been received:

- McMinnville Water and Light:

Contact MWL to discuss possible relocation of the existing electric service feeding future “parcel 2”.

Currently one 5/8" water meter serves this entire facility.

This size meter may not meet plumbing code fixture requirements and/or both meter and service may need to be upsized.

This minor partition may require an additional service/meter to service the second parcel.

Backflow protection at premises (at the water meter) will be required for all water meters.

- McMinnville Building Department

An architect or engineer will be necessary due to the size of the building(s) for the related analysis and permitting (ORS 672.107). As part of their work, they'll need to evaluate the structures to identify what kind of treatment is necessary at the exterior walls adjacent to the new property line.

Work must comply with the codes currently in effect (OSSC Sec 3404.1). It is likely that the walls will need some combination of fire-rating, protection of openings and perhaps a parapet. Also, depending on the analysis, any exits that are required in the walls may need to be protected by an enclosure all the way to the public way.

- McMinnville Engineering Department

We have reviewed proposed MP 3-18, and would note that both proposed parcels are served by sanitary sewer service so no additional sewer improvements are required. We will defer to you regarding any transportation improvements (or waivers of remonstrance) that will be required in the NE Gateway district – with the note that any installed driveways and sidewalks shall meet the Public Right-of-way Accessibility Guidelines (PROWAG) requirements. Any required improvements shall be completed prior to the City approving the final partition plat.

We did note that the adopted Transportation System Plan and Land Division Ordinance indicates that Lafayette Avenue shall have 96' of right-of-way (48' on either side of centerline), and the current right-of-way is 60' wide. The existing building is within the future right-of-way area, so no right-of-way dedication is possible with this partition.

FINDINGS OF FACT

1. Cellar Ridge Construction requested a minor partition application to partition an approximately 21,500 square foot parcel of land into two (2) parcels approximately 10,000 and 11,500 square feet in size. The subject site is located at 1145 NE Lafayette Avenue and is more specifically described as Tax Lot 5600, Section 16DC, T. 4 S., R. 4 W., W.M.
2. The subject site is zoned C-3 (General Commercial) and is also located in Zone 2 of the Northeast Gateway Planned Development Overlay District

Attachments:

Attachment 1 – Application and Attachments

3. Sanitary sewer and municipal water and power can serve the site. The municipal water reclamation facility has sufficient capacity to accommodate expected waste flows resulting from development of the property.
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, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. No comments in opposition were provided to the Planning Department.
5. Notice of the application was provided by the City of McMinnville to property owners within 100 feet of the subject site, as required by the process described in Section 17.72.110 (Applications–Director’s Review with Notification) of the McMinnville Zoning Ordinance. No public testimony was provided to the Planning Department.
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 prior to the McMinnville Planning Director’s review of the request. All members of the public have access to provide testimony and ask questions during the public review process.

McMinnville’s City Code:

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

Chapter 17.33 C-3 General Commercial

17.33.030 Yard Requirements. Except as provided in Section 17.54.050, and “A” and “B” below, there shall be no required yards in a C-3 zone.

- A. Side yard shall not be less than twenty feet when adjacent to a residential zone;
- B. Rear yard shall not be less than twenty feet when adjacent to a residential zone. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Attachments:

Attachment 1 – Application and Attachments

Finding: The proposed partition will result in two (2) C-3 zoned parcels with buildable area that will allow for structures to be adequately located on the lot and still maintain the proper setbacks as required in the C-3 zone. As currently proposed, the applicant will maintain the existing buildings on each parcel after the deconstruction of a breezeway that currently exists between the two buildings. The new building walls will be setback 5 feet and 10 feet, respectively, from the new common property line created by the proposed partition. These setbacks meet the required setbacks in Section 7 of the Northeast Gateway Planned Development Overlay District, which only require a maximum setback in front and exterior side yards. The common property line created by the proposed partition will be treated as a side yard, which allows for the 5 and 10 foot setbacks proposed. This deconstruction plan is identified below:



Chapter 17.53 Land Division Standards - Partition

17.53.060 Submission of Tentative Partition Plan. An application to partition land shall be submitted in accordance with the application submittal procedures as stated in Sections 17.72.020 through 17.72.070 and shall be reviewed and approved under the following procedure:

- A. There shall be submitted to the Planning Department, a completed tentative partition application, applicable fees, and 15 (fifteen) copies of a tentative partition plan drawn to scale with sufficient information to show the following:
 1. The date, north point, scale, a copy of recorded deed, and any conveyed rights to define the location and boundaries of the parcels to be partitioned;
 2. Name, address and phone number of the recorded owner(s), authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed by the applicant with the Corporation Commission;
 3. Approximate size of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the partitioning;

Attachments:

Attachment 1 – Application and Attachments

4. For land adjacent to and within the parcel to be partitioned, show locations, names, and existing widths of all streets and easements of way; locations, width, and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways;
 5. Outline and location of existing buildings to remain in place;
 6. Parcel layout showing size and relationship to existing or proposed streets and utility easements;
 7. Location and dimension of any existing or planned curb-side planting strip which may border the subject site. (Amended 12/9/97 by Ordinance 4654B.)
 8. A Title Report or Partition Guarantee prepared within 60 (sixty) days of the application date.
 9. Contour lines related to City datum and having minimum intervals of two (2) feet.
 10. Location and direction of water courses, and the location of areas within the 100-year floodplain as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
 11. Location of any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
 12. Source, method and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all other utilities.
 13. Such additional information as required by the Planning Director.
- B. Upon receiving a complete application for a partition, notification and review shall be provided as stated in Section 17.72.110. The Director's decision shall be based upon a finding that the tentative plan substantially conforms to the requirements of this chapter.
- C. The Planning Director may require such dedication of land and easements and may specify such conditions or modifications in the plan as are deemed necessary to carry out the McMinnville Comprehensive Plan. In no event, however, shall the Planning Director require greater dedications or conditions than could be required if the entire parcel were subdivided.
1. If the parcel of land to be partitioned, being large in size, shall be divided into more than three parcels within any one calendar year, full compliance with all requirements for a subdivision plat may be required if the Planning Director should determine, in his judgment, that the entire parcel is in the process of being subdivided.
 2. Where a parcel is proposed to be divided into units of one acre or more, the Planning Director shall require an arrangement of parcels and streets such as to permit future partitions or subdivision in conformity to the street requirements and other requirements contained in this ordinance. Refer to Section 17.53.080 for future development plan requirements.
 3. For notice of decision, effective date of decision and the appeal process, refer to Chapter 17.72 (Applications and Review Process).
 4. The effective date of the Planning Director's decision shall be 15 (fifteen) calendar days following the date the notice of decision is mailed unless an appeal is filed.
- D. Approval of a Tentative Partition Plat shall be valid for a one-year period from the effective date of approval. Upon written request, the Director may approve a one-year extension of the decision. Additional extensions shall require the approval of the Planning Commission.

Finding: The proposed partition, along with the conditions of approval, conforms with the requirements of a tentative partition and with the requirements of the underlying C-3 (General Commercial) zoning district in terms of lot size and setback requirements, and the Northeast Gateway Planned Development Overlay District in terms of setback requirements.

17.72.110 Applications – Director's Review with Notification. The following applications shall be submitted as stated above in Section 17.72.020 and shall be reviewed by the Planning Director or designee.

- Administrative Variance

Attachments:

Attachment 1 – Application and Attachments

- Classification of an Unlisted Use
 - Downtown Design Review (major alterations or waivers, reviewed by Historic Landmarks Committee)
 - Large Format Commercial Development (variation to standard)
 - Resident Occupied Short Term Rental
 - Short Term Rental
 - Tentative Partition
 - Tentative Subdivision (up to 10 lots)
 - Three Mile Lane Design Review
 - Transitional Parking Permit
- A. Notice of the request shall be provided to owners of property within 100 feet of the site for which the application is made. For applications involving classification of an unlisted use, the only notification provided shall be that published in a newspaper of general circulation a minimum of 14 (fourteen) days prior to a decision being rendered. Notices for applications listed in Section 17.72.110 shall:
1. Provide a 14 (fourteen) day period for submission of written comments prior to the decision;
 2. State that issues which may provide the basis for an appeal to the Land Use Board of appeals (LUBA) shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
 3. List, by commonly used citation, the applicable criteria for the decision;
 4. Set forth the street address or other easily understood geographical reference to the subject property;
 5. State the place, date and time that comments are due;
 6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
 7. Include the name and phone number of a local government contact person;
 8. Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and
 9. Briefly summarize the local decision making process for the land use decision being made.
- B. During the 14 (fourteen) day comment period, a person who has received notice may request a public hearing following the procedure as outlined in Section 17.72.120.
- C. The Director or designee shall make a decision for the above applications within 30 (thirty) days following the close of the 14 (fourteen) day comment period. The Director's decision may be appealed as outlined in Section 17.72.170. (Ord. 5047 §2, 2108, Ord. 5034 §2, 2017; Ord. 4984 §1, 2014).

Finding: The section of the zoning ordinance above is satisfied in that a written Notice of Pending Administrative Decision Minor Partition was mailed to property owners within 100 feet of the affected property on June 14, 2018. The Planning Department did not receive any public testimony on the minor partition.

Ordinance 4971 – Northeast Gateway Planned Development Overlay District

The following Sections of Ordinance 4971 are applicable to the request:

Section 2 – Purpose. The **NE Gateway Planned Development Overlay (PDO)** is designed to guide the transition of a light and heavy industrial area to a vital, mixed-use, pedestrian-friendly neighborhood, consistent with the vision described in the adopted NE Gateway Plan. In so doing, this PDO provides a design framework and specific use standards that allows for a complementary mix of

Attachments:

Attachment 1 – Application and Attachments

uses to include residential, employment, cultural/tourism, education, and neighborhood-scale support services. In addition, the PDO includes design standards and guidelines that are intended to reflect the area's unique character and history, while promoting an attractive, walkable, and vibrant neighborhood.

Finding: The purpose of the Northeast Gateway Planned Development Overlay District will be achieved by the proposal by the eventual remodeling of the property following the development standards required in Section 7 and the review process in Section 5. A condition of approval has been included to require that the applicant submit an application for development review consistent with Section 5 of the Northeast Gateway Planned Development ordinance (Ordinance No. 4971) prior to any final changes to the building's final façade material and/or any window replacement/modification.

Section 3 – Applicability of NE Gateway PDO. The provisions within the NE Gateway Planned Development Ordinance apply to an approximately 75-acre area located generally south of 14th Street, east of the Portland and Western Railroad, north of 3rd Street, and west of Logan Street and Lafayette Avenue, and as depicted in **Exhibit A**. The affected area is further divided into three zones (refer to map, **Exhibit B**), described as follows: [...]

- B. **Zone 2** is bordered by 5th Street to the south, the railroad track to the west, 12th Avenue to the north, and Johnson Street/Lafayette Avenue to the east. This zone is considered the "heart" of the area and includes a significant employer (RB Rubber) and the *Granary District*, which has undergone much change in recent years and is currently enjoying success as a mixed-use area. Zone 2 also includes most of Alpine Avenue along which exist a large number of undeveloped and underdeveloped properties. The purpose of Zone 2 is to establish a mixed-use employment neighborhood with an authentic live-work environment and visitor-oriented industries. There will be a strong focus on pedestrian activity, street design, the built environment, and connectivity to adjacent neighborhoods. [...]

Finding: The subject site is located within Zone 2 of the Northeast Gateway Planned Development Overlay District, and therefore the provisions of the overlay district apply to the subject site.

- D. The regulations contained in this ordinance apply to all new development within the area subject to this ordinance including the following:
1. New construction.
 2. Any expansion of an existing development or structure involving the addition of 15 percent or more of the existing square footage of the building². Incremental additions over a period of three (3) consecutive years totaling 15 percent or more of the original square footage of the structure shall also be subject to the design standards in this ordinance.
 3. New signage.
 4. Parking lot design.
 5. New roofing.
 6. Changes to façade material (re-siding).
 7. Window replacement/modification.

Finding: The proposed minor partition does not trigger the regulations contained in the Northeast Gateway Planned Development ordinance (Ordinance No. 4971). However, included within the partition request is the deconstruction of an existing breezeway, which will separate the one existing building into two buildings, with one building remaining on each of the newly created parcels. A condition of approval has been included to require that the applicant submit an application for development review consistent with Section 5 of the Northeast Gateway Planned Development ordinance (Ordinance No. 4971) prior to any final changes to the building's final façade material and/or any window replacement/modification.

Attachments:

Attachment 1 – Application and Attachments

Section 5 – Review Process and Waiver Process.

- A. Applications for development review shall be submitted to the Planning Department for review as stated in Section 17.72.040 of the Zoning Ordinance. Applications will be subject to review as stated in Section 17.72.100 (Applications and Permits – Director’s Review without Notification) of the Zoning Ordinance. Plans submitted for review shall comply with the development standards as noted below in Section 7 unless the application includes a waiver to certain development standard(s) as noted in subsection (B) and (C) of this section. Approval of a development review application shall be based upon findings of consistency with the applicable standards found in this planned development ordinance.

Finding: A condition of approval has been included to require that the applicant submit an application for development review consistent with Section 5 of the Northeast Gateway Planned Development ordinance (Ordinance No. 4971) prior to any final changes to the building’s final façade material and/or any window replacement/modification. This review process will ensure consistency with the development standards in Section 7 and other site improvement standards in other sections of the Northeast Gateway Planned Development ordinance.

CD:sjs