



City of McMinnville
Planning Department
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MINUTES

December 21, 2017
Planning Commission
Regular Meeting

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

Members Present: Chair Roger Hall, Vice-Chair Zack Geary, Commissioners: Martin Chroust-Masin, Susan Dirks, Lori Schanche, and Erica Thomas

Members Absent: Erin Butler, Gary Langenwalter, and Roger Lizut

Staff Present: David Koch – City Attorney, Chuck Darnell – Associate Planner, and Heather Richards – Planning Director

1. Call to Order

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

2. Citizen Comments

None

3. Approval of Minutes

None

4. Public Hearing (Quasi-Judicial)

A. Variance (VR 1-17) (Exhibit 1)

Request: Requesting approval of a variance to reduce the required number of off-street parking spaces on a commercially zoned property from the standard requirement of 105 parking spaces to 42 parking spaces.

Location: The subject site is located at 826 SE 1st Street. It is more specifically described as Tax Lots 1800 and 1900, Section 21CA, T.4 S., R. 4 W., W.M.

Applicant: Kelly McDonald

Chair Hall opened the public hearing and read the hearing statement.

Planning Director Richards presented the staff report indicating that staff supported the variance request based on the fact that it met the criteria for a variance per the McMinnville City Code. The applicant applied for a variance to the City's parking standards to reduce the amount of off-street parking for the site at 826 SE 1st Street. The applicant initially assumed that the parking

code requirements for the site were 105 parking stalls and that the number of existing spaces on the site today was 42 spaces. However after staff evaluation and a recommended condition of approval, the final variance request was for 106 parking spaces with an on-site parking situation of 36 parking spaces.

The existing building is an older building that was originally built for manufacturing and retail uses pre-dating city zoning. However with the advent of city zoning, the property's C-3 zoning does not allow manufacturing, thus the property owner is faced with a situation of repurposing a built environment into new commercial uses and due to the constraints of the built environment is not able to provide the needed number of parking spaces on-site.

At the same time, some of the existing parking stalls are not code-compliant and are a public safety risk. The current six parking stalls adjacent to First parallel to the sidewalk were recommended by the McMinnville Engineering Department for elimination. Additionally two of these six parking spaces which were identified as ADA parking spaces did not meet ADA standards and with their removal would require that two other parking spaces on site be designated as ADA parking spaces potentially requiring two parking stalls on the south side of the building to become handicap accessible. Additionally two parking stalls on the south side of the building are located directly in front of operable vehicle bay doors, thus eliminating them as future parking spaces. That meant eliminating 10 current parking spaces from the inventory.

The other existing conditions of the site lending itself to a parking variance were: 1) the site is located in a neighborhood in transition, planned as future commercial and high density residential development; 2) the back of the site was on a steep ravine, and 3) one of the two lots that make up the site is zoned R-4, which does not allow a stand-alone parking lot as a permitted use.

To tenant the building with the proposed mixed-tenant use that the applicant was working on, the applicant needed 106 parking spaces to support the tenant mix and with the city's condition of approval they would have approximately 36 parking spaces on-site and did not have the ability to add more parking to the existing site due to the site conditions described above.

The Commission can approve variances when it could be shown that there were unusual circumstances related to a specific piece of property and that strict adherence to the code would cause undue hardship. Due to the irregular shape and topography of the site, the built environment, and the historic building on the site and its historic uses, staff thought it met the variance criteria. The site was originally built for a less intensive use that was no longer allowed in the zone and they did not have the opportunity for parking expansion on site. The property owner had property rights just like every other property in the zone but due to the specific site they were not able to move that property-right forward. The variance achieved on-site code compliant parking stalls and would improve public safety along First Street. Per the Comprehensive Plan and Zone Map this was an area of transition from historic uses of manufacturing and single family dwelling units to a commercial area with high density residential uses. The variance shifted the property into the planned for future use. The City did a parking study for the downtown area which included the area adjacent to this property. Parking was utilized more on the week days than on the weekend. For the area where this property was located, there was a lot of capacity for on-street parking. If there was no parking at the subject site, people could utilize on-street parking. The applicant proposed the minimal reduction of parking stalls anticipated being necessary to allow full commercial reuse of the building in a manner that reflected a merging mixed use and pedestrian oriented trends in the downtown. There was a policy in the Comprehensive Plan that stated the City should encourage but not require private businesses downtown to provide off-street parking and on-site traffic circulation for their employees and customers. This site was near downtown and built out similar to

downtown properties. The premise was with the amount of different tenants in this building, people would park and visit several tenants. It was a shared parking experience. There was a transitional area north of downtown that only required 50% of the off-street parking requirements in the code based upon the same premise. There was nothing similar for south of downtown in the code, even though this was identified as a transitional area as well.

Some public testimony had been received with concerns regarding traffic generated by the property being fully tenanted, conflicts with parking being pushed out to Washington Street, stormwater drainage, noise, amount of the parking variance, and on-site circulation.

There was discussion regarding the impact of rezoning the property and clarifying the conditions of approval. There was further discussion regarding how requiring more parking stalls would also require a reorientation of the businesses in the building.

Kelly McDonald, representing the applicant, said Mr. Rubin bought the property in 2016 and had invested significantly in the property. He had also been working on removing the non-conforming uses, such as the paint shop. The parking plan they had presented showed an ingress/egress arrow which should have been taken off the plan. It was not their intent to put any one way circulation in the parking lot. The ingress/egress would be on First Street. They were willing to eliminate the non-conforming parking stalls to make the site safer and allow for better sidewalks. The removal of the six parking stalls on First and re-curbings of the street created 8 potential parking spots in front of the building. They would be public parking spots. They were in discussion with the Building and Engineering Departments about moving the ADA stalls to the back

Ron Rubin, property owner, had spoken to the neighbors adjacent to this property. There had been misunderstanding that the variance applied to the whole property. This was a split zone and there were no plans to develop the residential portion at this time. The variance only applied to the commercial portion. When the residential portion was developed, it would have to meet residential standards and this variance would not affect it. He thought the variance would help obtain the kind of tenants that would benefit the neighborhood. It would also eliminate the parking on the sidewalk and allow for outside tables and seating. The parking requirements were more applicable to big box stores and not for properties like this. He had worked to upgrade the building and to get quality tenants. He thought it would be rare that people would need to park on Washington Street in the residential area. There was a lot of parking on First Street and to the north. They were not changing the traffic flow. The parking lot was now gated which prevented pass through traffic. The bumper curbs against the back fence would be moved as well so the fence would no longer be hit. They also installed bamboo fencing for screening for the neighbors. He did not think noise would be an issue, but he would let the tenants know there was a neighbor close by and to give contact info if there was a problem. There were homeless and trains going by which were out of his control. It would not create more traffic in the neighborhood. By not allowing some of the uses that were there in the past, there would be less truck traffic. He explained the parking lot drainage, which did not run down to Washington Street. They did corrective work to the retaining wall as well. There would be no use of hazardous materials that would create an environmental spill. He thought there would be plenty of parking on the City streets. He was trying to create a great mixed use environment and shared experience. If they had to increase the number of parking spaces it would limit the kind of tenants that could use the building.

Commissioner Schanche was concerned that there would not be enough parking. She asked if they considered rezoning the residential lot to C3 so that it could be used for parking. Mr. McDonald said they had discussed that option. He thought instead of keeping the traffic on First

Street, that concept would push it onto Washington Street. The current plan pushed the parking to the north towards the commercial areas.

Commissioner Geary asked about options to increase the number of parking stalls on the lot. Mr. McDonald said they were somewhat restricted due to the back of the building and the roll-up doors. He did not think there was space to increase the number, especially as the City was asking them to give up a couple of spaces. It would be significant economic hardship to try to remove a portion of the building for parking. They were the first one in this area to transition their property, and he thought more would experience similar conditions. However, this was a big building with a large footprint, unlike most other properties. They were in agreement with the suggested conditions of approval. He explained the re-curb and sidewalks that would be done to the front of the building after the removal of the six parking stalls. They were looking into adding planter boxes and outdoor spaces as well. He did not think they would want to remove any accesses to the site.

Proponents: Lisha Rhodes, McMinnville resident, had been a business owner of a hair salon for 13 years. She had gotten a variance to have overflow parking at the 7-11 near her business. In her 13 years of business, she had not had customers use the overflow parking and she had never been contacted by anyone saying her parking was a problem. She thought people would park a couple of blocks away to come to the businesses on this property. The proposal would be a wonderful addition to the neighborhood and would bring a better environment than what was there currently. She could possibly be looking at moving her business to this property as she had sold her property and it would be used for a residence. The parking she currently took up would no longer be needed if her business moved. She was in favor of bringing more positive economic growth to First Street.

Opponents: Mark Davis, McMinnville resident, thought if the neighborhood had had time to sit down and talk with the applicant about this application there would not be opposition. He was in favor of getting rid of the parking spaces in the front of the building. He was also in favor with the types of businesses the applicant would be bringing into the neighborhood as they were ones the neighbors would want to walk to. He had experience with parking variances as he had worked for the Housing Authority and a project had required a parking variance. For that application they had to come up with evidence showing what was going to happen with parking and how it was not necessary to have the code required number of parking stalls. In this case, it sounded like they knew they needed more parking, but people would just park out on the street. He did not think that solved the parking issue. The applicant was short 70 parking spaces, which was a 66% reduction. If the property was sold, the variance would pass to the next person and whatever promises Mr. Rubin made for the property would be void. The variance allowed uses that would take up 106 parking spaces. He had measured the area, and it was about 48 feet per two parking spaces. That meant each block could produce about 6-7 spaces and the 70 spaces that would be waived meant 10 blocks worth of parking. People were already parking on the street now and there was no way 70 cars would fit in the area. The neighborhood understood that they served as overflow parking for downtown, especially during special events. To grant a permanent variance allowing extra parking in the area was not what a variance was set up for. He thought it would be detrimental to the neighborhood. He questioned if this was the minimum variance that would alleviate the hardship. The applicant had made the choice for what tenants would go in, and those tenants required more parking. It would bring a lot more density than what was on the site in 1978 when the site was developed and he thought it was inappropriate.

Fred and Sue Freeman, McMinnville residents, had lived adjacent to this site for 7 years. They were concerned about the one way ingress, but that had been addressed. They were also concerned about the R-4 portion being rezoned to Commercial as it would change the

neighborhood and nature of traffic and safety of the area. There had been issues regarding fire access through the gate. They would like to preserve the character of the neighborhood, and were concerned about parking on Washington Street. They were not anti-business, and this would be a good spot for neighbors to walk to services. They were pro-community and desired to keep the residential neighborhood in-tact. They were concerned about the short and long term hazards that could be created if it was not properly designed, managed, and implemented. Children were in the streets and there had been close calls. They did not want that situation to become worse. They did not believe Washington Street could handle the traffic overflow that could be created and wanted it looked at carefully. If a temporary variance was granted, they wanted to make sure it was followed up on. There was also concern about truck traffic. The uses would bring a lot more traffic, both with customers and deliveries.

Ellie Gunn, McMinnville resident, was co-chair of SoDAN, South Downtown Neighborhood Association. The applicant's property was within SoDAN and many of the neighbors had expressed concerns. This proposal would cause a material undue hardship and negative effect on the people living within the SoDAN boundaries. The variance request did not meet the conditions of 17.74.110(C) and should be denied. SoDAN neighbors were willing to meet with the applicant to discuss changes they could accept. They would also be glad to have any Planning Commissioner visit the neighborhood and see what the challenges were for this request in terms of parking all through the neighborhood, the dead end with the railroad tracks, and the steep and dangerous corner on Irvine and Washington. She suggested changing the amount of tenants in the building, which could reduce the amount of cars that would visit and number of employees. They could also have offices that did not generate as much traffic and had a couple of employees. This was a complicated area to have busy businesses.

Will Hamilton, McMinnville resident, had lived in this neighborhood for 10 years. This building had had a low tenancy in the past. He thought the R-4 portion should remain residential as the access was not meant for commercial traffic. He also did not think this facility was meant for commercial traffic. It was a unique building and required a unique variance to make it work, however he thought parking would be an issue. Accepting a variance on a current situation was a short sighted way of doing it. He did not think the variance should be approved. Traffic was only going to get worse and the entrance on First Street was dangerous and did not work for two way traffic. There was no sidewalk on the north side of Washington Street.

Mr. McDonald offered rebuttal. He thought the parking requirements in the code were too high and that the 106 parking spaces were not needed in real life scenarios. He referenced the Northeast Gateway study that showed people would be willing to park and walk to the businesses. It was hard to predict the future and they had to deal with the situation at hand. Without the variance, the undesirable parking spots in the front would remain. He thought this was a reasonable request and was a good mix for the community. He also thought there would be a lot of foot traffic that would come to the businesses. He thought the regulations were for big box businesses where most people drove to the site. This was downtown and he did not think there was a large impact to the neighborhood being created.

Mr. Rubin added the tenant mix was such that they did not all need parking at the same time. He had also added bicycle parking. He thought it would encourage more pedestrian and bike activity. These uses would not bring in a lot of truck traffic.

Commissioner Schanche suggested not including a restaurant as a tenant as that had the largest parking requirement. Mr. Rubin wanted to keep the options open for tenants. So far they were only fielding inquiries until the parking issue was addressed and the mix of uses was not set at this point. What had been submitted was the maximum number of possible uses.

Chair Hall closed the public hearing.

Chair Hall said the job of the Planning Commission was to keep in mind what was best for the City in the future and what they would allow currently that would help the vision for the future to work well.

Commissioner Chroust-Masin thought the City's parking requirements should be reviewed. Planning Director Richards said the City followed national parking standards for parking in the public right-of-way. She agreed the code for private property was outdated and was not serving modern practices. She thought it should be reviewed as a future work plan item but that this application needed to be reviewed against the current code, however.

Commissioner Geary asked if the applicant was out of compliance now with the current tenants of the building. Planning Director Richards did not know, but for each new tenant the parking standards were reviewed and if there were not enough parking spaces to accommodate the new tenant, they could not move in.

Commissioner Dirks thought the owner was doing the best he could to develop a property that would be profitable and good for the area. She was not convinced that the number of parking spots needed for each use was correct. She was in favor of the application.

Commissioner Schanche had driven the site and was concerned about the low visibility from the parking lot. People would be parking on Washington Street and walking to the building, and she did not want pedestrians to be hit. She suggested adding a condition regarding visibility or creating a separate walkway.

City Attorney Koch said this issue should have been disclosed while the applicant had the opportunity to address it. He suggested reopening the hearing to allow the applicant or other public testimony to address that limited issue.

Chair Hall reopened the public hearing.

Mr. McDonald acknowledged there were visibility difficulties due to the topography. It was a current existing condition that could be addressed, but it did not impact the request for the parking variance.

Chair Hall thought the applicant should address the issue, especially since it was a liability issue.

Chair Hall closed the public hearing.

Chair Hall expressed concern about not having enough parking to support the number of businesses and the applicant was setting himself up for failure because there was not enough parking for customers. He suggested changing the mix of tenants that would lessen the number of required parking spaces so the variance was not as great and the likelihood of success was improved.

Commissioner Geary appreciated the owner's investment in the building and was excited about the future development of the property. He appreciated the owner's commitment to the growth of the downtown area. However, some of the hardship was self-imposed and he questioned if the proposed mix of uses was needed to fully operate the building. Some of the parking assumptions were outdated and it was unclear how long it would take to get to the capacity outlined. He was not sure if there were real needs or not.

Based on the findings of fact, the conclusionary findings for approval, and materials submitted by the applicant, Commissioner Dirks MOVED to approve variance application VR 1-17 subject to the conditions of approval. SECONDED by Commissioner Schanche. The motion PASSED 6-0.

Chair Hall noted that though he voted in favor, it was subject to the concerns he had voiced earlier. He encouraged the applicant to think seriously about a different mix of uses that would be more likely to succeed.

The Commission took a short break.

B. Variance (VR 2-17) (Exhibit 2)

Request: Requesting approval of a variance to reduce the required setbacks for the proposed addition of an electronic changeable copy sign to the existing freestanding sign on the property. The applicant is also requesting a reduced clearance from the base of the sign cabinet to the ground than the clearance that is normally required for signs adjacent to arterial streets.

Location: The subject site is located at 101 NE Highway 99W. It is more specifically described as Tax Lot 4700, Section 16CB, T.4 S., R. 4 W., W.M.

Applicant: Double R Products, on behalf of Truax Corporation

Chair Hall opened the public hearing and read the hearing statement.

Associate Planner Darnell provided the staff report. This was a variance request for an electronic changeable copy sign. The variance would reduce the required setbacks and clearance. The site was located at 101 NE Highway 99W. It was a unique triangular lot that was bounded by Baker Street and Highway 99W. The existing freestanding sign was too tall for the C-3 zone. The applicant proposed to add an electronic changeable copy sign to the sign and reduce the height of the existing sign to 20 feet. They would remove the lowest cabinet and only two cabinets would remain which would reduce the overall size of the sign to 70 feet. He discussed the requirements for electronic changeable copy signs. Only one per site was allowed, it could be no taller than 12 feet, no larger than 24 square feet in area, and they had to be set back 10 feet from the property line. The sign met all of those requirements except for the setback, which was the reason for the variance request. There was also a five foot setback requirement along arterials and signs could be placed within that setback if the body of the sign was at least 8 feet above grade. With the reduction in height, the sign would be 7 feet, 4 inches above grade and they were requesting a variance for this as well. He then reviewed the variance criteria. The site was a unique shape and was fully developed with a gas station use. The sign was on the southernmost tip of the property and the applicant was proposing to keep it in that location and add to it. The applicant had submitted information on the difficulty of relocating the sign due to traffic patterns on the site and under-awning equipment. The reduced clearance would not affect safety as there was still clear vision for the intersections. The applicant was allowed one electronic changeable copy sign and this sign would be visible from both arterials. There would be no significant negative impacts to the surrounding area. It would bring the sign into better compliance with the code and reduce the overall size. The applicant would not increase clutter as they would be using the existing sign. Given the site constraints, using the existing freestanding sign was the most practical use and resulted in a minimal variance. Staff recommended approval of the request.

Commissioner Chroust-Masin asked if the applicant would be using the existing post. Associate Planner Darnell thought the intent was to use the existing post. The main change was the new electronic cabinet. Overall the sign would be reduced in height and size and the electronic component would be added.

Planning Director Richards clarified the reason for the variance was the sign was being changed and it needed to come into compliance.

Chair Hall asked if the Commission had any ex parte contacts to declare. There were none. All of the Commission was familiar with the site.

Rick Plouse, representing the applicant, said the sign was required to come into compliance. The options on the site were limited due to the uniqueness of its shape as well as the groundwater monitoring plates that were all over the site. There was one other place on the lot that might be feasible for a sign. That was the northeast corner, but there was already a shed in that location for pumping groundwater and a sign could not be seen from Baker. The height of the sign would not affect clear vision. The post would remain the same and was not going to be moved. The height would be lowered and the face of the cabinets would be redone.

There was no further public testimony.

Chair Hall closed the public hearing.

Based on the findings of fact, the conclusionary findings for approval, and materials submitted by the applicant, Commissioner Geary MOVED to approve variance application VR 2-17, SECONDED by Commissioner Thomas. The motion PASSED 6-0.

C. Variance (VR 3-17) (Exhibit 3)

Request: Requesting approval of a zoning variance to allow a reduction in the minimum 1,000 separation requirement between commercial recreational retail marijuana facilities to a minimum separation requirement of 500 feet.

Location: The subject site is zoned C-3 (General Commercial) and is located at 1208, 1212, 1214 and 1224 SW Baker Street and 625 SW Clairmont Street and is more specifically described as Tax Lots 3400, 3900 and 4000, Section 29 AB, T.4 S., R.4 W., W.M.

Applicant: Waynes World LLC

Chair Hall opened the public hearing and read the hearing statement. Most of the Commission had visited the site. No ex parte contacts were declared.

Planning Director Richards gave the staff report indicating that staff did not support the request due to the fact that the applicant had not shown how their request met the criteria for a variance request in the McMinnville City Code.

This was a request to reduce the 1,000 foot setback for a commercial marijuana retail establishment to 478.5 feet. This site was located on 1214 SW Baker Street, which was zoned commercial and marijuana retail was an allowed use. The code said commercial marijuana retail facilities could not be located within 1,000 feet of each another.

The applicant had originally requested a variance to 750 feet separation but this was changed to 478.5 feet due to the proximity of another established commercial marijuana retail facility. The nearest existing dispensary was located down the road from this site, which was why the distance had been shortened. The nearest existing dispensary was licensed by the state and was currently under development.

The applicant stated that restricting fair trade was not serving the population of McMinnville as a reason for the variance. The applicant did not provide site specific exceptional or extraordinary circumstances for the variance and focused on a policy argument. He argued that there was less land in south McMinnville to lease, and the separation requirement was putting an undue hardship on the applicant. Presumably the applicant needed a variance to achieve the same property rights as other property owners, but the applicant did not demonstrate how the application of the 1,000 foot separation requirement that was equally applied to all similarly zoned properties failed to preserve a property right for this particular site. The applicant provided a finding that free market opportunities in general were being affected due to the separation requirement as a detriment to the whole City, but did not make an argument in particular to this site. Staff thought the 478.5 feet was the minimum required to alleviate the claimed hardship for the site. Staff did not think the applicant met the variance criteria and recommended denial of the request.

Staff had discussed their recommendation with the applicant and the applicant had submitted a request to continue the hearing to January 18 to rethink his application. A continuance would still fit within the 120 day deadline. If the applicant amended his application, it would need to be submitted in a timely manner for staff and the Planning Commission to review it and still meet the January 18 deadline. If the January deadline could not be met, it would be continued to February and the applicant would have to waive the 120 day clock deadline.

City Attorney Koch thought the Commission did not have to honor the continuance request. Simply requesting a continuance did not guarantee a continuance. He thought the 120 deadline should be waived if it was continued to January since the applicant was requesting more time.

Commissioner Dirks asked if the applicant understood what arguments he needed to make.

Associate Planner Darnell said the applicant understood that his submittal was not relevant to the variance review criteria. It seemed what he was asking for was more of a policy decision and zoning text amendment. He wanted additional time to review his application and see if he could provide findings that fit the review criteria specific to his site. He explained the timeframe to the applicant as well.

Chair Hall did not think there would be findings that would persuade the Commission on the variance because there was nothing unique about the site. He thought instead of continuing it, the Commission could make a decision of denial that night. If it was a policy change, it could be brought back at a later time.

The applicant was not in attendance.

Proponents: None

Opponents: Mary Ann Rodriguez was representing Linfield College. This piece of property was adjacent to the college. The college supported staff's recommendation for denial. She thought the public process that created the 1,000 foot separation should be honored. The applicant had stated the hardship was that it restricted free trade in serving the population of McMinnville with reduced retail options. She googled marijuana retail facilities in McMinnville and there were at

least six that popped up. She thought there were enough options within the geographic area of McMinnville. The college did not support this application.

John McKeegan was also representing Linfield College and was a McMinnville resident. When the 1,000 foot separation was established, it was done through extensive public input. It provided adequate safeguards for public health, safety, and welfare. He thought if the Commission approved the variance, it would set a precedence that would be materially detrimental to the purposes of the title insofar as the zoning ordinance provided certainty and predictability. It would also be materially detrimental to the properties in the zone in the sense that large property owners could be surrounded by these types of commercial entities. It was detrimental to the purposes of the Planning Commission because every time two business partners had a disagreement, could one of them come before the Commission to seek governmental assistance. He agreed with the staff report that the applicant did not meet the burden of proof that an undue hardship would be caused without a variance.

City Attorney Koch changed his earlier recommendation. He had researched the statutory provisions which stated that if requested, the Commission shall grant a continuance. His argument that the continuance would count against the 120 day deadline did not apply because a continuance granted at the request from the applicant did not count against that deadline. He recommended continuing the hearing to January.

There was consensus to continue the hearing to January 18, 2018.

5. Discussion Items

None

6. Old/New Business

None

7. Commissioner Comments

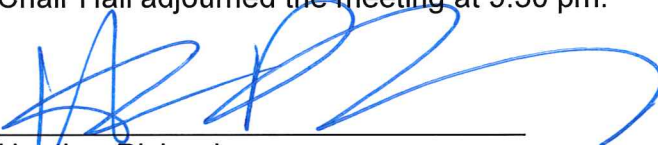
None

8. Staff Comments

Planning Director Richards announced the City received a DLCD grant for the buildable lands inventory, housing needs analysis, and housing strategy.

9. Adjournment

Chair Hall adjourned the meeting at 9:30 pm.



Heather Richards
Secretary