



City of McMinnville
Planning Department
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MINUTES

August 20, 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, Beth Rankin, and Lori Schanche

Members Absent: Roger Lizut and Amanda Perron

Staff Present: Heather Richards – Planning Director, Jamie Fleckenstein – Associate Planner, and Tom Schauer – Senior Planner

1. Call to Order

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

2. Citizen Comments

Mark Davis, McMinnville resident, reviewed the site location information for the Housing Authority project. While it was critical that this project moved ahead, it did not meet some of the criteria for an affordable housing project because it was next to a busy highway and there were no nearby services except the hospital. The issue was there was no available land for multi-family housing in the City. Historically the R-4 zone which should be multi-family had been used for single family homes and now there was no R-4 land available for projects and multi-family was currently being built on commercial land. It was more expensive and in locations that were not the best for people to be living. The Commission was going to have the opportunity to go through the process to implement the Great Neighborhood Principles with neighborhood activity centers which would create land for multi-family that was in neighborhoods and desirable places for people to live. He hoped they would be giving it a lot of consideration so that future apartments would not be located on a major highway.

3. Approval of Minutes

• July 16, 2020

Commissioner Schanche suggested a change to page 5 of the minutes to say, “Commissioner Schache was worried about making this multiple family because there would be people running towards McDonalds, a kid attraction.”

Commissioner Langenwalter moved to approve the July 16, 2020 minutes as amended. The motion was seconded by Commissioner Dirks and passed 7-0.

4. Public Hearing

A. Quasi-Judicial Hearing: Conditional Use Permit (CU 3-20)

Request: Approval of a conditional use permit to allow for the operation of an adult day care facility on the subject property.

Location: 2270 NE McDaniel Lane and is more specifically described as Tax Lot 2700, Section 16AD, T. 4 S., R. 4 W., W.M.

Applicant: Blair Goldstein

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 members of the Commission had visited the site, but had no comments to make on the visits.

Staff Presentation: Associate Planner Fleckenstein said this was a request for a Conditional Use Permit for an adult day care facility on NE McDaniel Lane. He described the subject site and need for a Conditional Use in the C-3 zone. The facility would provide services to developmentally disabled adults with daily task assistance, community outings, and integration and socialization within the community. He then discussed the review criteria. The proposal was consistent with the Comprehensive Plan and Zoning Ordinance. There would be minimal changes to the existing structure. Three windows would be converted to egress doors, but there would be no change to the building scale, bulk, or coverage. The applicant proposed integrating clients into the surrounding community, utilizing nearby parks and businesses, providing all transportation for clients and outings, and sufficient parking existed on the site. He showed a photo of the existing building form which would remain unchanged and a photo of the north side of the building where doors would be added. The General Commercial zone permitted a wide range of uses, some that would be more impactful on the surrounding area than the proposed adult daycare facility. Clients would be integrated into the surrounding area with positive benefits. There would be no major changes to the existing structure or site visible to the public. There were no significant environmental assets on the site. The applicant would sign a lease for the building pending the Conditional Use approval. Staff suggested one condition of approval, prior to the issuance of building permits, the applicant shall coordinate with McMinnville Water & Light to determine if an additional water meter and/or backflow prevention was required. The applicant was adaptively re-using an existing commercial structure and commercial property, it was compatible with surrounding properties and uses, and it would cause no significant adverse impact on the livability, value, or appropriate development of the surrounding area. The applicant held a neighborhood meeting, but there were no attendees. The Planning Department had not received any public testimony prior to the public hearing. Staff recommended approval of the application with the proposed condition.

Applicant's Testimony: Commissioner Langenwaller asked if part of the socialization would be working with the people at the Senior Center. Blair Goldstein, applicant, said that could be a possibility for some of the clients. There were some clients with behavioral tendencies that would need one to one ratios for their staff support. It would be dependent on the scenario and they could plan it with the program directors.

Commissioner Dirks said they would have 11 parking spaces and 10 staff members and a van. She was concerned that if all the staff were there at the same time as well as the van, would 11 be enough parking spaces. Mr. Goldstein said 10 would be the maximum number of staff and he did not anticipate needing more than the 11 spots. They would be able to use the DMV parking for any overflow.

Public Testimony:

Proponents: None

Opponents: 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 thought this was a great proposal and it met all of the criteria.

Based on the findings of fact, conclusionary findings for approval, materials submitted by the applicant, and evidence in the record, Commissioner Butler MOVED to APPROVE CU 3-20 with the condition proposed by staff. SECONDED by Commissioner Langenwalter. The motion PASSED 7-0.

B. Quasi-Judicial Hearing: Conditional Use Permit (CU 4-20)

Request: Request for approval of a conditional use permit to allow for the construction and operation of a fueling station facility, primarily for fueling McMinnville Water & Light fleet vehicles, also providing at least mutual aid (emergency use) for City of McMinnville fleet vehicles. The proposed facility will have access via Marsh Lane, and will occupy approximately one-half acre of the property. The proposed facility is comprised of two above-ground tanks and a card lock fueling pump kiosk under a permanent canopy. The applicant is requesting approval of two options which differ in access and fencing configuration, but are otherwise the same proposed facilities in the same location.

Location: 855 NE Marsh Lane and is more specifically described as Tax Lot 100, Section 21, T. 4 S., R. 4 W., W.M.

Applicant: City of McMinnville, acting by and through its Water and Light Commission (McMinnville Water and Light), c/o Samuel R. Justice, General Counsel

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 members of the Commission had visited the site, but had no comments to make on the visits.

Staff Presentation: Senior Planner Schauer said this was a request for a Conditional Use Permit for the construction and operation of a card lock fueling station facility on NE Marsh Lane. This was in an M-1 industrial zone, listed as a "service station" in the zoning ordinance. It was approximately half an acre of an 18 acre site housing McMinnville Water & Light's office and facilities. A Conditional Use was required for a service station on property in the M-1 zone. Uses in the M-1 zone were subject to use and design standards specified and referenced in the ordinance. There was a general requirement that uses in the M-1 zone 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. Some zoning districts had use-specific standards for certain uses. There were no use-specific standards for a service station in the M-1 zone. He discussed the applicable review criteria. The proposal was consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City. The location, size, design, and operating characteristics of the proposed development were compatible with and would have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood. The location and design of the site and structures would be as attractive as the nature of the use and its setting warranted. The proposal would preserve environmental assets. The applicant had a bona fide intent and capability to develop and use the land as proposed. He explained the site location, zoning, site plan Option 1 and Option 2, and representative images of the facility. The fueling station would be for McMinnville Water & Light fleet vehicles and possibly a sharing agreement with City fleet vehicles. Staff found that all of the criteria were satisfied or satisfied with conditions. Staff recommended approval of the application with conditions as revised to reflect a change to Condition #4. He then reviewed the recommended conditions of approval. Condition #4 had to do with the expiration of the Conditional Use if the proposed use did not commence within one year from the effective date of this approval. After speaking with the applicant, he recommended revising it to say that it would expire if construction had not been started by September 1, 2022 as specified in the applicant's development schedule. McMinnville Water & Light was also governed by the EPA Spill Prevention, Control, and Countermeasure (SPCC) Rule, DEQ permitting, State Fire Marshall permitting, and the canopy was subject to building/electrical permitting. He clarified the conditions related to fire/life/safety/seismic. They could not adopt conditions that would be standards that pre-empted state codes, they needed to avoid applying conditions on an ad-hoc basis that would be applicable to all equivalent uses, and if not pre-empted, that should be done legislatively rather than as conditions of a quasi-judicial application. Service stations in the C-3 commercial zone were a permitted use, but they were conditional in M-1. Conditions should relate to the location of the facility in M-1 and compatibility, not to engineering standards for service centers that would need to be applied consistently as a class regardless of location or review process. He listed the questions related to the proposal and staff report. One was about the reason for two different options. If there was going to be a shared arrangement with the City, the first option provided the ability to access the kiosk independently without entering the gated fenced area where equipment was stored. If there was no shared agreement, the second option would provide for all the facilities to be located in the fenced area. Another question was if there were adverse conditions with the current use of the site and what was stored there, such as potential fuel surface contamination or leakage. The site already had oil-separating storm drains and the applicant stated nothing more was needed. Another question was with the addition of a storage fueling facility, would more potential amelioration than just a parking storage area be needed. If approved, the applicant would go through the permitting process and update the SPCC plan to reflect the addition of the fuel tanks. Another question was if in the future there was a different owner, how would the tanks be considered in any redevelopment of the parcel. The Conditional Use would run with the land and if it was operating in the same manner, it could be continued. If it did not meet the terms of the Conditional Use, it would be terminated or the applicant would

need to apply to modify it. There was a comment that the conditions section needed to include the environmental actions needed to address plans to protect from unexpected spills or leaks. The conditions stated that the applicant would need to obtain all of the appropriate permits. Another question was how the comments from the neighborhood meeting regarding sidewalks on Riverside were addressed. The applicant provided meeting notes which did include comments about sidewalks on Riverside Drive. However, no public testimony was received for this hearing. One of the conditions was to install sidewalks on the project frontage. There was another question about the relationship to the adjacent property and old wastewater treatment plant, whether it was an environmental issue if there was a spill. Staff recommended approval with conditions as revised to reflect the change to Condition #4.

Commissioner Langenwaller asked if there should be a condition about a seismic event. Planning Director Richards said when the facility would be built and developed those concerns would be taken into account. Each region in Oregon was rated in terms of vulnerability to the Cascadia event and the codes reflected that.

Applicant's Testimony: Sam Justus, attorney for McMinnville Water & Light, shared the names of the members of the Water & Light Commission. The Commission supported staff's recommendation. They planned to follow DEQ's requirements. The primary reason for putting in the fuel station was for emergency planning. Having a fuel resource like this would allow them to continue operations in the event fuel supplies were cut off in Portland. It would help them provide clean water for up to 160 days. The money would be saved in their budget for the next two years for construction of the fuel station.

Commissioner Dirks clarified the purpose for the fuel station was to provide use in the event of various emergencies.

Public Testimony:

Proponents: None

Opponents: 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 Schanche thought this was a great project with safety in mind. It was a good solution for the applicant.

Based on the findings of fact, conclusionary findings for approval, materials submitted by the applicant, and evidence in the record, Commissioner Schanche MOVED to APPROVE CU 4-20 with the conditions as amended. SECONDED by Commissioner Dirks. The motion PASSED 7-0.

5. Work Session: Goal 7 Natural Hazards Study Discussion

Associate Planner Fleckenstein introduced McMinnville's natural hazards study discussion. Oregon Land Use Planning Goal #7 required local governments to adopt comprehensive plan inventories, policies, and implementing measures to reduce risk to people and property from natural hazards. Natural hazards for the purposes of this goal were floods, landslides,

earthquakes, wildfire, etc. In McMinnville's Comprehensive Plan Policy #2, it stated that the City would continue to enforce appropriate development controls on lands with identified building constraints including excessive slope, limiting soil characteristics, and natural hazards. Zoning Ordinance Chapter 17.53.101 stated that sprinklers were required in residential and commercial structures when the road grade was greater than 12%. Comprehensive Plan Policy #9 stated the City would continue to designate appropriate lands within its corporate limits as floodplain to prevent flood induced property damages and to retain and protect natural drainage ways from encroachment by inappropriate uses. Zoning Ordinance Chapter 17.48 restricted development in floodplains. Great Neighborhood Principle #1 was natural feature preservation. Neighborhoods would be designed to preserve significant natural features including watercourses, sensitive lands, steep slopes, wetlands, wooded areas, and landmark trees. Recently the Oregon Natural Hazard Mitigation Plan had been drafted in September 2020. This plan looked at risks of natural hazards and defined risk as the intersection between potential of catastrophic events with the vulnerability of systems. The plan also included a social vulnerability risk assessment. The plan evaluated 11 natural hazards: coastal hazards, tsunamis, drought, volcanoes, earthquakes, wildfires, extreme heat, wind storms, floods, winter storms, and landslides. The assessment for Yamhill County was:

- Earthquakes = Very High Risk
- Landslides = Very High Risk
- Extreme Heat = High Risk
- Flood = High Risk
- Wildfire = Medium Risk
- Combined Hazard Assessment = High

In addition to the State's plan, Yamhill County updated their Natural Hazard Mitigation Plan. There was a McMinnville specific addendum to that plan that was completed in June 2020. The plan was currently in circulation for comment. This was an operational document that would be adopted by resolution by the City Council. There would be a list of action items to incorporate into the community planning processes. A hazards study for McMinnville had been drafted in July 2020. The purpose of the study was to inventory mappable natural hazards, consider management options for hazard areas, and suggest policy/mapping amendments to the Comprehensive Plan. The mappable hazards were geological hazards such as landslides, steep slopes, earthquake liquefaction, and earthquake shaking, flood hazards, wildfire hazards, and composite hazards (areas with one or more overlapping hazard). He showed the draft maps of these hazard areas. The study began as part of the Urban Growth Boundary/Urban Reserve work to evaluate possible constraints to the future growth of the City. There was a proposed policy framework in the study to help protect life and property from the impact of hazards which would be achieved through a proposed Natural Hazard Overlay. The Overlay would identify two subdistricts, a Mitigation Subdistrict which would mitigate hazard impacts with development standards and a Protection Subdistrict which would prohibit most types of development. The study was in draft form and refinement was needed. They would need to coordinate the data/methodology with the State plan, refine the composite scoring/assessment methodology to produce a final overlay map, and refine the proposed Comprehensive Plan policies. There needed to be a public process to work towards adoption including a Planning Commission public hearing. The Comprehensive Plan amendment would include hazard inventory maps, a new chapter for natural hazard policies, and a map amendment for the Natural Hazard Overlay. The Zoning Ordinance amendment would include a Natural Hazards Mitigation Subdistrict and Natural Hazards Protection Subdistrict.

Commissioner Rankin asked about the homeless being included in the vulnerable populations. Associate Planner Fleckenstein said that group was considered in the risk assessment of the State's plan, especially for Yamhill County which had a higher percentage of homeless.

Planning Director Richards said in the State's plan they were presuming the vulnerability was coming from people living within structures on these properties and was development related. It was looking at development and how things were built and whether they should be built on these properties and not necessarily unsheltered people.

Commissioner Rankin asked about communication to the vulnerable populations. Planning Director Richards said in Yamhill County's plan it talked about communication with vulnerable populations. She was working on how to elevate that discussion in terms of emergency communications because of how it was highlighted in the State plan.

Planning Director Richards noted that some of the high risk/hazard areas were adjacent to the City's current Urban Growth Boundary and could potentially be impacted by an expansion process. She recommended not calling those areas unbuildable in the UGB remand response due to possible appeals. The Council had agreed and wanted staff to move forward with the hazards work concurrently.

Commissioner Dirks clarified the end result of the study would be recommended changes to the Comprehensive Plan and Zoning Ordinance and creation of the two subdistricts. She asked if other areas in the City that had hazards were being addressed.

Planning Director Richards said the intention of the City's codes was to provide minimum standards for safety for people and property in all areas of the City. There were a lot of older buildings that were not retrofitted to those standards and that was a discussion they needed to have as a community as far as what to do.

Commissioner Dirks asked if wetlands were included in this work. Planning Director Richards said they were included in the study. There was already code that did not allow development in the floodplain. They were under a community assessment with FEMA and DLCD to review the City's program and their recommendation was to keep that code. The issue for wetlands was inventory. There was a statewide and national wetlands inventory, but they did not have an additional local wetland inventory. They did not know where the wetlands were or how they would impact development. They could create a local wetland program or create development policies that either allowed or did not allow development in certain types of wetlands. That would be a separate Goal 5 study and she would have to see if there were enough funds to do the study this fiscal year after the UGB remand project.

There was discussion regarding the possible Cascadia event and the effect on McMinnville's liquefaction soils.

6. Commissioner Comments

None

7. Staff Comments

Planning Director Richards said they would be interviewing some youth applicants for the Planning Commission tomorrow. There were monthly UGB remand response updates with the City Council and she asked how much the Commission wanted to be updated.

There was consensus for staff to provide executive summaries of the updates to the Commission.

Planning Director Richards said the City Manager was putting together a Diversity, Equity, and Inclusion Committee which would be a higher level look at the City. The Affordable Housing Task Force was looking at housing equity issues. She suggested if the Commission wanted to work on equity in the Zoning Ordinance and Comprehensive Plan, to form a subcommittee of the Commission to come up with options for how to proceed.

Commissioners Dirks and Banagay volunteered for the subcommittee.

8. Adjournment

Chair Hall adjourned the meeting at 8:33 p.m.

Heather Richards
Secretary