



City of McMinnville
Planning Department
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MINUTES

July 16, 2020
Planning Commission
Regular Meeting

6:30 pm
Zoom Online Meeting
McMinnville, Oregon

Members Present: Chair Roger Hall, Commissioners: Robert Banagay, Erin Butler, Susan Dirks, Gary Langenwalter, Roger Lizut, Amanda Perron, Beth Rankin, and Lori Schanche

Members Absent:

Staff Present: Heather Richards – Planning Director and Chuck Darnell – Senior Planner

1. Call to Order

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

2. Public Hearing

A. Quasi-Judicial Hearing: Conditional Use Permit (CU 1-20) – (Exhibit 1)

Request: Approval of a conditional use permit to allow for the operation of a short term rental on the subject property.

Location: 1113 NE 4th Street and is more specifically described as Tax Lot 600, Section 21BD, T. 4 S., R. 4 W., W.M.

Applicant: Casey McLane

Opening Statement: Chair Hall read the opening statement and described the application.

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 Commissioners had visited the site, but had no comments to make on the visit.

Staff Presentation: Senior Planner Darnell said this was a request for a Conditional Use Permit for property at 1113 NE 4th Street to allow the operation of a short term rental lodging use. The property was located in Zone 3 of the NE Gateway Planned Development Overlay District and in that district short term lodging was a conditional use. The NE Gateway District was adopted by ordinance in 2013. At that time short term rental lodging was referred to as vacation home rentals which required a conditional use. In 2014, vacation home rentals were changed to a permitted use in residential zones and in 2018, the terminology of vacation home rentals was changed to short term rentals. This language was not updated in the NE Gateway District and the conditional use still applied. Also some District development standards also applied to this

application. None of the activities proposed required development review and the District did not require off street parking. He explained the site plan which showed the existing improvements on the site. No changes were proposed to the structure or site. He then reviewed the conditional use criteria. The existing single family dwelling would retain its residential appearance and its consistency with the neighborhood. The applicant was proposing some operational measures for the use that would limit occupancy to five adults and they intended to prohibit events and parties to reduce potential conflicts with the surrounding residential uses. Staff recommended a condition that limited the occupancy to the five unrelated adults. This site was in the NE Gateway District that permitted a wide range of commercial and light industrial types of uses. Some of those would be much more impactful on livability than the proposed short term rental use. The other conditions recommended by staff included: registering with the City and participating in the Transient Lodging Tax program, providing CO2 and smoke detectors in bedrooms and hallways, limiting the size of signage and that it be wall mounted and meet the signage standards in the District, and not allowing parking in the driveway as the vehicles would go into the sidewalk. Staff recommended approval of the application with conditions. A question had been raised about how the City tracked short term rentals. The City required permitting of the rentals which was an annual renewable permit. If they found a rental that did not have a permit, they worked with the code compliance officer to have the owner go through the permitting process. Another question was about off street parking and whether there was enough space. The NE Gateway District did not require off street parking and it was likely that there would be on street parking for the rental. Another question had to do with food and review by the Department of Health. There was no mention of food service being provided for the site.

Commission Questions: Commissioner Butler asked about the five unrelated adults and how many could be there if they were related. Senior Planner Darnell said the language was based on the current definition in the zoning code of family and number of people allowed to occupy a dwelling unit which was a maximum of five unrelated and no limitation of related.

Planning Director Richards said the premise of the definition was somewhat antiquated and needed to be reviewed in terms of fair housing policies. Families varied quite a bit and they wanted to allow for that variation. They were trying to ensure that the impact of a short term rental was no more than the impact of a residence that would be next door to someone.

Commissioner Rankin thought it should be based on the number of bedrooms. It was almost a 1,200 square foot house and five adults would be a load on that structure. Planning Director Richards said it was hard for them to do that from a land use perspective because one bedroom could house more than two people. They were trying to create some parameters from a land use perspective and bringing in the same impact that they had in the residential areas. They could not by law define what a family was.

Commissioner Dirks asked if the applicant had a neighborhood meeting and if so, what was the response. Senior Planner Darnell said there was a neighborhood meeting and there was no objection from the neighborhood.

Commissioner Banagay had worked in the building that faced the home for six years. It was a quiet street. If no one objected, then he thought it was a good sign.

Applicant's Testimony: Casey Mclane, applicant, said what the Commission wanted for the neighborhood and community was the same thing he wanted. He did not want parties causing havoc on the neighborhood. He had put a lot of time and effort into making this a special place and he wanted people to come out and enjoy McMinnville. Children were not allowed, and five adults would be the maximum. His neighbors were all in support and could contact him if there were any problems.

Public Testimony: None

Chair Hall closed the public hearing.

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

Commission Deliberation: None

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwaller MOVED to APPROVE CU 1-20 subject to the conditions of approval provided in the decision document. SECONDED by Commissioner Butler. The motion PASSED 9-0.

B. Quasi-Judicial Hearing: Planned Development Amendment (PDA 1-20) – (Exhibit 2)

Request: Approval of a Planned Development Amendment to amend the conditions of approval of the existing Planned Development Overlay District governed by Ordinance 4667. The requested amendments would include:

- 1) Amending a condition of approval that currently limits use of the site to professional office, medical office, and other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility, to also allow multiple family dwellings and community buildings associated with residential uses.
- 2) Removal of a condition with an existing 35 foot building height limitation, resulting in the ability to construct to the maximum building height allowed in the underlying C-3 zone.
- 3) Addition of a new condition of approval requiring future review of a master plan prior to any development of the site.
- 4) Addition of a new condition of approval requiring a minimum of 10 percent of the site to be developed with usable open space if the site is developed with multiple family dwellings.

Location: 235 SE Norton Lane and is more specifically described as Tax Lots 400, 404, and 405, Section 27, T. 4 S., R. 4 W., W.M.

Applicant: Housing Authority of Yamhill County, on behalf of property owner Burch Feero, Inc.

Opening Statement: Chair Hall read the opening statement and described the application.

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 Commissioners had visited the site, but had no comments to make on the visit.

Staff Presentation: Senior Planner Darnell explained the request for a Planned Development Amendment for the property at 235 SE Norton Lane. The Planned Development Overlay District was adopted by ordinance in 1998. That ordinance zoned the site C-3 PD and placed a number of conditions and limitations on the property. It also included a master plan for a one story office park and future development area. Since that time one of the office buildings had built out, the Altimus Plaza. The future development area was built out in the late 2000's and the ordinance was amended to allow a taller building to 45 feet in height for the Comfort Inn and Suites. That amendment only applied to the hotel parcel. Additional amendments occurred to allow the development of The Diner restaurant. The subject site included three parcels that were partitioned in 2007. The amendments being requested were changes to

some of the conditions of approval. The first was to remove Condition #3 which had to do with building height which allowed up to 35 feet. The second was to change Condition #7 which limited the use of the site to office or accessory commercial uses to allow multiple family dwellings and community buildings associated with residential use. The third was a procedural update to reflect the City's current review process in Condition #16. The fourth was to propose a new condition to require the existing master plan not apply to these three parcels and to require a future review of an updated master plan prior to any development occurring. The fifth was to add another new condition to require open space if the site was developed as multiple family but that the open space not be required to be contiguous, have a dimension of 20 feet, and to allow a slight extension into the front yard space.

Senior Planner Darnell then reviewed the applicable criteria. This was an existing Planned Development and the existing requirements of the site were the standard requirements the applicant was requesting a departure from. The City had to find that there were special physical conditions or objectives for what was being proposed to warrant the changes. There was need for additional land for residential use in the City identified in the most recent Buildable Lands Inventory and Housing Needs Analysis. The underlying zoning of C-3 did allow multiple family as a permitted use; it was just not allowed here. Staff supported the request for review of an updated master plan prior to development, especially if the multiple family use was approved and the current master plan was over 20 years old. Staff recommended a condition for this review, not only for these three parcels but also for parcels that were outside of this area, and that any necessary shared access, parking, or utility easements be incorporated into the updated plan and that the new master plan would replace the existing plan and that the updated master plan be reviewed by the Planning Commission through the Planned Development Amendment process and review criteria and against the Great Neighborhood Principles. The applicant explained the request to remove the existing 35 foot building height limitation was because the single story office park master plan would no longer be applicable based on a multiple family use and the underlying zoning had a taller building height. If multiple family was developed, they would be limited to 60 feet in height. There were other buildings in the surrounding area that appeared to be taller than 35 feet. Staff could not identify any specific reason for the 35 foot height, but this same height limitation was used in many other planned development overlay districts along the Three Mile Lane frontage corridor. There was an allowance for a 45 foot height on the adjacent parcel for the hotel. Staff suggested that the condition be revised to have the applicant follow a process to request the additional height at the time of the updated master plan and submission of building plans. There were goals and policies in the Comprehensive Plan that would be achieved by increasing the opportunity for multiple family housing. He explained the policies for locations for higher density housing such as being within one half mile of planned or existing transit, one half mile of commercial, and adjacent to public or private open space. This location was near transit and commercial but there were no adjacent open spaces. This was why the applicant proposed the condition to require 10% of the site be used for open space which was consistent with the size requirement for other planned development overlay districts. Staff suggested that the other parameters requested for the open space not be included in the condition for consistency and equality, which would require the open space to be contiguous. Also the other features that had been required on other sites would also be required here, such as the dimension be 25 feet of open space and not allowing it in the front yard area. There were conditions that would require street improvements at the time of development. The applicant used a recently submitted trip generation analysis on the property to the south stating that a medical office development would generate more traffic than the proposed multiple family development. There were conditions for utility improvements and a study of those components at the time of development. The sanitary sewer capacity analysis showed there was enough capacity to accommodate a multiple family development. Staff recommended the Commission recommend approval to the City Council with amendments to the conditions. No public

comments had been received for this application. The applicant had held a neighborhood meeting and there was no opposition raised at that meeting.

Commission Questions: Commissioner Schanche asked about the 35 foot height limitation. Senior Planner Darnell said staff could not find documentation about where it came from. It was the maximum height in lower density residential zones.

Commissioner Rankin thought they should allow the height adjustment, but require the larger open space.

Commissioner Langenwaller agreed. He would rather have an extra floor of apartments and keep the open space for the kids to play in. He thought because they could not find the reason for the 35 feet, holding onto it did not make sense to him. He thought they needed to do what was right moving forward, not be tied to the past by something arbitrary that they did not know what it meant anymore.

Commissioner Butler said it was a picturesque entry into McMinnville and she wouldn't want it to be marred by an exceptionally tall building. Was there a maximum height? Senior Planner Darnell said that was probably the intention, to preserve the horizon and view through the corridor. That was why staff thought they should set up a process where the applicant's height, setbacks, and building form be similar to other development in the corridor and allow for the Planning Commission to look at the building plans and how they could minimize impacts instead of selecting a building height now without knowing those details.

Commissioner Schanche was worried about making this multi-family because kids might be compelled to run across Highway 18 to McDonald's on the other side. She thought they should add neighborhood commercial to this area for people who might be living there. Senior Planner Darnell said small scale commercial uses would still be allowed on the property.

Commissioner Dirks asked how this proposal fit into the Three Mile Lane Plan. She thought this was supposed to be a mixed commercial area in that plan. Senior Planner Darnell said there was an alternative that was not yet finalized, but was the preferred alternative. It did identify the northern half of this site as commercial and the southern half as residential. There was still flexibility in the process and it was not completely inconsistent for the vision for the site.

Commissioner Langenwaller asked if there would be commercial development to the south of Hwy 18 just east of the hospital. That would provide some commercial support for the housing nearby. He suggested a pedestrian bridge over Hwy 18 for safety. Senior Planner Darnell said the intent of the Three Mile Plan was to create a mixture of uses and better neighborhoods on both sides of the highway as well as improving crossings and intersections.

Applicant's Testimony: Mike Andrews, development consultant working for the Housing Authority, explained the Housing Authority was under contract from the current owner to acquire these three lots. The intent was to build an affordable housing project as there was a well-documented need for affordable housing in McMinnville. They were early in the development process and were close to selecting an architectural engineering team. The team would consist of architectural firms, landscape architects, civil engineers, and structural engineers to determine the right project for this site. They hoped to complete the conceptual design work during this calendar year. They would need to work with staff to better understand the specific requirements that would be put upon the project to get a building permit so they could make an application to the Department of Housing and Community

Services for the necessary funding needed to construct the project. That application would need to be submitted in the first quarter of next year. The action tonight was the first step in the process and they knew they would need to do a design review in the future. Their requests tonight were to allow for the multi family use, modify the height, modify the open space, and clean up of the current master plan. This was a good site for multi family and they would take the point about the proximity to Hwy 18 and safety concerns into consideration. Regarding the height, the base zoning was C-3 which allowed R-4 that had a height of 60 feet. If approved, they planned to use the 60 feet as the maximum height. He thought there would be a variety of different heights for the project and they would think about how to site the buildings and what the proper height would be with proper sensitivity to the northern edge that was visible and had some safety and proximity considerations. The 35 foot height would be a constraint that would be limiting for them as they could not get a three story building at that height. In order to achieve the unit yield they hoped for and to accommodate the open space, some relief on the height would be needed. Coming back later when they had something specific was workable. Regarding open space, they wanted open space on the site. Their intent was not to limit it but to give themselves some room to balance the tension between height and open space and unit yield. He requested that the Commission be open to non-contiguous open space to the 10% level. The site was 304,000 square feet or 6.9 acres and 10% of that would be 30,000 square feet, just over two thirds of an acre. It would be helpful to have open space that was in proximity to windows and doors so parents could better watch their children. If it was non-contiguous they would be able to do that. They could also program the space differently so there could be space for older kids and younger kids. It would allow some flexibility that could make the site work well for residents. He thought they could come back with the design as they were doing for the height.

Joyce Morrow, Chair of the Housing Authority Board, said they had been looking for property to build affordable housing for a long time. The City had talked to them several times about the great need for affordable housing. They were different from other developers because they were looking at a different population.

Commission Questions: Commissioner Langenwaller said the Commission would be looking at a change to the open space requirement from 10% to 12.5% in the near future. If there was any way for them to go to 12.5% he would appreciate it especially with the number of children that would be in this development. Mr. Andrews said there were some challenges to the site given it had one right-of-way frontage and they had to work with the neighbors to the east for access. There was a stormwater drainage easement that they had to be mindful of. Overall it was a great site and he thought they could come up with a great design. If there was flexibility for the height and open space, it would help them greatly.

Commissioner Langenwaller was in support of the flexibility of the height and open space. He asked if the parking for the medical offices was part of this site and if so what would happen to their parking. Mr. Andrews said there was a use and access easement granted to the owner of the medical offices by the current owner of the property. A similar condition existed for the hotel. The ingress and egress was shared between the hotel and parcel 1 of this property. Those were some of the quirks of the site that they had to accommodate and would influence how circulation occurred on the site and where the buildings would go, how they would maintain a quality front at the northern edge, and appropriate open space.

Public Testimony:

Proponent: Mark Davis, McMinnville resident, offered his strong support for the proposal. He had worked for the Housing Authority and served on the City's Affordable Housing Task Force. There was a need for more affordable housing and this project would provide it. He

did have concerns about the location and questioned whether it was a good place for affordable housing. It was next to a busy highway and had no amenities without either crossing the highway or driving somewhere. A lot of this had to do with the land shortage in the City and the Housing Authority had to make do with the limited supply of land. The project needed to go ahead but it was not optimal. He did not think it would fit with the Great Neighborhood Principles because it was not close to a grocery store or park. They needed to get more land in the City so they could appropriately site affordable housing projects. They needed to do everything they could to make the site safe and usable now, but hopefully they could do better in the future.

Opponent: None

Chair Hall closed the public hearing.

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

Commission Deliberation: Commissioner Dirks had similar concerns as Mr. Davis. While she was in favor of the project she questioned the location. What they could do about it was make sure the Three Mile Lane Plan had commercial development and appropriate pedestrian support in this area to make it a more amenable area for what would be residential. Regarding the height, what staff had proposed was good. Regarding the open space, she suggested changing Condition #7 to allow it to be non-contiguous and that the open space be at a minimum of 10% so they could go up to 12.5% if they were able. The entire site plan would be subject to review by the Planning Commission.

Commissioner Lizut said they needed affordable housing in the City and there would be trade-offs. There was no optimal solution and there was give and take and they needed to proceed to address the main problem of providing affordable housing given the economic situations they had seen and the limitations of land that they could work with. This was a good place to start. He was in favor of the project and having further conversations. They needed to do what they could to start addressing this serious problem in the community.

Commissioner Butler thought more commercial would be going in on the south side that could serve this site.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Dirks MOVED to RECOMMEND the City Council APPROVE PDA 1-20 subject to the conditions of approval provided in the decision document and amending Condition #7 to require a minimum of 10% for open space and that the open space may be non-contiguous subject to review of the Planning Commission at the time of the updated master plan review. SECONDED by Commissioner Langenwaller. The motion PASSED 9-0.

Commissioner Perron left the meeting at 8:30 p.m.

The Commission took a short break until 8:40 p.m.

C. Legislative Hearing: Zoning Ordinance Text Amendments: General Provisions – Code Compliance (G 5-20) – (Exhibit 3)

Request: The City of McMinnville is initiating a legislative text amendment to amend Chapter 17.03, "General Provisions" relative to compliance, enforcement and violations of the Zoning Ordinance to align it with Chapter 2.50 of McMinnville Municipal Code.

Applicant: City of McMinnville

Opening Statement: Chair Hall read the opening statement and described the application.

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.

Staff Presentation: Senior Planner Darnell said the proposed zoning ordinance text amendments were related to Chapter 17.03, General Provisions. The amendments would update the City's code enforcement process. The existing code relied on the municipal court system and was a labor intensive process to bring things into compliance. Code compliance had recently been moved to the Planning Department and they wanted to update the code to make it easier for staff to address issues. The purpose of the amendments was to align the zoning code with the new code compliance process in Chapter 2 of the municipal code. He discussed the different types of violations and penalties that could be imposed. Violations of the zoning ordinance would be a Class 2 and the penalty was \$2,000. The intent was to bring properties into compliance by working with property owners. A typical process would be notifying the property owner by letter of the violation the City had become aware of either through a complaint or some other means and how to bring the property into compliance. Code compliance would then work with the property owner to remedy the situation. This was done before any penalty was issued and a penalty was only used as a second course of action if the first process did not work. Public comments had been received pointing out typos in the document and staff would make those corrections before it went to City Council.

There was no public testimony.

Chair Hall closed the public hearing.

Commission Deliberation: None

Based on the findings and conclusions, Commissioner Dirks MOVED to RECOMMEND APPROVAL of the legislative zoning text amendments (G 5-20) to the McMinnville City Council. SECONDED by Commissioner Langenwalter. The motion PASSED 8-0.

3. Work Session: Residential Site and Design Review: Cottage Clusters

Senior Planner Darnell said the Commission described cottage cluster, which was a single lot or parcel that had multiple small detached dwelling units. The standards would apply to those that had four or more units. They would be a maximum of 900 square feet. The spacing between the units would follow the Building Code requirements. The standards for cottage clusters with alleys and without alleys were the same. They would have a minimum lot size of 10,000 square feet which was larger than the other housing types they had been discussing. For infill, the setbacks, lot dimensions, and lot sizes would match the existing subdivision or zoning requirements. The building height would be 25 feet. There were graphics showing the typical footprint for both with alleys and without alleys. They would also be subject to the Universal Design Standards and common open space requirements.

Commissioner Langenwalter clarified the 900 square feet did not include porches. Senior Planner Darnell said that was correct, it was based on finished interior square footage.

Commissioner Dirks asked if it was a 900 square foot building or 900 square foot footprint. Senior Planner Darnell said the intent was to have a total of 900 square feet.

Commissioner Dirks asked if it was standard to allow up to 50% of the open space to be constrained. She thought that was a large amount. Senior Planner Darnell did not think it was standard. It was an opportunity to allow for those natural features to be incorporated into the open space.

Commissioner Dirks suggested changing it to 25%. It was nice as greenspace, but it was not usable.

Commissioner Butler thought it could still be used for recreational purposes. She could see where the 50% was coming from because otherwise they might not be able to build on the lot at all. A cottage cluster could fit and still provide nice open space. She was hesitant to put strict constraints on it.

Commissioner Dirks thought the reason for a cottage cluster was to build a small community that gathered around a central open space. If 50% was a wetland they could not use it for gathering purposes. She thought it should be 25% to 30% and if someone had a property they wanted to do more with, they could request a variance.

Senior Planner Darnell said they still needed to verify what percentage of the open space was passive and what was active.

There was consensus for staff to look into lowering the threshold from 50% to 25% or 30% and to add language for the ability to exceed that with a variance.

4. Commissioner Comments

None

5. Staff Comments

Senior Planner Darnell said the discussion on equity and inclusion would be done at a later date.

6. Adjournment

Chair Hall adjourned the meeting at 9:03 p.m.

Heather Richards
Secretary