

MINUTES

March 6, 2025
Planning Commission
Regular Meeting

6:30 pm
Hybrid Meeting
McMinnville, Oregon

Members Present: Sidonie Winfield, Brian Everest, Beth Rankin, Rachel Flores, Matt Jones, Meg Murray, Brian Randall, and Elena Mudrak

Members Absent: Sylla McClellan

Staff Present: Heather Richards – Community Development Director, David Berniker – Planning Manager, Tom Schauer – Senior Planner, Matthew Deppe – Associate Planner, and Bill Kabeiseman – Bateman Seidel

1. Call to Order

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

2. Citizen Comments

None

3. Public Hearings

A. Quasi-Judicial Hearing: Short-Term Rental, 1663 NW Medinah Dr. (Docket STR 6-24)

Request: Request for approval of a Short-Term Rental permit for existing residence on property at 1663 NW Medinah Dr., Tax Lot R4418DA 4600

Applicant: Nevenka and Manuel Gigena

Vice Chair Mudrak opened the public hearing and read the hearing statement. She 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. She asked if any Commissioner had visited the site. Most of the Commission had.

Vice Chair Mudrak 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.

Staff Presentation: Associate Planner Deppe presented the request for a short term rental at 1663 NW Medinah Drive. He gave a background on short term rental definitions and how

this application was required to apply as a five bedroom home. He described the subject site, application process, public testimony, staff recommendation for approval with conditions, recommended conditions of approval, parking, buffer from existing short term rentals, and review criteria. Public comments included concerns over number of bedrooms and existing CC&Rs. Staff responded that land use decisions were based on City code and the City did not enforce private contracts.

There was discussion that a permit to operate a short term rental did not have any effect on the neighborhood CC&Rs.

Bill Kabeiseman, City Attorney, explained the zoning ordinance applied to all properties in the City and the City could approve an application if it met the criteria, but the HOA could enforce their own restrictions. People needed to comply with both, and it was up to the HOA to enforce the CC&Rs.

There was discussion regarding the Code Enforcement process if permits were not applied for and how it affected an application. Community Development Director Richards said if there was an open code compliance case on a property, it did not prevent them moving forward with permits or land use applications the property owner had applied for. They were separate because the Code Enforcement program allowed for investigation, evidence, and due process as it made its way through the system. Receiving a complaint was not evidence that there was a violation.

There was further discussion regarding parking and the compact space. There was concern that a larger vehicle would park in the compact space and hang out into the shared driveway. Associate Planner Deppe said that would not be allowed and if a larger vehicle parked there, they would be in violation. If there was a violation, a complaint would need to be sent to Code Enforcement. If there was evidence to support the complaint, the property owner would need to abate the issue. If it was a habitual nuisance, the property owner would start to be cited up to \$1,500 per violation per day. There was a provision in the code that if they did not meet the criteria, the permit could be brought back for review. The permit had to be reviewed annually and would not be renewed if they were a habitual bad performer.

Applicant's Testimony: Associate Planner Deppe said the applicant was online. They thought the application spoke for itself and contained all the needed information. They were available for any critical questions.

Mr. Kabeiseman addressed the concern by Ms. Freeman regarding who the Planning Commission represented and City represented. The Planning Department evaluated the application neutrally and made a recommendation if an application met the criteria or not. The Planning Commission could agree with staff's recommendation or not.

Proponents: Melissa Wright, Sheridan resident, had assisted the homeowner with the application because the homeowner wanted to do everything right and by the code. She thought the application was straightforward.

Opponents: Dan Moran, McMinnville resident, said he shared a driveway with the applicant and was the treasurer of the HOA. The HOA had requested this hearing to discuss their objections to the application. He discussed the code related to neighborhood concerns and livability matters for conditional uses. There were livability concerns with short term rentals,

it would increase traffic on a dead-end street and impact safety of pedestrians as well as decrease the property value of surrounding properties. If this was approved, additional stress between the applicant, HOA, and neighbors would occur as the HOA would enforce compliance with the CC&Rs which did not allow short term rentals. They were not asking the City to enforce the CC&Rs, but they did not want to be in a position where the City approved something that was in violation and the HOA had to enforce the CC&Rs. The enforcement process would be to hold a hearing with the applicant telling them they were in violation and to desist. If they did not desist, the HOA would assess fines and if the fines were not paid, the HOA would assess interest and sue in court including any legal fees.

Mr. Kabeiseman clarified the City did not have the authority to enforce contractual obligations among private parties. The Planning Commission could only make the decision based on the code criteria.

Mr. Moran said there was criteria missing that took into account whether CC&Rs precluded the request and nothing that spoke to the neighbors being in favor or their concerns about traffic or parking and access to the golf course. When asked about concerns for long term rentals, he said he did not have the same issues. Short term rentals were more of a party atmosphere and violating quiet hours and parking where they shouldn't. There was more control for long-term rentals. There had been little to no communication with his neighbor when this whole process started.

Community Development Director Richards said the City had not received any complaints relating to short term rentals except for those operating without permits.

Kevin Ferrua, McMinnville resident and president of the HOA, said the applicant currently lived in Arizona and hired a property management company to rent the home online. The manager stated the responsibility for monitoring traffic, noise, and renter behavior was the neighbors, which was unacceptable. The CC&Rs prohibited short term rentals and he explained how the language was legally binding. The application had been submitted with a clear understanding that they were in violation of the CC&Rs. If approved, the HOA would have to enforce their rules with the rights available to them.

Nan Moran, McMinnville resident, discussed the criteria regarding livability. She gave an example of Portland's regulations and that a full time resident had to reside in the house for 270 days each year before the rental was allowed to be rented the remainder of the year. The Commission needed to prioritize the integrity and welfare of the neighborhood. The management company had demonstrated a lack of commitment by not returning phone calls and dismissing the neighborhood's concerns by telling them to call the police if there was an issue. She discussed legal terms that applied to this case to maintain the integrity and livability of the neighborhood.

Mr. Kabeiseman explained the legal terms and how there was not a fiduciary relationship nor an interference with a contract. The obligation of the Planning Commission was to review the criteria and decide if the application met those criteria.

Matt Bliven, McMinnville resident, also discussed the livability criteria. He lived along the golf course and the CC&Rs did not allow him to build fences along the golf course. It was a safety concern with a short term rental as he would not know who the people were and if they would come into his backyard.

Peter Hofstetter, McMinnville resident, said within the CC&Rs, residents were required to maintain two wetlands and three street medians at their expense. He asked why they would be maintained if the applicant didn't have to live by the same CC&Rs. He thought the CC&Rs were legal documents and should be recognized as such. They were encouraging an applicant to purposely go against the CC&Rs. He thought the City could add one more checkbox for applications, that if they had CC&Rs, they could not be approved.

Community Development Director Richards said the maintenance was in the conditions of the land use approval of the development to comply with the City's code criteria. They did not regulate things outside of the City's code.

Sheila Maraigh, McMinnville resident, said their experience with the property management company was not good. At the neighborhood meeting, the owners were not there and the property manager did not show up until halfway through the meeting. She would like to know why the application had changed from five bedrooms, five parking spaces to three bedrooms, three parking spaces and then back at five bedrooms. She did not think changes should be allowed after the public comment period had ended and without notice to the public. She was also concerned about the driveway and number of parking spaces. She thought people would park in the shared easement or street, which was not allowed.

Associate Planner Deppe said public comment had not ended, it was still open. It would have been closed if there had been no public hearing. The applicant originally applied for three bedrooms and changed it due to the number of bedrooms in the home and the parking requirements were based on the number of bedrooms.

Philip Juttelstad, McMinnville resident and president of a different HOA, was also in opposition. HOAs provided a significant value to cities as they maintained the infrastructure and the development was approved based on their requirements and CC&Rs. To have them abrogated by an administrative rule was a difficult position that every HOA was concerned about. They wanted to avoid the possible issues that came with short term rentals and asked for an extra checkbox on application reviews and if the application fell within an area with CC&Rs, they would be denied. There could be a possible lawsuit with approval and the HOA wanted their regulations to be recognized.

Mr. Kabeiseman said the City had regulations that they enforced and the HOA had their CC&Rs and if the City issued a permit that was contrary to a private contract, it was up to the private parties to deal with the private contract.

Gabrielle Taylor, McMinnville resident, thought there should be a checkbox for conflicts with CC&Rs and a question on the application if this was fully permitted. She was concerned about livability and the rental being disruptive to the neighborhood. This was an applicant who did not have a regard for the CC&Rs and City permit requirements, which told them they were not the kind of people who were going to comply. She thought the application should be denied or have conditions for full permitting, inspected by the County, and notice of permission by the HOA.

Mr. Kabeiseman said they could not add new criteria for this application due to state law. Any condition placed on an application must be done to require compliance with the criteria. Regarding livability as part of the criteria, it was only relevant if complaints came in on a short term rental, not for the initial application. The criteria for short term rentals did not include property values and livability.

Betty Vault, McMinnville resident, said this application was putting their neighborhood in a position to regulate anyone staying at the property. This was not a neighborhood for short term rentals.

Jeannie Ialla, McMinnville resident, was opposed to the application for all of the reasons that had been stated.

Gretchen Freeman, McMinnville resident, noted only one person was in favor of the application, and that person was hired by the applicant to manage the permit process. That person had been told there were no restrictions in the CC&Rs against short term rentals, the HOA board had been consulted and informed, and the neighbors had been involved and informed. None of those statements were true and it called into question the credibility of the application they had received. She would like to know who was representing the 38 of 42 homeowners who voted to oppose short term rentals in this neighborhood.

Joe Forest, McMinnville resident, was also an HOA president. When the applicant bought the house, they agreed to follow the HOA rules, but they were not following the rules. He thought they should be denied and a box added on applications to prevent this from happening again. They were building a neighborhood culture where neighbors knew each other and who to call and when they allowed someone who wasn't a part of that culture, it disturbed the culture.

Randy Neff, McMinnville resident, lived near the house but had not heard about the hearing until today. He asked what could be done if this was approved.

Community Development Director Richards said the decision could be appealed to the City Council.

Mr. Neff asked the Planning Commission not to waste everyone's time by approving this application.

Richard Bell, McMinnville resident, thought livability was a serious issue and increased traffic was a concern. It sounded like the Planning Commission was bound to approve the application and they would have to go the next step.

Jan Adams, McMinnville resident, said the other short term rentals in the area were one-bedroom units and shared property with the homeowner who was living next door. They were a totally different situation.

Rebuttal: None

Commissioner Jones moved to close the public hearing; Seconded by Commissioner Everest. The motion passed unanimously 8-0.

Vice Chair Mudrak closed the public hearing.

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

Commission Deliberation: The Commission was sympathetic to the neighbors and their concerns, but they had followed the legal process, applied the current code, and in this situation the applicant had met the required criteria and they must approve it. An issue to be addressed was renters who were not clear about the parking and adding a condition for the applicant to provide a map in the rental contract prior to renter's arrival and also inside the rental home that clearly identified where parking was not allowed. There was consensus to add the condition.

Commissioner Jones moved to approve Short-Term Rental, 1663 NW Medinah Dr. (Docket STR 6-24) with conditions as amended. The motion was seconded by Commissioner Everest and passed unanimously 8-0.

4. Commissioner Comments

None

5. Staff Comments

Planning Manager Berniker introduced himself and City Attorney Ryan introduced herself. Senior Planner Schauer discussed upcoming meetings.

6. Adjournment

Vice Chair Mudrak adjourned the meeting at 8:55 p.m.