



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

MINUTES

December 16, 2021
Planning Commission
Work Session Meeting

6:30 pm
Zoom Online Meeting
McMinnville, Oregon

Members Present: Roger Hall, Robert Banagay, Lori Schanche, Gary Langenwalter, Brian Randall, Beth Rankin, Dan Tucholsky, and Sidonie Winfield

Members Absent: Sylla McClellan

Staff Present: Heather Richards – Planning Director, Tom Schauer – Senior Planner, Amanda Guile-Hinman – City Attorney, and Adam Tate – Associate Planner

1. Call to Order

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

2. Citizen Comments

None

3. Public Hearing:

A. Legislative Hearing: Proposed Comprehensive Plan Amendments (G 7-21)

Request: This is a legislative action initiated by the City of McMinnville to amend the McMinnville Comprehensive Plan by adopting the Three Mile Lane Area Plan as a supplemental document and to amend the Comprehensive Plan, Volume II, Chapter VI, Transportation System, to add a proposal to amend the Comprehensive Plan Map and Transportation System Plan consistent with the Three Mile Lane Area Plan, and to amend the McMinnville Municipal Code by adding a special overlay zone for the Three Mile Lane Area.

Application: City of McMinnville

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.

Planning Director Richards said staff requested that this hearing be continued.

Commissioner Langenwalter MOVED to CONTINUE the hearing for G 7-21 to January 20, 2022. The motion was seconded by Commissioner Banagay and PASSED 8-0.

B. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 2-20) and Zone Change, including Planned Development Overlay Designation (ZC 3-20)

Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-2 (General Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for approximately 37.7 acres of a 90.4-acre property.

The 37.7 acres includes 4.25 acres intended for right-of-way dedication for a future frontage road. The application also shows a portion of the area subject to the map amendment intended for a north-south extension of Cumulus Avenue and future east-west street connectivity.

The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.

Location: The subject site is located at 3310 SE Three Mile Lane, more specifically described at Tax Lot 700, Section 26, T.4S., R 4 W., W.M.

Applicant: Kimco McMinnville LLC, c/o Michael Strahs

Disclosures: Chair Hall opened the public hearing.

Staff Presentation: Senior Planner Schauer said this was a request for a Comprehensive Plan Map amendment and zone change with planned development overlay for a portion of a 90.4 acre parcel on Three Mile Lane. About 33.5 acres was proposed to go from Industrial (M-2) to Commercial (C-3 PD). There would be 4.25 acres for future transportation improvements and 52.7 acres would remain Industrial/M-2. The initial public hearing for the application was held on May 20, 2021 and was most recently continued to tonight's meeting. The applicant requested that the hearing be opened for public testimony, then at the conclusion continue to January 20, 2022. Planning Commission deliberation would not occur this evening. Staff was continuing to work with the applicant and did not have a substantive update for tonight's hearing regarding transportation mitigation. He explained the additions to the record, Attachments A and B, as well as additional written public testimony.

Applicant's Testimony: Dana Krawczuk, land use attorney at Stoel Rives LLP, thought the timing was good because the Three Mile Lane Plan was coming to the Commission in January as well as this application and this application would implement that plan. They had been working with the neighbors and were excited about the collaboration. They were also working diligently on the transportation issues and concerns about how much employment land was available for rezoning. She encouraged the Commission to bring up any new concerns so they could be addressed at the next hearing.

Public Testimony:

Proponents: None

Opponents: Sid Friedman, speaking for Friends of Yamhill County. They did not think this action was in McMinnville's best interest. Rezoning industrial to commercial retail would result in low wage jobs rather than high wage jobs, negative impacts to the Highway 99W corridor, and traffic problems that had no identified solutions. Low wage jobs would exacerbate the housing affordability problems in the City and the oversupply of commercial land would have a negative impact on existing businesses.

Rebuttal: Ms. Krawczuk agreed industrial land was an important component of the region's economy which was why two-thirds of the land would retain the industrial zoning. That was consistent with the Three Mile Lane Area Plan.

Commissioner Schanche MOVED to CONTINUE the hearing for CPA 2-20/ZC 3-20 to January 20, 2022. The motion was seconded by Commissioner Rankin and PASSED 8-0.

Commissioner Winfield left the meeting at this time.

C. Quasi-Judicial Hearing: Short Term Rental (STR 6-21)

Request: Approval to allow for the operation of a short term rental establishment within an existing residence.

Location: The subject site is located at 713 NW Cedar Street and is more specifically described as Tax Lot 10800, Section 20AA, T.4 S., R. 4 W., W.M.

Applicant: Kari Mamizuka

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. Commissioner Winfield lived in the area and recused herself from participating so she could testify in the hearing.

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 short term rental on NW Cedar Street. A neighborhood meeting was conducted by the applicant before the application was submitted. Short term rentals were typically a Planning Director decision. However, during the public comment period, there was a request for a public hearing before the Planning Director issued a decision. When that occurred, the Planning Commission became the decision-making body. The same standards still applied. He discussed the public testimony provided in the packet and how no additional written testimony had been received after the packet was distributed. The proposal was to use the existing single-family dwelling as a short term rental. The property was zoned R-2, and short-term rentals were permitted uses in the R-2 zone. Staff recommended

approval with conditions. He then showed pictures of the site and site plan as well as a map of other nearby short term rentals. He reviewed staff's findings and how the requirements were satisfied with conditions.

Commissioner Tucholsky asked about enforcement of the regulations for short term rentals. Planning Director Richards said they had not received any complaints about existing short term rentals in the past five years. These were annual renewal permits and if they did get complaints, they would be used as the basis to deny the annual renewal. If it was a noise complaint during the night, the Police Department would respond. If it was during the day, it would be Code Enforcement. Any other complaints would be Code Enforcement.

Commissioner Schanche asked the applicant how long this would be a short term rental. Kari Mamizuka, applicant, had not thought about a time frame.

Commissioner Tucholsky said all the surrounding neighbors were opposed to this. What would the applicant do to mitigate the concerns. Ms. Mamizuka said she would be a good neighbor and keep the property in good working order. She would be spending part of the time on the property as well. She had family and friends who lived in the City and came as often as she could.

Public Testimony:

Proponents: None

Opponents: William Sykes, McMinnville resident, said he and the surrounding neighbors opposed this application. The house was not accessible to people with disabilities. The proposal was not consistent with the Comprehensive Plan and objectives of the zoning ordinance and other applicable policies of the City specifically in regard to inclusion and physical ability. It was both state and federal law that prohibited against discrimination of people with disabilities including public accommodations.

Ted Cutler, McMinnville resident, said all of the surrounding neighbors were against this and were doing what they could to oppose it. He asked that the record be kept open.

Sidonie Winfield, McMinnville resident, was concerned about the lack of parking. She suggested adding a condition that only one on street parking was allowed. She thought they needed to look at the conditions for short term rentals in the future and the number of short term rentals allowed. She hoped the applicant would be in town more often.

Dean Klaus, McMinnville resident, said this was an old, unique neighborhood with long term residents and a short term rental did not fit in. It should be used for a home where neighbors could get to know each other.

Dallas Pederson, McMinnville resident, spoke about the people who lived in the neighborhood and how they had a great community. He thought this vacation rental would impact the community.

Commissioner Langenwalter asked if they needed to add a condition to make the rental ADA accessible.

Commissioner Schanche did not think that requirement applied to individual houses.

Chair Hall noted most of the comments had to do with quality of life issues which were not criteria.

Rebuttal: Ms. Mamizuka thought having the house as a short term rental would be a positive part of the neighborhood and the application met the criteria.

City Attorney Guile-Hinman said generally ADA did not apply, although it was unknown how often the owner would live in the home. She recommended continuing the hearing in case they needed to add a condition to address the ADA issue.

Planning Director Richards could consult with the Building Official to determine if accessibility would be required.

Commissioner Tucholsky MOVED to CONTINUE the hearing for STR 6-21 to January 20, 2022. The motion was seconded by Commissioner Langenwalter and PASSED 4-3-1 with Commissioners Schanche, Randall, and Banagay opposed and Commissioner Winfield recused.

The Commission took a short break.

D. Quasi-Judicial Hearing: Zone Change (ZC 1-21)

Request: Approval to rezone the property at 436 SE Baker Street from O-R (Office Residential) to C-3 (General Commercial).

Location: The subject site is located at 436 SW Baker Street and is more specifically described as Tax Lot 9800, Section 21CB, T.4 S., R. 4 W., W.M.

Applicant: Teresa Drevdahl

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: Planning Director Richards presented on the request for a rezone from O-R to C-3 for a property on SE Baker Street. She described the subject site. The owner held a neighborhood meeting prior to submitting the application. The application was deemed complete on November 22, 2021 and the 120 day land-use decision time limit expired on March 21, 2022. Staff thought the proposed change was consistent with the relevant goals and policies of the Comprehensive Plan and code. The proposed amendment was orderly and timely. The property was located on Highway 99W which was built out primarily as a general commercial strip corridor. There were C-3 properties to the south and west, O-R to the north, and R-4 to the east. The property currently had services. She discussed the existing conditions on the site and the new zone, agency comments received, and public comments received.

Questions for Staff: Commissioner Tucholsky asked if there was another vacation rental nearby. Planning Director Richards said there was one. They were only considering the zone change and vacation rentals were outright permitted uses in commercial zones.

Commissioner Langenwalter asked if there needed to be the 200 foot buffer. Planning Director Richards said if it was zoned commercial, the 200 foot buffer did not apply. The intention of the

short term rental code was to encourage rentals in the commercial zones and discourage them in residential.

Commissioner Schanche said the reason for the zone change was to make this a vacation rental. She thought the site would be served better as Office-Residential.

Commissioner Randall asked if the City regulated the interior modification or use of historic structures. Planning Director Richards said no, the City only regulated the exterior.

Applicant's Testimony: Steve Elzinga, representing the applicant, said staff's analysis showed the application met all of the requirements. They agreed with staff's recommendation for approval with conditions. The property was located directly along 99W, in walking distance of downtown, and next to several small stores. The City had designated this property as Commercial in the Comprehensive Plan. It was also next to several stores. The owner had spent a lot of time and money to restore this historic property to use as a short term rental. The applicant did mail notices to all addresses on the official mailing list that came from the City. The issues raised in the public comment were discussed at the neighborhood meeting. Short term rentals benefitted businesses and tourism. This was an ideal location for a short term rental. The property had six on-site parking spaces and the City had already decided it was ideal for commercial use in the Comprehensive Plan. He asked for approval.

Public Testimony:

Proponents: None

Opponents: None

Chair Hall closed the public hearing.

Commission Deliberation: Commissioner Banagay clarified the Commission would be making a recommendation to the City Council on this application. Planning Director Richards said that was correct. If the Commission chose to recommend approval, it would move forward to the City Council. If they chose to deny the application, it failed here and the applicant had the opportunity to appeal it to the City Council.

Commissioner Randall said it was a landmark structure and set up to be a house, not a business. It seemed like the best use of the property was lodging which would preserve the historic nature of the house. He was in support of the request.

Commissioner Langenwalter wished the applicant had left the zoning as Office-Residential and requested the short term rental use. If the property was rezoned to Commercial, they could do whatever they wanted to the interior and turn it into a commercial use.

Commissioner Banagay said they had done a good job restoring the house, and little businesses were popping up in this area. He did not think a residential home would work on that street because it was so busy. It was not a residential neighborhood.

Commissioner Randall said they could create different office suites in the house with the current O-R zoning. He thought the best use would be lodging to maintain the house as a residential use. It would also help preserve the character of the historic house.

Commissioner Schanche read the purpose statement of the O-R zone. She thought the property was already in the right zone.

Commissioner Langenwalter asked if the historic exterior would still be preserved in the C-3 zone. Planning Director Richards said exterior renovations would need to be approved through the Historic Landmarks Committee in a quasi-judicial process. There would be no change to the historic designation of the structure if the zoning was changed.

There was discussion regarding the requirements for demolition and how those requests had to be taken to the Historic Landmarks Committee for historic structures.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Randall MOVED to RECOMMEND APPROVAL of ZC 1-21 to the City Council. SECONDED by Commissioner Banagay. The motion PASSED 6-1 with Commissioner Schanche opposed.

E. Quasi-Judicial Hearing: Variance (VR 3-21)

Request: Approval of a variance to the maximum fence height standards of MMC Section 17.54.090 and the provisions of MMS Section 8.10.210 governing authorized location of electric fences, in order to authorize a 10-foot tall perimeter “suspended wire security alarm system” electric fence approximately 1900 linear feet around the perimeter of a portion of the property containing buildings and a bus storage area. The fence is proposed to be located one foot behind the existing fence along the frontage of the 20th Street right-of-way and the railroad right-of-way and along an interior portion of the property.

Location: The subject site is located at 1936 NE Lafayette Avenue and is more specifically described as Tax Lot 1900, Section 15, T.4 S., R. 4 W., W.M.

Applicant: Danielle Hufford, on behalf of property owner Lee Larson Properties LLC, c/o Dave Kiersey/Kiersey & McMillan

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. Commissioner Schanche spoke to three people about this project, Heather Phillips, Student Transportation Director for Anchorage School District, Linda Lees, McMinnville School District, and Nora Martin from First Student in Portland. She had asked them questions about their alarm systems, past problems with break-ins, and if other school districts were doing this. She thought none of these contacts influenced her decision and she could still participate.

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. Commissioner Schanche noticed on her site visit that there were five buses parked outside of the fences. She was there around 2 p.m. today.

Staff Presentation: Associate Planner Tate discussed the request for a variance to put in a 10 foot tall fence. He explained the subject site, showed pictures of the bus parking area, and example of the fence the applicant wished to install.

Chair Hall asked if the current fence would be demolished and new fence installed or if they would add a taller fence. Associate Planner Tate said it would be a new fence inset one foot from the existing fence.

Applicant's Testimony: Michael Pate, representing the applicant, explained how the alarm panel and cameras worked. Catalytic converter theft was common. The facility was in a remote location and was vulnerable. They were carrying school children and could not be out several buses. This was a safe, reliable product. These devices were being used all around the area. He requested approval to go to ten feet. The height would force criminals to the lower level and they would see the warning signs for electric shock.

Commissioner Schanche asked how many buses were stored at the facility. Mr. Pate did not know.

Commissioner Schanche questioned the need for this. She asked how many thefts had occurred and if the fence was dangerous. Mr. Pate said the electric fence was only on at night when the site was locked up, not when people were on the site. There had been robberies of catalytic converters.

Commissioner Langenwalter asked about damage from the electric shock. Mr. Pate said it did not do damage to humans, it was similar to electric fences for livestock.

Commissioner Tucholsky asked if any of the other adjacent properties had approached them for a similar fence. Mr. Pate said no, they had not.

Public Testimony:

Proponents: None

Opponents: None

Commission Deliberation: Commissioner Schanche discussed the applicability of the variance criteria. She thought this was a self-created hardship and did not warrant a special right. No one else was complaining that the area was dangerous and needed a ten foot electric fence.

Chair Hall thought the danger was property theft.

Commissioner Tucholsky said there was a unique need and these might be the first people to act and there might be others that followed. There were more lucrative items to steal from this facility and that might be why they were experiencing it more than other facilities.

Commissioner Randall did not think this facility could be seen easily when driving by. He did not think a ten foot fence would affect the public view. He was in support.

Commissioner Banagay looked up catalytic converter thefts in McMinnville and there was an uptick in this type of theft. The buses took kids to school and without the converter, the buses could not do that.

Commissioner Schanche said it was happening, but they did not know how much. There was no documentation for the need.

Commissioner Langenwalter would have liked to hear from First Student instead of from the fence vendor.

Commissioner Randall asked if the electric part of the application was in the Commission's jurisdiction. Planning Director Richards said staff did not bring that forward as part of the variance request because the code said it was required if the fence was abutting the property line. Staff thought a foot away from the property line was not abutting. That was staff's interpretation.

There was discussion regarding whether or not to continue the hearing for more information.

Commissioner Schanche MOVED to CLOSE the public hearing, SECONDED by Commissioner Langenwalter. The motion PASSED 7-0.

Chair Hall closed the public hearing.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Schanche MOVED to APPROVE VR 3-21. SECONDED by Commissioner Randall. The motion PASSED 6-1 with Commissioner Schanche opposed.

Commissioner Rankin suggested that the applicant or property owner be present for public hearings.

4. Discussion Item

- **Planning Commission Work Plan**

This item was tabled to the January meeting.

5. Commissioner/Committee Member Comments

The Commission thanked Chair Hall for his time on the Planning Commission.

6. Staff Comments

There was discussion regarding the Three Mile Lane Area Plan, staff recruitment, and new Planning Commissioner.

7. Adjournment

Chair Hall adjourned the meeting at 9:42 p.m.



Heather Richards
Secretary