



City of McMinnville
Planning Department
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MINUTES

September 20, 2018
Planning Commission
Regular Meeting

6:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Commissioners: Martin Chroust-Masin, Roger Lizut, Zach Geary, Gary Langenwalter, Lori Schanche, Susan Dirks, Erin Butler, and Erica Thomas

Members Absent: Erin Butler

Staff Present: Chuck Darnell – Senior Planner, Jamie Fleckenstein – Associate Planner, Heather Richards – Planning Director, Tom Schauer – Senior Planner, and David Koch – City Attorney

1. Call to Order

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

2. Citizen Comments

None

3. Action Items

- **August 16, 2018** (Exhibit 1)

Chair Hall explained that there was an error with the minutes that were distributed and that a vote to approve would be postponed to the next Planning Commission meeting. Commissioner Dirks pointed out that the draft minutes that were included in the packet had an error in that Commissioner Dirks made the motion for approval on the first action item and not Commissioner Schanche. Commissioner Langenwalter wanted to ensure that his comment asking if low income housing was part of the project be reflected in the minutes.

4. Discussion Items

A. Planning Commissioner Training

David Koch, McMinnville's City Attorney gave a presentation on planning commissioner training that discussed land-use decisions, land-use procedures, the role of planning commissioners, Robert's Rules of Order, the different between quasi-judicial decision making and legislative decision-making.

Types of land-use decisions – when a planning commissioner is considering legislative decisions they sit in the role of policy maker, and when a planning commissioner is considering quasi-judicial decision they sit in the role of judge.

In quasi-judicial decisions, discretion is constrained. Planning Commissioners must apply the adopted criteria from the Comp Plan and the Zoning Ordinance. The decision needs to be based on evidence. The burden of evidence is on the applicant.

Applicants can meet the Comprehensive Plan and Zoning Ordinance criteria with the approval of conditions. Conditions of Approval need to be expressly authorized, reasonably related to criteria (rational nexus), and dedications and exactions must be roughly proportional to impacts of development.

Procedural rights – Attorney Koch reviewed the procedural rights of the applicant in the land-use process, ability to testify and rebut, de novo review, impartial and unbiased decision-making, ex-parte contacts, conflicts of interest, raise it or waive it, notice, LUBA and takings warning, continuance and open records, final rebuttal, and the 120-day rule.

Finally, Attorney Koch led the Planning Commission through a discussion of Robert's Rules of Order, how to interact with applicants and people testifying at public hearings, findings, and decisions made by the Planning Commission.

B. Mixed Use in Commercial Zones – (Exhibit 2)

Senior Planner Tom Schauer provided a presentation about the C3 Zone and staff's recommendation to allow small scale upper story residential development in the C 3 Zone, to allow one and two dwelling units on the upper story of ground floor commercial.

Mr Schauer also discussed changing the language of the code that allows an owner occupied residence on the ground floor and recommended changing the language to a caretaker or accessory use to the primary business, as the owner-occupied language is problematic.

Currently in the McMinnville City Code, the C-3 zone allows the following residential uses as permitted uses:

- Condominiums subject to the provisions of the R-4 zone,
- Multiple-family dwelling subject to the provisions of the R-4 zone, and
- Owner-occupied residence in the same building as a business.

A multiple family dwelling is defined as three dwelling units or more. One and two-family dwelling units are not allowed in the C-3 Zone.

However, the C 3 Zone does not currently allow one and two-family dwelling units. Staff feels that a mixed-use product with one or two dwelling units on the upper story is just the type of product that the city would like to encourage in certain commercial districts.

While it is a legitimate issue to ensure commercially planned and zoned properties with C-3 zoning aren't subdivided and developed exclusively with single-family and two-family residential development, there is no similar reason to prevent one or two residential units from being located above other uses which are permitted in the C-3 zone. Multi-family development (with 3 or more

units) is already a permitted use in the C-3 zone and can be authorized as a standalone use or as part of a mixed-use development.

Add Upper Story Residential Use as a Permitted Use: A simple fix to the issue of one or two upper-story residential units is to simply add a new definition of “Upper Story Residential use” as discussed below, and add it as a permitted use in the C-3 zone. This allows the issue to be resolved directly in a straightforward way.

The simple fix of “Upper Story Residential Use” is a suitable short-term solution that doesn’t entail a more extensive rewrite at this time of the definitions, list of permitted uses, and specific use-related standards and limitations.

Commissioner Schanche asked that staff review the same type of upper story residential uses for the C1 and C2 zone.

Commissioner Geary asked that staff review whether or not it made sense to require a secondary entrance for the residential units. Commissioner Langenwaller suggested that this requirement would be too problematic for some and should not be required.

Ground Floor Caretaker Dwelling versus Owner-Occupied Residence in the Same Building as a Business: The other problematic residential use in the C 3 zone that can be fixed fairly simply is the “Owner-Occupied Residence in the Same Building as a Business”. Currently, multi-family buildings in the C-3 zone don’t have a requirement to be attached to a business. With the above amendment, one or two upper-story dwelling units wouldn’t be subject to the owner-occupancy requirement. Therefore, this would only apply to situations where there is a single ground floor dwelling unit. Owner-Occupied though is problematic. “Owner” is defined as the property owner. If there is any occupancy limitation, it would seem to be more appropriate to limit occupancy to a caretaker or the owner of the business, rather than the property owner. Additionally it is reasonable to limit the number of ground floor dwelling to just one associated with the business, to preserve ground-floor commercial space. However, there is the potential to have several buildings on a large lot, each with a business and caretaker dwelling that would have similar impact to several individual properties with one building on each property.

Another option would be to change the provision to allow one ground-floor dwelling unit in the same building as a business, without an occupancy limit. However, there are potential issues with changing this provision if it isn’t linked to the business in some way. For example, the residence might be occupied when there is no active business. To further clarify the ground floor residential use, the code could authorize a ground-floor residence in the same building with a business as an accessory use to the business, ensuring it is incidental to the business use but not requiring an association with the business.

Commissioner Chroust-Maisin asked why the ground floor residential unit needed to be associated with the business. After some discussion, commissioners directed staff to remove the requirement for it to be associated with the business.

Proposed Draft Amendment for Consideration:

- Add the following definition to Chapter 17.06:
 - **Ground Floor Residential Use / Caretaker Dwelling.** A dwelling unit in the same building as business
 - **Upper-Story Residential Use.** One or more dwelling units located in one or more stories above, and in the same building as, a permitted use on the ground floor,

whether the residential unit/s are attached or detached from one another or from buildings on abutting lots or parcels.

- Add "Upper-Story Residential Use" to the list of permitted use in the C-3 zone, in Section 17.33.010.
- Amend 17.33.010(4) as follows:

~~Owner-occupied residence~~ **One ground-floor caretaker dwelling** per property, which must be in the same building as a business and accessory to the business use of the building and property.

5. Commissioner/Committee Member Comments

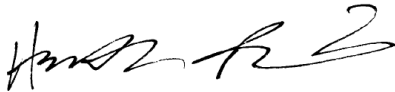
None

6. Staff Comments

None.

7. Adjournment

Chair Hall adjourned the meeting at 8:45 p.m.



Heather Richards
Secretary