

MINUTES

January 20, 2022
Planning Commission
Regular Meeting

6:30 pm
Zoom Online Meeting
McMinnville, Oregon

Members Present: Robert Banagay, Lori Schanche, Gary Langenwalter, Brian Randall, Beth Rankin, Dan Tucholsky, Sidonie Winfield, Matt Deppe, and Sylla McClellan

Members Absent:

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

1. Call to Order

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

2. Swear In New Members

City Attorney Guile-Hinman swore in new Planning Commissioner Matt Deppe.

3. Election of Chair and Vice-Chair

Commissioner Banagay nominated Lori Schanche for chair. Commissioner Schanche declined.

Commissioner Langenwalter nominated Sidonie Winfield for chair. The nomination passed unanimously.

Commissioner Tucholsky nominated Gary Langenwalter for vice chair.

Commissioner Langenwalter nominated Robert Banagay for vice chair.

The majority voted for Commissioner Langewalter for vice chair.

4. Citizen Comments

None

5. Minutes

- January 21, 2021

- **November 18, 2021**

Commissioner Langenwalter noted in the November 18 minutes that his and Commissioner Rankin's names were misspelled.

Commissioner Langenwalter moved to amend the November 18, 2021 minutes. The motion was seconded by Commissioner McClellan and passed 9-0.

Commissioner Banagay moved to approve the January 21 and November 18, 2021 minutes as amended. The motion was seconded by Commissioner Tucholsky and passed 9-0.

6. Public Hearing:

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

(Continued from December 16, 2021, PC Meeting)

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 Winfield recused herself from the hearing because she lived in this neighborhood.

Vice Chair Langenwalter 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 Deppe would be abstaining because he had not been on the Commission for the previous hearing. Commissioner McClellan disclosed that she owned a vacation rental in another state, but felt comfortable participating.

Vice Chair Langenwalter 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.

Commissioner Tucholsky said on December 30 and January 5 he had email conversations with Mr. Sykes about procedures and best practices and Commissioner Tucholsky had directed him to staff.

Vice Chair Langenewalter 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 Report: Senior Planner Schauer presented the request for a short term rental on NW Cedar Street. The hearing had been continued from December 16, 2021. He described the subject site and procedural requirements. At the December 16 hearing, staff recommended approval with conditions.

The public testimony received on this application asserted that the Planning Commission must deny the application, alleging that the approval would violate other local, state, and federal law and/or policies discussed in the background section of the staff report. This assertion was that the Planning Commission must, as part of their decision, treat laws other than the applicable standards specified in the Zoning Ordinance as land use standards for short term rentals. The testimony did not cite any applicable provision of the cited federal, state, or local laws/policies with which the proposal would not comply and did not identify how the proposal would not comply with any provisions of those laws. It also did not indicate what would be required for the proposal to comply with any provisions of the cited laws. There was no evidence in the record referencing any provision of those laws with which the proposed use wouldn't comply, and none identifying how the proposal would not comply with any applicable provisions of those laws. There was no evidence in the record identifying what would be required for the proposal to comply with those laws and no evidence citing any provisions of state or local laws which would conflict with and be pre-empted by federal law. In general, there were provisions of federal, state, and local law with which private entities must comply which did not constitute standards as part of a land use application review for permitted uses. The question of whether other laws not listed as standards should be applied as approval standards for this land use decision was a matter of legal interpretation rather than policy interpretation. Guidance on this issue was provided by the City Attorney. Staff found that the proposed use was a permitted use and with conditions, the proposal complied with the applicable standards specified in the Zoning Ordinance for the proposed use. Staff recommended approval with conditions and supplemental findings in the decision document. He then reviewed the supplemental findings.

Commissioner Randall asked how neighbors could contact the owner or property manager after hours if there was a noise issue. Planning Director Richards said they would call the non-emergency police number.

Commissioner Banagay asked what had been the experience with short term rentals as far as violations. Planning Director Richards said there was an annual renewal of the permit, so if there were too many violations, they could revoke the permit. Violations did not happen very often.

Applicant: Michael Devlin, representing the applicant, noted the application met all of the requirements.

Public Testimony:

Proponents: None

Opponents: William Sykes, McMinnville resident, said as a neighbor, he was concerned about the quality of life and economic health for the community. He did not think the application was compliant with federal accessibility laws. Also the submitted application was inaccurate and thus incomplete. He listed several City, state, and federal laws that were not being followed regarding accessibility. He thought both the applicant and City would be liable should future ADA discriminations be brought forward if this application was approved. Also the neighborhood meeting was not accessible.

Ted Cutler, McMinnville resident, thought the Commission should deny the application due to the non-compliance to ADA and neighborhood meeting requirements. Some options moving forward were to hire an expert agency to provide a site survey per ADA guidelines for accessibility issues. They could also develop a barrier removal plan. This process could be incorporated into the application criteria.

Dallas Pederson, McMinnville resident, was disappointed that the testimony was limited to three minutes.

Rebuttal: Mr. Devlin said the testimony was not relevant to the situation at hand. The application met all of the criteria.

Vice Chair Langenwalter closed the public hearing. There was discussion regarding whether or not to keep the record open for additional written testimony.

Commissioner Randall said the ADA issue was more of a building official/City process, not something the Planning Commission looked at as a land use standard.

The majority of the Commission did not want to keep the record open.

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 STR 6-21 with conditions and supplemental findings. SECONDED by Commissioner Rankin.

Commissioner Randall moved to amend the motion to add a condition that the applicant provide neighbors within a 300 foot radius with an after-hours phone number. The amendment died for lack of a second.

Commissioner Schanche said the ADA regulations were for public facilities and a private home was not rated or sued for ADA.

City Attorney Guile-Hinman said the distinction here was that although the ADA might apply, it was imputed on the owner of the property and not part of the land use decision. Staff did not see any evidence of any violation of ADA.

The motion PASSED 7-0-2 with Commissioners Winfield and Deppe recused.

There was discussion regarding making amendments to the STR code in the future.

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

(Continued from December 16, 2021, PC Meeting)

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.

Applicant: City of McMinnville

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application.

Commissioner Langenwalter received two unsolicited emails from Friends of Yamhill County. He glanced at them and when he realized they were already in the packet, he did not read

further. Chair Winfield said she saw something on social media from Friends of Yamhill County and it was already in the packet.

Chair Winfield asked if any Commissioner had visited the site. Several Commissioners had visited the site, but had no comments to make on the visit.

Staff Report: Planning Director Richards said this was a request to adopt the Three Mile Lane Area Plan and appendices as a supplemental document to the Comprehensive Plan and amend Volume II of the Comprehensive Plan, Goals, Policies and Proposals, Chapter VI (Transportation) to add a proposal to amend the Comprehensive Plan Map and Transportation System Plan consistent with the adopted Three Mile Lane Area Plan. She explained what an area plan was. Last week there was a "call to action" sent out which created a lot of angst. She planned to walk through the plan and give highlights and some specificity to respond to the testimony and dispel some of the misinformation. She then discussed the study area along with major property owners and zoning designations and the land use plan and transportation plan for the area. She explained the project goals and common elements such as transportation, urban design, and parks and trails. There had been a robust public engagement process and she discussed the public input that was received as well as work with the Project Advisory Committee and property owners. She reviewed the economic analysis that was done. There was a residential demand in this area and significant opportunities in general merchandise and dining/drinking businesses. This area was a food desert and there was a demand for tourism and office space. Three land use concepts were developed and a preferred alternative was chosen. The key features were walkable commercial center, innovation campus, and mixed use neighborhoods. She discussed the recommended Comprehensive Plan Map amendments.

Planning Director Richards explained the reasons for the commercial rezone on the south side of Highway 18, especially in land use efficiency and meeting the commercial land need. She explained the concerns from Friends of Yamhill County and 1,000 Friends of Oregon. She described the proposed design and development standards for the mixed use town centers, key urban design elements, and how it would bring family wage jobs. She clarified Highway 18 was still a bypass and met the mobility standards of a state expressway and freight route. She reviewed the transportation plan for the area with signals and roundabout, intersection traffic operations, transportation analysis, vehicle performance, concept phasing and costs, relationship between access and mobility, state standards for expressways, management of Highway 18 and improvements, and vehicle system safety. The next step was to adopt a regulatory framework through the Zoning Ordinance and Planned Development Overlay. She then reviewed the public testimony that had been received.

Questions for Staff: Commissioner Rankin asked if the need was demonstrated, could they improve the flow of traffic before the 20 year expected timeframe. Planning Director Richards said it was a 20 year planning horizon and as projects came in, applicants would do a traffic impact analysis and if needed, transportation improvements to mitigate the impact.

Commissioner Schanche asked about the future overpass. Planning Director Richards thought the overpass would be the interchange on Highway 18 and Cumulus for vehicles.

Commissioner Schanche thought they should retain the grade separated crossing for pedestrians/bicyclists. Planning Director Richards said there would be signalized intersections that could serve that purpose.

Commissioner Langenwalter asked about dropping Highway 18 below grade level. Planning Director Richards said that was the proposed rehab for the existing interchange at Three Mile Lane and Highway 18. It would take time to get funding for the project.

Commissioner Tucholsky asked what the alternatives were to dropping Highway 18 due to the cost. Planning Director Richards could bring back the consultant to discuss the alternatives.

Public Testimony:

Proponents: None

Opponents: Sid Friedman, Friends of Yamhill County, supported most of the elements in the plan, but opposed the regional retail shopping center because of traffic, wages, impacts to other business districts, and pressure for additional rezone applications to commercial. Highway 18 was an expressway with limited local access. The proposed retail uses would generate up to 33 times more traffic than industrial uses. A new retail center would harm existing retailers. Wages in retail and dining were by far lower than any other job sector in McMinnville. Housing costs were just a piece of housing affordability, it was also wages. He asked the Commission to consider the recommendations in their written testimony.

Mark Davis, McMinnville resident, discussed the daily average traffic counts for Highway 18. Retail would increase the amount of traffic. There were no bike and pedestrian amenities and everyone going to this area would have to do it by vehicle. The only housing was high density, which did not meet the Great Neighborhood Principles.

Commissioner Langenwalter thought the bus system would expand to that area. Mr. Davis said more service would be great, but it was not as reliable as a personal automobile or bicycle.

Steve Iversen, McMinnville resident, said there was no commitment to pedestrian overpasses in the plan. Traffic would be a huge problem and access would only be by cars.

Rebecca Hillyer, Chemeketa Community College, said the college was concerned about the proposed jughandle that would cut through their campus coming off of Cumulus. They objected to having Cumulus go behind the campus as it put a road close to a classroom building and medical center.

Ilsa Perse, McMinnville business owner, owned a business on 3rd. She thought the retail center would conflict with the retail on 3rd Street. People would still have to go places to get what they needed and the affordable housing would be separated from the rest of City and would not follow the Great Neighborhood Principles.

Planning Director Richards recommended continuing the hearing for staff to bring back additional information. Regarding housing, she agreed that as it currently was planned, it was not a good situation. The Three Mile Lane Area Plan included open space, trail connectivity, and ways to make it a great neighborhood. There were some downtown business owners on the Project Advisory Committee and the impact to businesses was an active discussion in that group and in the public meetings. Retail in the downtown did not serve the whole community and there needed to be more discussion about getting people off of Highway 18 to downtown.

Commissioner Langenwalter MOVED to CONTINUE the hearing for G 7-21 to February 17, 2022. The motion was seconded by Commissioner Tucholsky and PASSED 9-0.

The Commission discussed what additional information staff should bring back to the next hearing.

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

(Continued from December 16, 2021, PC Meeting)

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.

Application: Kimco McMinnville LLC, c/o Michael Strahs

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Tucholsky MOVED to CONTINUE the hearing for CPA 2-20/ZC 3-20 to February 17, 2022. The motion was seconded by Commissioner McClellan and PASSED 9-0.

7. Discussion Item

- **Planning Commission Work Plan**

Planning Director Richards suggested postponing this discussion to a future meeting.

There was discussion regarding the time limit for verbal public comments and the deadline for written comments to be turned in.

There was consensus to hold a Work Session at 5:30 p.m. on February 17 to discuss the Planning Commission Work Plan.

8. Commissioner Comments

None

9. Staff Comments

Planning Director Richards discussed upcoming agenda items and staff recruitment.

10. Adjournment

Chair Winfield adjourned the meeting at 10:19 p.m.

Heather Richards
Secretary