



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

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**Planning Commission**  
**McMinnville Civic Hall, 200 NE 2<sup>nd</sup> Street**  
**December 21, 2017**

**5:30 PM Work Session**

**6:30 PM Regular Meeting**

*Welcome! All persons addressing the Planning Commission will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. Public Hearings will be conducted per the outline on the board in the front of the room. The Chair of the Planning Commission will outline the procedures for each public hearing.*

*If you wish to address Planning Commission on any item not on the agenda, you may respond as the Planning Commission Chair calls for "Citizen Comments."*

<b>Commission Members</b>	<b>Agenda Items</b>
Roger Hall, Chair	<b>5:30 PM - WORK SESSION – COUNCIL CHAMBERS</b>
Zack Geary, Vice-Chair	<b>1. Call to Order</b>
Erin Butler	<b>2. Discussion Items</b>
Martin Chroust-Masin	<ul style="list-style-type: none"><li><b>Vacation Home Rentals (Work Session Exhibit 1)</b></li></ul>
Susan Dirks	<b>3. Adjournment</b>
Gary Langenwalter	
Roger Lizut	
Lori Schanche	
Erica Thomas	

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 24 hours in advance by contacting the City Manager (503) 434-7405 – 1-800-735-1232 for voice, or TDY 1-800-735-2900.

\*Please note that these documents are also on the City's website, [www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov). You may also request a copy from the Planning Department.



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Commission Members	Agenda Items
Roger Hall, Chair  Zack Geary, Vice-Chair  Erin Butler  Martin Chroust-Masin  Susan Dirks  Gary Langenwalter  Roger Lizut  Lori Schanche  Erica Thomas	<p><b>6:30 PM – REGULAR MEETING – COUNCIL CHAMBERS</b></p> <ol style="list-style-type: none"> <li><b>1. Call to Order</b></li> <li><b>2. Citizen Comments</b> – <i>The Chair will announce that any interested audience members are invited to provide comments on any topic other than: a topic already on the agenda; a matter in litigation; a quasi-judicial land use matter; or a matter scheduled for a public hearing at some future date.</i></li> <li><b>3. Public Hearing</b> <ol style="list-style-type: none"> <li><b>A. <u>Variance (VR 1-17)</u></b> (Exhibit 1)               <p>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.</p> <p>Location: The subject site is located at 826 SE 1<sup>st</sup> Street. It is more specifically described as Tax Lots 1800 and 1900, Section 21CA, T.4 S., R. 4 W., W.M.</p> <p>Applicant: Kelly McDonald</p> </li> </ol> </li> </ol>

**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

**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

**4. Old/New Business**

**5. Commissioner/Committee Member Comments**

**6. Staff Comments**

**7. Adjournment**



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## **WORK SESSION EXHIBIT 1 - STAFF REPORT**

**DATE:** December 21, 2017  
**TO:** McMinnville Planning Commission  
**FROM:** Ron Pomeroy, Principal Planner  
**SUBJECT:** Vacation Home Rentals

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### **Report in Brief:**

The purpose of this discussion item is to review the City of McMinnville's process for regulating vacation home rentals (VHRs), review how VHRs are regulated in other cities, and provide direction to staff as to whether any amendments to the City's process should be further analyzed.

### **Background:**

The Planning Commission discussed VHRs at the September 21, 2017 work session, and also provided an opportunity for public comment on the topic of VHRs at the October 19, 2017 work session. Following the public comment portion of the October work session, the Planning Commission had a brief discussion and directed staff to research other options for the regulation of vacation home rentals in the City of McMinnville.

### **Discussion:**

The information provided below is arranged into three categories addressing existing zoning regulations, fines for illegal operation, and examples of alternative methods for regulating VHRs.

### **Existing Zoning Regulations:**

In discussing VHRs, it should be noted that there are multiple different types of rental uses in the City of McMinnville that may be found on short term rental websites or listings (e.g., Airbnb, VRBO, etc.). Not all rental units that may be available for short term rental use are actually defined as VHRs in the McMinnville Zoning Ordinance. The City currently allows the following types of rental uses:

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#### *Attachments:*

*Attachment 1: Comparison Table of 11 Oregon Cities*

*Attachment 2: Detailed Comparison Table of 4 Oregon Cities*

Type	Description	Zones Allowed
Vacation Home Rental	Whole house rental for period of less than 21 days	All Residential (R-1, R-2, R-3, R-4) and Office-Residential (O-R)
Bed and Breakfast	Rental of bedrooms within an <i>owner-occupied</i> house for period of less than 7 days	All Residential (R-1, R-2, R-3, R-4) and Office-Residential (O-R)
Boardinghouse, Lodging House, or Rooming House	Rental of whole house or individual rooms for an unregulated number of days	Commercial (C-2 and C-3)

VHRs, based on the descriptions above, are whole houses located on residentially zoned land that are rented for a short term basis. These houses could be owner-occupied in the times that they are not available or being used as a rental, or they could not be owner-occupied and specifically used as a short term rental property. The specific VHR regulations currently in place in McMinnville are as follows:

McMinnville Zoning Ordinance  
Section 17.12.010(O)

- O. Vacation home rental, subject to the provisions of Section 17.72.110 and the following standards:
1. That the structure be designed for and occupied as a single-family residence. The structure shall retain the characteristics of a single-family residence.
  2. That a minimum of one off-street parking space be provided for each guest room.
  3. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
  4. That the duration of each guest's stay at the residence be limited to less than 21 (twenty-one) consecutive days.
  5. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
  6. That the property owner shall live within the city limits or shall provide contact information of a person living within the city limits who shall be available to respond immediately to any emergency or complaint related to the vacation home rental.
  7. Permits may be renewed for one-year periods upon payment of the appropriate fee prior to its expiration date, provided that the permit has not been terminated under the provisions of Section 17.12.010(O)(8) below.
  8. Complaints on conditions 1 through 7 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the vacation home rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

### Fines for Illegal Operation

At the September VHR work session, the Commission expressed interest in pursuing the idea of levying fines against property owners that have been operating VHRs without first obtaining approval from the Planning Department. Although the extent of this type of un-approved operation is not entirely known, it is estimated by some that there may be an equal amount of VHRs in illegal operation in McMinnville as there are legally approved VHRs.

Attachments:

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To address this concern and interest, the City Attorneys’ office is drafting a series of four code enforcement categories for all types of municipal code infraction/enforcement matters ranging from the minor to the more egregious. While this is a work in progress and recommendations have yet to be made, monetary fines commensurate with the various levels of offense will also be determined as the process moves forward.

To proceed with the ability to levy a financial penalty for illegal operation of a VHR, the main question for the Commission is at what level of offense an illegally operating VHR should be placed. This, perhaps, may be the most meaningful point of discussion at this time.

**Alternative Regulation Methods**

Based on the direction provided at the last Planning Commission work session on this matter, staff has completed research on alternative forms of managing VHRs in other cities in Oregon. Staff selected a broad range of cities outside of the Metro area, including cities from different regions such as Central Oregon and the Oregon coast. Also, staff included cities that have higher levels of tourism as is the case in McMinnville.

A summary table of the comparative standards of eleven other Oregon jurisdictions has been provided below and is also attached to the staff report for your reference (Attachment 1).

COMPARISON OF ELEVEN OTHER OREGON CITIES												
	McMinnville	Ashland	Bend	Depoe Bay	Hood River	Joseph	Eugene	Lincoln City	Manzanita	Rockaway Beach	Seaside	Sisters
VHR Spacing Requirement	No spacing requirement	No spacing requirement	250 feet unless modified by overlays	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement
Parking	One off-street space for each guest room	One off-street parking space per VHR	One off-street space for each guest room		One off-street parking space for each two guest rooms	One off-street parking space per VHR			Two off-street parking spaces per VHR		Two off-street parking spaces + one for each additional bedroom	
Other Site Regulations		Within 200 feet of a Collector or Arterial										
Structural Regulations		Residence must be at least 20 years old										
Other Regulations				4-Year Amortized Period		3-Year review prior to permanent approval	3-Year review prior to permanent approval		Limited to 17.5% of DUs in each zone		50% or required yards must be landscaped	

Staff also completed more comprehensive research on a few select cities from the table above that have different methods for regulating VHRs in their jurisdictions. Specifically, staff was interested in discovering other forms of management that might include locational requirements or overall management of rental inventory. It should be noted that every city defines these types of uses differently, and a more common type of definition is “short term rental.” The term “short term rental” will be used in the more detailed descriptions of other city regulations provided below.

The cities that were researched in more detail are included in an additional table attached to this staff report (Attachment 2). The cities are organized in the table in order of, by staff’s assessment, the least

*Attachments:*

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amount of regulation to the jurisdiction with the highest level of regulation to show the broad spectrum of regulation of short term rentals throughout the state.

Staff found that only the City of Bend has a spacing standard that requires a 250 foot separation between short term rental uses in their residential zones. No other city included in the research had a spacing standard. However, some jurisdictions regulate short term rentals by zoning district. Both Ashland and Manzanita only allow short term rentals in certain residential zones. Ashland only allows short term rentals to be located in their multiple family residential zones, and also has some operational and locational requirements that must be satisfied in order to establish a short term rental. Manzanita allows short term rentals in all but one of their residential zones, which results in them being allowed in most residential areas of the city; one zone was specifically not included in order to protect the residential land in that zone for residential uses.

The City of Manzanita has adopted a more comprehensive management system for the overall short term rental inventory in their city. The City decided to cap the total number of short term rentals that could exist within the city, based on concerns that the housing stock available to be used for full time residential use was being depleted by the conversion of the housing stock into short term rentals. Their cap was set at 17.5% of the existing housing stock within the zones where short term rentals are allowed. That percentage represents the ratio of short term rentals to the total number of dwelling units in the zones where short term rentals would be allowed that existed at the time the percentage cap was established; this may have been to order to avoid possible “takings” claims being raised should an existing short term rental be made illegal and required to cease by that action. The 17.5% ratio represents a much higher ratio of the housing stock being used as short term rentals than currently exists in McMinnville. With approximately 6,700 single family houses in McMinnville, the 38 legally registered VHRs in the city equate to only about 0.6% of the local single family housing stock. This is based on the historic interpretation of only allowing VHRs in single family houses. If VHRs were allowed in any type of residential dwelling unit, as is the case in some other cities, that ratio of short term rentals to total dwelling units would drop much farther.

### **Questions for Planning Commission Consideration**

At the September work session and at the October work session, following the public comment portion of the meeting, the Planning Commission held discussions on the comments received and some of the potential concerns with VHRs. There was discussion on the potential impacts that VHRs could have on neighborhood character and that there may be a concentration of VHRs in certain areas of the city.

Some potential questions for the Planning Commission to consider and discuss at this work session are:

- What are the specific concerns, if any, with VHRs and their relationship with the surrounding residential areas within which they are located?
- If concerns are identified, are there any additional locational or licensing requirements, such as those implemented in other cities, that could help address those concerns?
- If new locational requirements were put in place, how would existing licensed VHRs be treated?
  - For example, the existing VHRs that do not meet new requirements could be considered legally non-conforming uses and be allowed to continue. The City of Bend followed this practice after they adopted their 250 foot spacing standard and allowed existing short term rentals that were less than 250 feet from each other to continue to operate as legally non-conforming uses.
- Are there other operational requirements or standards that should be amended? These could include:
  - Occupancy limits for VHRs

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- Types of residential dwelling units allowed to be used as VHRs
- Additional requirements for providing lodging tax reports

**Fiscal Impact:**

None.

**Recommendation/Suggested Motion:**

No specific motion is required, but the Planning Commission may provide staff with guidance as to whether to draft zoning text amendments to amend the City’s existing vacation home rental regulations.

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COMPARISON OF ELEVEN OTHER OREGON CITIES												
	McMinnville	Ashland	Bend	Depoe Bay	Hood River	Joseph	Eugene	Lincoln City	Manzanita	Rockaway Beach	Seaside	Sisters
<b>VHR Spacing Requirement</b>	No spacing requirement	No spacing requirement	250 feet unless modified by overlays	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement	No spacing requirement
<b>Parking</b>	One off-street space for each guest room	One off-street parking space per VHR	One off-street space for each guest room		One off-street parking space for each two guest rooms	One off-street parking space per VHR			Two off-street parking spaces per VHR		Two off-street parking spaces + one for each additional bedroom	
<b>Other Site Regulations</b>		Within 200 feet of a Collector or Arterial										
<b>Structural Regulations</b>		Residence must be at least 20 years old										
<b>Other Regulations</b>				4-Year Amortized Period		3-Year review prior to permanent approval	3-Year review prior to permanent approval		Limited to 17.5% of DUs in each zone		50% or required yards must be landscaped	

Less Restrictions &lt;-----&gt; More Restrictions

<b>Vacation Home Rentals (VHRs) / Short Term Rentals (STRs)</b>					
<b>Topic</b>	<b>McMinnville</b>	<b>Eugene</b>	<b>Bend<sup>1</sup></b>	<b>Ashland<sup>2</sup></b>	<b>Manzanita<sup>3</sup></b>
<b>Definition</b>	- VHR: Whole house rented for less than 21 days - Bed & Breakfast: Owner-occupied dwelling w/ individual bedrooms rented	- STR is any home rented for less than 30 days - Allowed in any residential dwelling unit, including secondary dwelling units (similar to accessory dwelling units)	- Infrequent STR: Whole house rented a max. of 30 days per year - Owner Occupied STR: Up to 2 bedrooms rented - Whole House STR in Commercial Zone or Residential Zone: Whole house rented for over 30 days per year - Allowed in any type of dwelling unit	- Travelers' Accommodation: Lodging in a residential zone that can be a room, rooms, or dwellings - Accessory Travelers' Accommodation: Lodging in a residential zone where the property owner resides in a dwelling and rents no more than 2 bedrooms	- STR is a dwelling unit rented for less than 30 nights - STR can be a single dwelling on a single property, or a single dwelling unit within a duplex on a single property
<b>License Required?</b>	Yes	No	Yes	Conditional Use Permit required	Yes
<b>Application/License Fees</b>	- Application: \$150 - Renewal Fee: \$25	N/A	- Application: \$673 (Type I) or \$1,873 (Type II) - Renewal Fee: \$75	- CUP Application: \$2,099	- Application Fee: \$75 - Annual License Fee: \$250
<b>Lodging Tax?</b>	Yes	Yes	Yes	Yes	Yes
<b>Application Process</b>	- Land Use Application reviewed and approved by Planning Director	None	- Land Use Application reviewed and approved by Planning Director	- Land Use Application - Public hearing held and decision made by Planning Commission	- Number of STR licenses limited to 17.5% of dwelling units in the zones STRs are allowed - Individuals can hold only 1 license - Waiting list available for licenses, and licenses transferred to owner that has been on waiting list longest
<b>Areas/Zones Allowed</b>	- All Residential zones and O-R zone as permitted uses	- All residential zones	- All residential zones	- R-2 and R-3 zones (multi-family residential zones) as conditional use	- R-2, R-3, and SR-R zones (roughly 75% of residentially zoned land)
<b>Locational Requirements</b>	- None	- None	- Whole House STRs in residential zones have a concentration limit of 250 feet from any other existing STR	- Travelers' Accommodations must be within 200 feet of a major roadway (specific types defined)	- None
<b>Design Standards</b>	- Structure must be designed for and occupied as a single-family residence - Structure shall retain characteristics of single-family residence	- None	- None	- Primary residence on the site must be at least 20 years old - Conditional Use Review Criteria related to mitigating impacts on livability in surrounding area must be achieved	- None
<b>Operational Requirements</b>	- Bed & Breakfasts: Must be owner-occupied - Bed & Breakfasts: Duration of stay limited to no more than 7 days - VHRs: Duration of stay limited to less than 21 days - Occupancy limit of 5 unrelated people per site	- Duration of stay limited to 30 days or less - Occupancy limit of 5 unrelated people per dwelling	- Duration of stay limited to 30 days - Occupancy limited to 2 persons per bedroom plus 2 additional persons	- Duration of stay limited to 30 days - Both types must be owner-occupied - Accessory Travelers' Accommodations can have only 1 rental unit of 2 bedrooms max	- Duration of stay limited to 30 days - Licenses issued to owners and do not transfer with sale of property to new owner - Licenses automatically revoked if quarterly lodging tax report not received or if no rental income reported for period of 9 months

<sup>1</sup> Bend Development Code 3.6.500<sup>2</sup> Ashland Municipal Code 18.2.3.220<sup>3</sup> Manzanita Ordinance 10-03 and Ordinance 95-4. Percentage cap is based on the ratio of registered STRs to the total number of dwelling units in the zones allowed as of the date the percentage cap was established.



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## **EXHIBIT 1 - STAFF REPORT**

**DATE:** December 21, 2017  
**TO:** McMinnville Planning Commission  
**FROM:** Ron Pomeroy, Principal Planner  
**SUBJECT:** VR 1-17 – Variance – 826 SE 1<sup>st</sup> Street

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### **Report in Brief:**

This is a public hearing to consider an application for a variance to reduce the required number of off-street parking spaces on a commercially zoned property from the standard requirement of 106 parking spaces to 32 parking spaces. The subject site is located at 826 SE 1<sup>st</sup> Street and is more specifically described as Tax Lots 1800 and 1900, Section 21CA, T.4 S., R. 4 W., W.M.

### **Background:**

The subject site is currently developed with an 18,500 square foot commercial building that was originally constructed as a 12,500 square foot building in 1949, as noted in the applicant's narrative. The building was expanded in 1978 to its current footprint of 18,500 square feet in size. The site's western lot (tax lot 1900) is zoned C-3 (General Commercial). The site's eastern lot (tax lot 1800) is dual zoned with the northern portion of the lot approximately 100-feet in depth being zoned C-3 and the southerly balance of the lot being zoned R-4 (Multiple-Family Residential). The southern portion of Tax Lot 1800, which extends southward to SE Washington Street, provides the subject site two street frontages (SE 1<sup>st</sup> Street and SE Washington Street). The commercial building and a small portion of the associated parking area is located on the C-3 zoned portions of the two tax lots while the majority of the site's existing parking is located on the R-4 zoned portion of the site south of the existing commercial building.

The majority of the existing on-site parking is provided access by the main driveway located along the western edge of the building and leading southward from SE 1<sup>st</sup> Street to a parking area located behind the building. The developed portion of the site is virtually flat with the undeveloped balance of the property sloping somewhat steeply to the south toward SE Washington Street; the only improvement on this southern portion of the property is a blacktopped driveway connecting the site's parking area to SE Washington Street.

The western edge of the site is bounded by the Willamette and Pacific Railroad right-of-way. Properties located east of the commercial portion of the site are zoned C-3 and are developed with single-family residences. All adjacent properties located south of the site are zoned R-4 (Multiple-Family Residential) and are developed with single-family residences. North of the site, across SE 1<sup>st</sup> Street, is located the McMinnville Public Transit Mall on land zoned C-3. Located one block north of this site is the southern boundary of the "No Required Parking" portion of McMinnville's downtown. The C-3 zoned portion of the

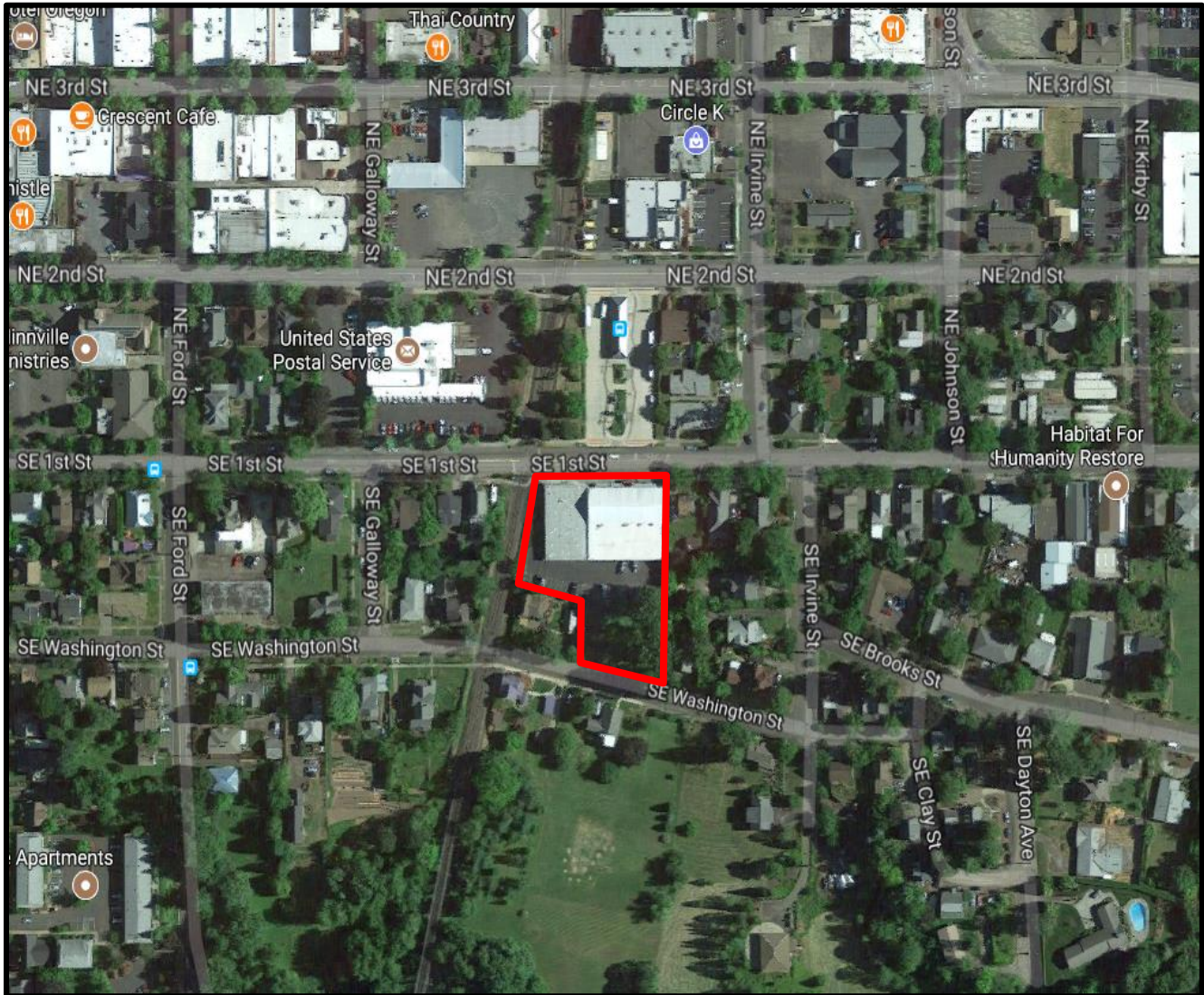
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### *Attachments:*

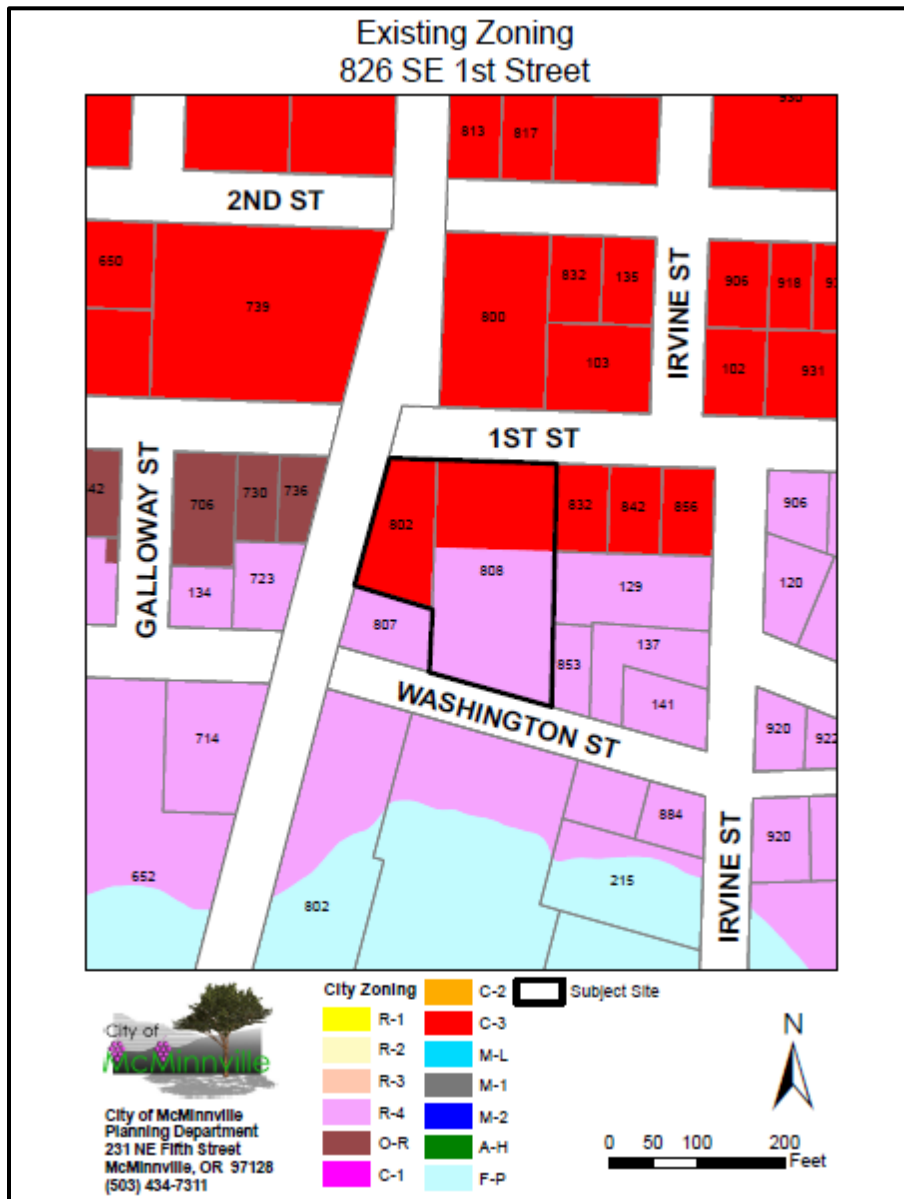
*Attachment A -- Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for the Approval of a Variance request to reduce the required number of on-site parking spaces at 826 SE 1<sup>st</sup> Street.*

site is designated as Commercial and the R-4 zoned portion of the site is designated as Residential on the City’s Comprehensive Plan Map (1980).

The subject site’s location and the site’s zoning are identified in the graphics below:



*Attachments:*  
Attachment A -- Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for the Approval of a Variance request to reduce the required number of on-site parking spaces at 826 SE 1<sup>st</sup> Street.



The subject site has a long history of being occupied with a variety of uses over the decades including, as noted in the applicant’s submitted narrative, that the building was historically used for “50% store and 50% warehouse according to Yamhill County Tax Assessor records.” The applicant’s narrative indicates that the building was recently purchased in 2016 and the current owner desires to remodel the interior of the building to accommodate a mix of artisan craft spaces, retail food and beverage, tasting rooms, salon space and other similarly complementary and compatible uses. The applicant indicates that there are currently 13 distinct spaces within the building that range in use from light industrial to retail; the light industrial use noted by the applicant is the Vinum Ferus Wine and Iron studio winery which creates some of the metal based shelves and tables displayed and utilized in their retail wine tasting venue at this location.

*Attachments:*

*Attachment A -- Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for the Approval of a Variance request to reduce the required number of on-site parking spaces at 826 SE 1st Street.*

Parking

When the uses located within a building change, the number of required on-site parking spaces needed to adequately support those uses also changes. Chapter 17.60 (Off-street Parking and Loading) of the McMinnville zoning ordinance provides standards for numerous types of uses and it is those standards that were utilized by the applicant to generate their on-site parking need. However, due to the multitude of proposed uses in this building, identifying the exact number of on-site parking spaces required was complicated. McMinnville’s parking chapter in its zoning ordinance is dated and not all of the current land uses proposed mimic the land uses identified in the parking land use table. The applicant first identified the need for 105 on-site vehicle parking spaces as indicated in their application. However, that number was modified by the applicant to 103 on-site parking spaces during the application review per the table below. And finally, after some dialogue, the applicant and city staff have identified the need for 106 on-site parking spaces.

Code ft/stall	est. sq ft	stalls req.		
100 or 1 per 4 seat	5,000	50	Restaurant max required compared to seats	17.16.060.C.9
1/emp 2/chr	2,000	18	Salon (6 emp, 6 chairs)	17.16.060.C.4
250	5,000	20	Retail	17.16.060.C.18
400	4,500	11	Creative space (Service repair)	17.16.060.C.20
300	1,000	3	Office	17.16.060.C.17
2,000	1,000	1	Warehouse	17.16.060.D.2
	<b>18,500</b>	<b>103</b>		

Through a review of this information with the applicant, it was clarified that the warehouse use (which, although a historical use in the building is not a permitted use in the C-3 zone) is actually an area for the manufacturing/compounding of products used by the Vinum Ferus Wine and Iron studio winery and commercial manufacturing is a permitted use in the C-3 zone as a subservient use to the main use of the business if it occupies less than 50 percent of their leased space (Section 17.33.010(55) of the zoning ordinance). Subsequently the parking calculation for the warehouse use noted above was recalculated as general retail space increasing the parking need for this particular tenant space from 1 parking space to 4 parking spaces. This increased the applicant’s estimated parking need to 106 parking spaces rather than the 105 parking spaces they originally anticipated being needed to meet their future needs in a manner compliant with code requirements. The applicant has provided an email (Decision Document Attachment 3) updating this figure from their original application request. This email also modified the number of existing parking spaces that will remain on the site which is explained below.

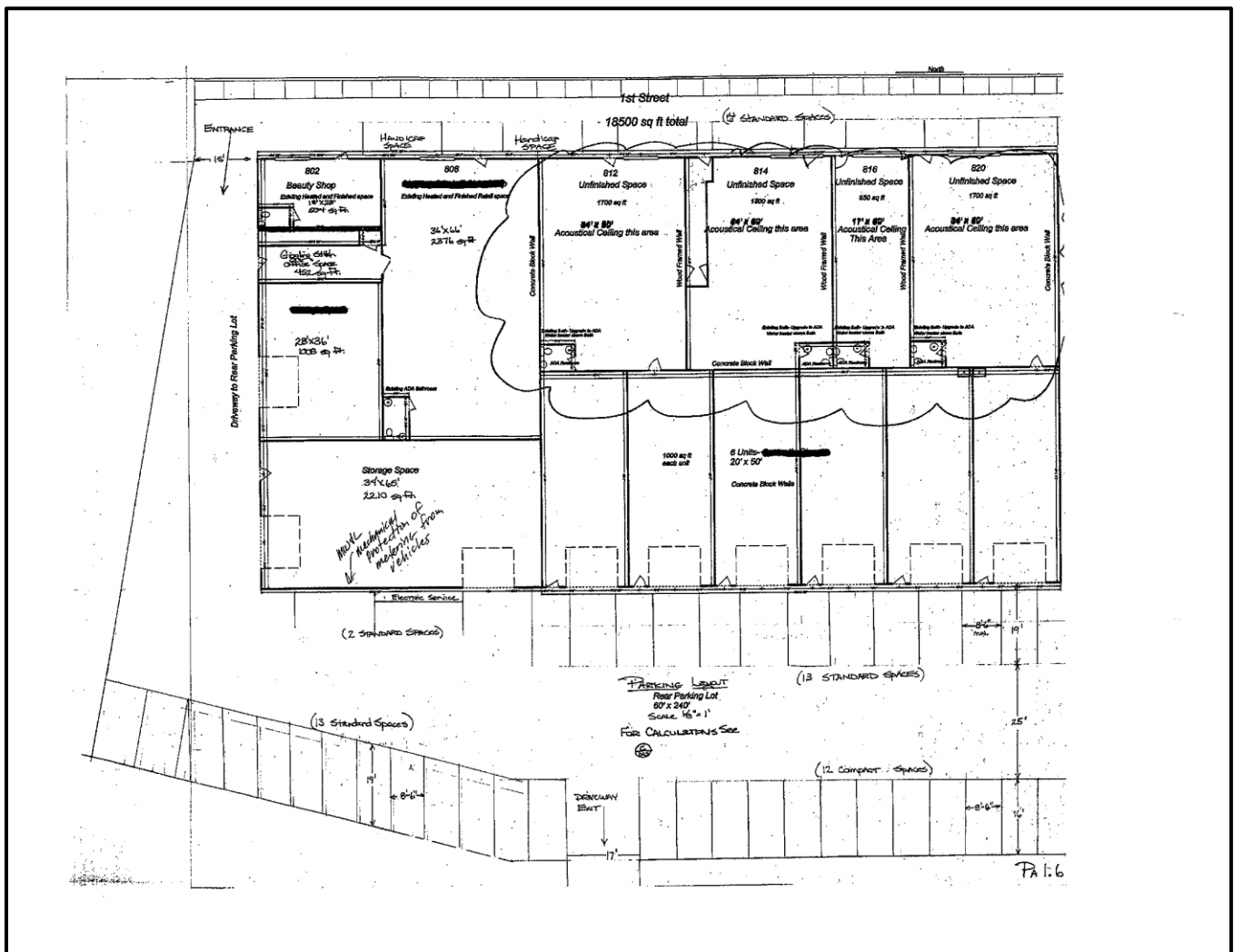
*Attachments:*

*Attachment A -- Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for the Approval of a Variance request to reduce the required number of on-site parking spaces at 826 SE 1<sup>st</sup> Street.*

Existing Parking

Just like the calculation of needed on-site parking spaces per the current parking code, the calculation of on-site parking spaces that meet the current code requirement was complicated due to the dichotomy of historic land uses that pre-date the development code and current code requirements. The overall amount of on-site parking spaces that will be retained reduced from 42 to 32 after staff review for current code requirements.

The applicant originally provided a number of exhibits as part of their application submittal to outline existing parking conditions and proposed new opportunities. One of the exhibits is a site plan showing the location and number of existing on-site parking stalls. A copy of that graphic is included as part of Attachment 1 of the Decision Document and has been provided below for the convenience of the Commission.

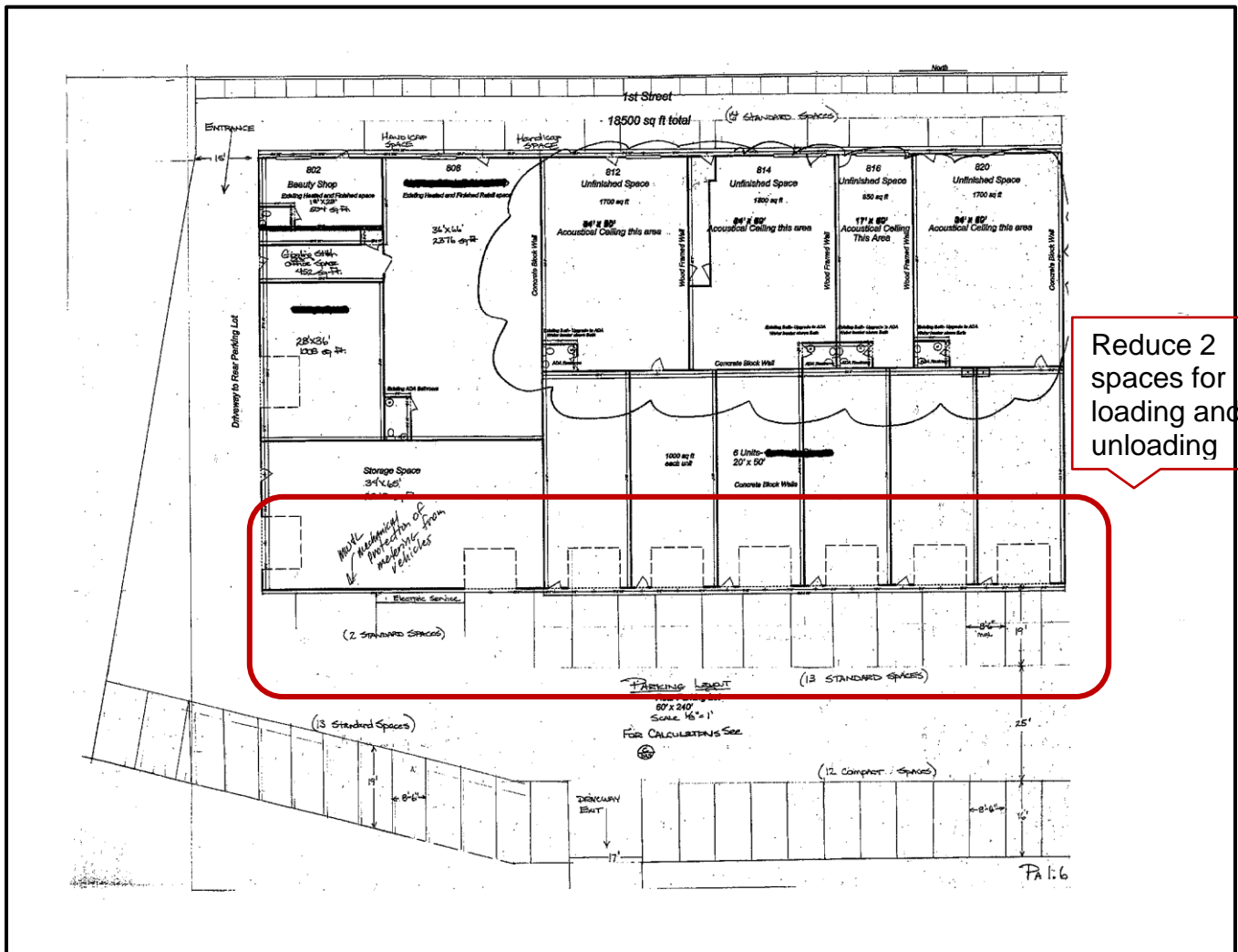


As can be seen on the site plan, the applicant identifies 13 standard sized stalls and 12 compact sized stalls located along the southernmost edge of the developed portion of the site separated by a driveway that extends southward to SE Washington Street. The site plan also indicates the existence of 15 standard spaces located along the back (south) edge of the building. It appears that six of these

Attachments:

Attachment A -- Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for the Approval of a Variance request to reduce the required number of on-site parking spaces at 826 SE 1<sup>st</sup> Street.

spaces are located directly in front of six of the seven roll-up bay doors located on the back of the building. In Attachment 3 of the Decision Document, the applicant has clarified that two of the existing parking stalls are located in front of vehicle bay doors that are intended to remain functional for loading and unloading purposes. Since dedicated parking stalls cannot be located so as to block the use of functioning vehicle bay doors, these two parking spaces will be eliminated from the count of available parking spaces for the site. The balance of the vehicle bay doors will no longer be used for vehicle access and will become architectural features of the building and for the uses that occupy those attached spaces. Parking stalls located in front of these bay doors shall remain. This adjustment results in the loss of two of the existing parking stalls from future use.



An additional six parallel parking stalls are located along the length of the front (north) side of the building located adjacent to the SE 1<sup>st</sup> Street sidewalk. All six of these parking stalls meet the dimensional requirements for compact parking stalls. However, two of the spaces are currently signed for handicapped parking and do not meet the dimensional width requirement for such use.

It is important to recall that the applicant’s request for approval of a parking variance invites a review of existing site parking. In that analysis, it is staff’s obligation to identify situations that either do not meet current codes or that are potential safety hazards. On this site, the two handicapped stalls located adjacent to the public sidewalk along the front of the building do not meet any dimensional requirement for such stalls. Additionally, and as noted by comments provided by the Engineering Department, all

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six parking stalls have a history of vehicles parked there encroaching into the public right-of-way and impeding portions of the sidewalk and pedestrian accessways into the businesses fronting SE 1<sup>st</sup> Street. The number of driveways and total width of driveways along the building frontage do not meet current City standards which, on this site, would allow one driveway on the western parcel and two driveways for the eastern parcel (Ordinance 4571, Decision Document Attachment 4). The western parcel currently contains three driveways; the westernmost driveway provides access to the site's parking area with the other two providing access to the two non-compliant handicapped parking stalls as shown in the graphic below:

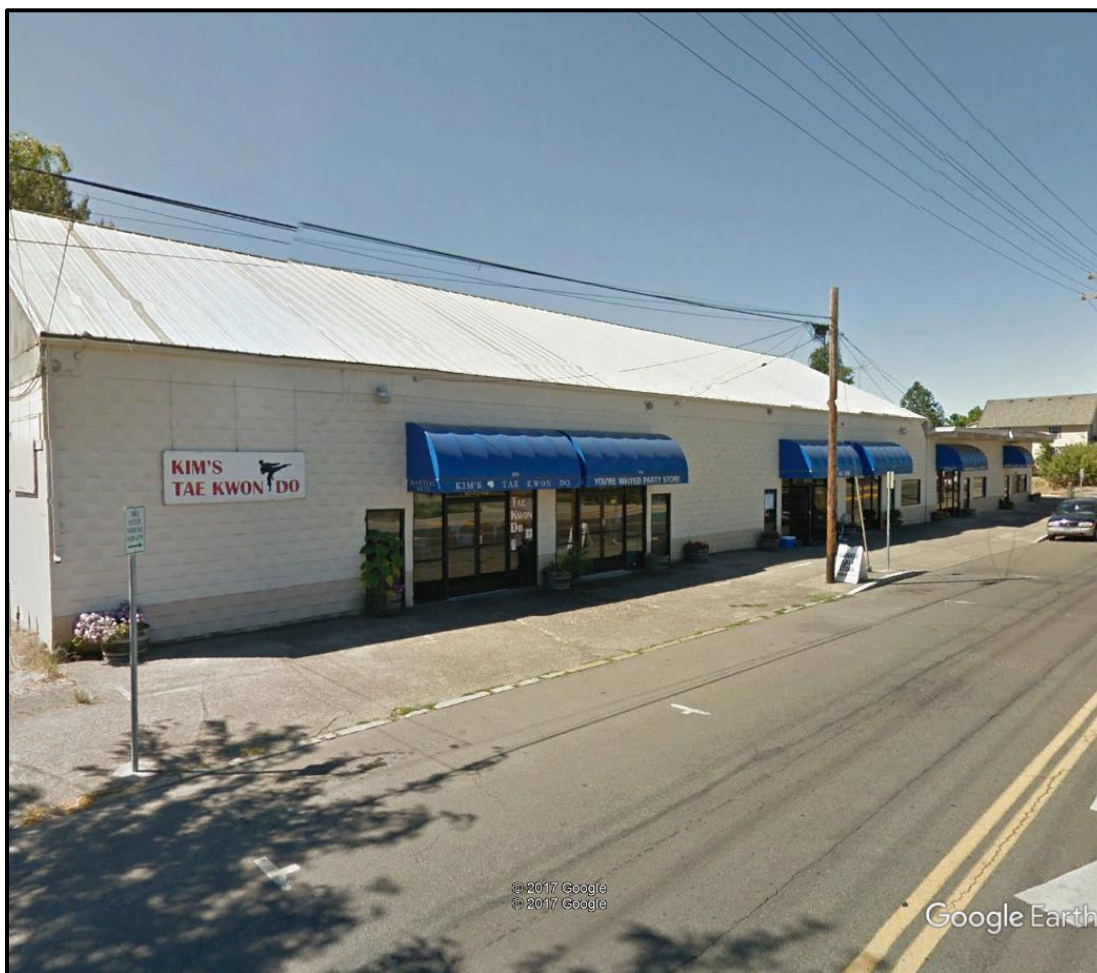


The eastern parcel is allowed two commercial driveways by City standards. The graphic below shows that there are two driveways that, again, provide access only to the parking spaces located parallel and adjacent to the public sidewalk; the two driveways are located in front of the blue double-awnings on the building frontage. Staff recommends the elimination of these six parking stalls and driveways from the frontage of this site as a condition of approval should this variance request be approved.

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**Attachments:**

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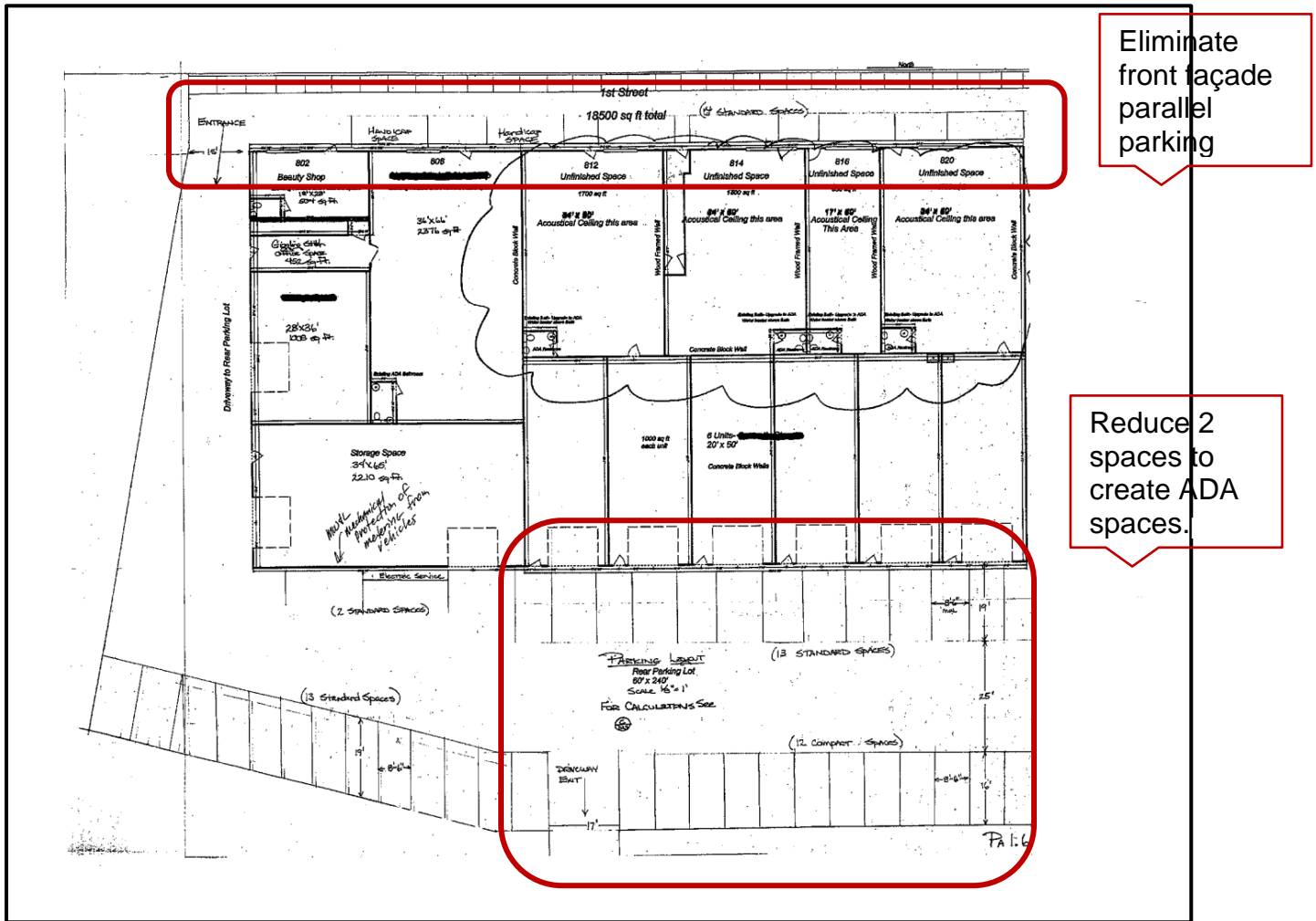
In combination with the reduction of the two parking stalls located in front of the vehicle bay door access that is to remain along the back of the building, the total number of parking stalls eliminated from use at this site is eight. However, as on-site van accessible handicapped parking stalls must be made available, the two required van accessible spaces eliminated from the front of the building along SE 1<sup>st</sup> Street will be relocated to the main parking area of the site. As this type of parking stall is wider than a standard vehicle parking stall, it will result in the loss of two additional non-handicapped parking stalls. This adjustment results in the total number of usable parking stalls to remain on this site being adjusted to 32 which is 10 fewer parking stalls than the 42 stalls referenced in the applicant's variance request. Attachment 3 of the Decision Document provides the applicant's amended request reflecting these figures.

A graphic depicting these modifications is provided below for your reference.

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*Attachments:*

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Eliminate front façade parallel parking

Reduce 2 spaces to create ADA spaces.

With elimination of the six parking stalls located along the building’s frontage, in addition to the elimination of four parking stalls from the sites’ parking lot, there would remain a total of 32 parking stalls on this site to serve employees and customers. Attachment 3 of the Decision Document provides the applicant’s amended request reflecting this reduction of existing on-site parking stalls from 42 to the actual resultant number of code compliant on-site parking stalls to 32.

As for opportunities to create additional on-site parking stalls, the applicant’s narrative states that it is virtually impossible to provide additional parking on this site given the steep slope that exists to the immediate south of the existing parking area; the existing flat parking area is currently supported by poured concrete retaining wall which was established decades ago to create the site’s level parking lot. The site’s dual zoned property and topographical features make the ability to secure additional on-site parking unreasonable. It is not physically possible to provide additional on-site parking at this location without extending the parking lot southward by way of an engineered cut and, potential, stabilization of the downslope bank which would push the parking area further into the R-4 zoned portion of the site. A stand-alone parking lot is not an allowed use in the R-4 Zone.

This property is unique constrained. It was originally built as a mixed-use building for warehousing and retail purposes as indicated by historic records, prior to the City’s Zoning Ordinance being enacted. The property was zoned to C-3 and R-4, neither of which allow warehousing as a land-use. And the

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site is topographically challenged. Thus in order to move forward with utilizing the property for its current intended use as a C-3 property, the property owner either needs to keep a significant portion of the property vacant, or request a parking variance. The granting of the requested variance is to recognize this site's and its building's history and evolution which is not unlike other buildings within and near McMinnville's downtown, and particularly those within the "No Required Parking" district which begins only one block to the north.

The property owner is interested in moving forward with a mixed-use, small tenant mix of food, arts and crafts, service providers and retail, similar to the downtown core. Given its proximity to the downtown core, the property owner feels that this is a complimentary effort.

To help address off-site parking concerns, the applicant also provided two graphics from Rick Williams Consulting as part of their application submittal which show that available on-street parking both in front of and in the nearby vicinity of the subject site is below a 55% utilization rate during both Thursday peak hour and Saturday peak hour usage; Rick Williams Consulting has been contracted by the McMinnville Urban Renewal Agency to conduct a detailed downtown parking study to determine how downtown parking capacity is utilized and where there may be opportunities for additional parking efficiencies. While information provided by the applicant in this regard is informative, reliance upon on-street parking is not available as justification for granting the variance as those spaces belong to the public and cannot be allocated for specific private use. It is none-the-less instructive given the increasingly encouraged pedestrian orientation of the downtown area.

The use of the interior space of this building will continue to evolve as the building further transitions to incorporate the desired mix of artisan craft spaces, retail food and beverage, tasting rooms and other complimentary and compatible uses previously described by the applicant. By not granting the variance, the owner would be limited to only filling the building with the intended uses that could be supported by the 32 valid parking stalls. When that limit is reached, the balance of the building would need to remain vacant as there is no more on-site parking available to support additional uses. This is not a good option for either the property owner or the city as it encourages underutilization of built commercial space and is a disincentive to additional potential local job creation.

This parking variance request provides an opportunity for the property owner to fully utilize this building with uses that would further enhance and expand the McMinnville's growing and vital downtown. If approved, staff suggests the adoptions of conditions of approval requiring the elimination of the six parking spaces located along the front of the building as well as the elimination of the two parking stalls currently located in front of the vehicle bay doors at the rear of the building that are intended to continue to serve loading and unloading access needs and the elimination of two additional spaces in the parking area in order to accommodate the required handicapped parking stalls. In addition, it is recommended that the applicant also be required to provide a designated handicapped accessible route to both the north and south facing businesses that is acceptable to the building department.

### **Discussion:**

The Planning Commission's responsibility regarding this type of land use request is to conduct a public hearing, consider all testimony and, at its conclusion, render a decision to approve, approve with conditions, or deny the proposed variance request.

#### *Section 17.74.100*

#### *Variance – Planning Commission Authority:*

The Planning Commission may authorize variances from the requirements of the zoning ordinance where it can be shown that, due to unusual circumstances related to a specific piece of property, strict

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#### *Attachments:*

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application of this title would cause an undue or unnecessary hardship. However, no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of the zoning ordinance.

## Variance Review Criteria

### Section 17.74.110

A variance may be granted only in the event that the following circumstances substantially exist. [Staff observations are provided at each criterion provided in Section 17.74.110.]

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;

Observation: This site was originally developed in 1949 and expanded in 1978 and has not changed in any substantive way since that time. What changed over the decades were parking needs and desirable commercial uses within close proximity to the historic portion of McMinnville’s downtown. The existing building and parking area currently occupy the entirety of the flat portion of the site north of the retaining wall. The applicant has explored alternatives to requesting variance approval (such as extending parking further into the R-4 zoned portion of the site to the south) but has found none to be viable. Faced with either underutilization of the building or utilization of a sizable portion of the building with a use that has a very low commercial parking requirement (such as using the building as a retail store handling bulky merchandise or household furniture which has a 1 space per 500 square feet parking ratio), the applicant has requested that the Planning Commission recognize the unusual predicament currently defining the commercial use of this site and has requested recognition of the site’s built and operational history and is asking for relief from parking requirements that cannot be met. Based upon these circumstances, staff finds that this criterion is satisfied.

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

Observation: The variance is necessary for the preservation of the property right to pursue full utilization of this existing commercial building with uses more appropriate for the downtown area than those realized in 1949 and 1978 when the building was first constructed and expanded. The main purpose in requiring the provision of on-site parking is for each development to have the ability to accommodate the anticipated parking needs of purveyors and customers. In this case, disallowing the variance request would be harmful to the property owner in that its denial would be to withhold a legally viable remedy to a decades old problem that seems to otherwise have no reasonably viable solution. The inability to secure creative re-use of the full building or to relegate the building to a use such as bulky retail sales would also detract from its future value as a place of diverse craft employment and service to the greater community as desired by the applicant. No public need would be served by denying this variance request and no other remedy knowingly exists to afford the owner the ability to seek the full range of commercial tenants available to other similarly zoned commercial sites; especially to those properties located in the “No Required Parking” portion of the downtown located only one block to the north. Therefore, staff finds that this criterion has been satisfied.

- C. The variance would not be materially detrimental to the purpose of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy;

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### Attachments:

Attachment A -- Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for the Approval of a Variance request to reduce the required number of on-site parking spaces at 826 SE 1<sup>st</sup> Street.

**Observation:** Approval of this variance request would not be materially detrimental to the site, the surrounding neighborhood or the broader community in that this situation has existed in its present form since 1978. Essentially, the variance request is a request to be afforded with the opportunity to pursue a range of commercial uses for this building enjoyed by other nearby commercial uses. A wide mix of uses have existed within this building over the decades and those uses have relied on the existing street network for related vehicle and pedestrian movement through the downtown and nearby neighborhoods. Approval of this variance request will simply provide a legally compliant framework within which new commercial uses can occupy the same building with the added benefit that the existing problematic parking situations at this site will be remedied. Therefore, staff contends that criterion has been satisfied.

D. The variance requested is the minimum variance which would alleviate the hardship.

**Observation:** The variance requested is the minimum possible that would alleviate the hardship while providing code-compliant on-site vehicle parking opportunities. As there is no room on this site to expand parking availability, and no supportable opportunity to extend additional commercial parking use further into the adjacent R-4 (Multiple-Family Residential) zoned neighborhood to the south, the requested variance is the minimum that could be requested in order to allow continued economic viability to the site and existing building. Additionally, as noted by the applicant, employee parking can be encouraged to occur off-site without detriment to the surrounding neighborhood as indicated by relevant portions of the parking study recently initiated by the McMinnville Urban Renewal Agency that is currently underway. Therefore, staff contends that this criterion has been satisfied.

**Testimony Received:**

- Decision Document Attachment 2 – December 4, 2017 Letter from Fred and Susan Freeman received December 5, 2017. [Also submitted with the letter was SIM card containing 338 photographs of their home (located at 807 SE Washington Street) including photographs of interior and exterior home improvement projects, landscaping, plant names, area wildlife, a beach cottage and scenes of the Oregon coast. These digital photographs are on file with the Planning Department.]

***Summary of Public Written Testimony Comments:***

The concerns are summarized below and can be reviewed in their original entirety by review of the attachments to this staff report. No comments were provided by the Engineering Department addressing the issues outlined below.

**SE Washington Street is a dead end street and there are safety concerns:**

Summary – Has a study been done to consider the additional traffic and parking impacts along SE Washington Street if variance request is approved?

Response – A Traffic Impact Analysis for this variance request has not been conducted or provided. This request for a parking variance, if approved, would allow the existing commercial building to be fully occupied with uses more similar to those found throughout the downtown. A downtown parking study commissioned by the McMinnville Urban Renewal Agency is currently underway to study downtown parking availability and usage and to identify, in part, potential opportunities for increased efficiencies in downtown parking. Some of the data gathered in this study indicates additional on-street parking capacity both in front of and on the nearby blocks around the north side of the subject site. Additionally, this request has been reviewed by McMinnville's service and utility providers including the McMinnville Fire

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Department, Police Department, and Engineering Department. There were no concerns noted by any of those reviewing agencies and departments relative to potential impacts or safety concerns to SE Washington Street. The Engineering Department did provide comments relative to the parking stalls and curb cuts located in front of the building located along SE 1<sup>st</sup> Street which are addressed through the recommended conditions of approval.

Noise and personal concerns regarding changes caused by traffic patterns and types of nearby business.

Summary – Currently, individuals in their vehicles honk their horns, raise their voices, and play loud music near our home and it is detrimental to our quality of life and privacy. Additionally, vehicles have damaged their adjoining fence.

Response – These concerns seem to be more centered on individual behaviors rather than being a result of the types of businesses that may occupy the building located on the subject site.

Additional traffic and parking along Washington Street. The intersection of Irvine and Washington cannot sustain additional traffic.

Summary – Additional traffic and parking along Washington Street from parking overflow of the commercial site would change the residential nature of the area. Also, the intersection of Irvine and Washington cannot sustain additional traffic and is dangerous. Concern regarding the wildlife utilizing the undeveloped land located south of Washington Street was also noted.

Response – The City Engineer reviewed this proposal and did not provide comment regarding traffic volume or safety concerns with the intersection of SE Irvine and SE Washington Streets. However, both of these streets are designated in McMinnville’s Transportation System Plan as local residential streets with a traffic carrying capacity of 1,200 daily vehicle trips. Southeast Washington Street dead ends at the railroad right-of-way less than 500 feet west of this intersection. Vehicle trips along this distance are fewer than if SW Washington Street continued westerly to intersect with other local streets as part of a broader street grid.

While it could be more convenient for customers and employees of future tenants of this building to utilize on-street parking located north of, and on the same elevation as, the subject commercial building, all on-street parking opportunities are publicly held and available for use by the public whether they are located in commercial or residential areas.

Potential resultant impacts on the wildlife utilizing the Multiple-Family and Floodplain zoned lands located across from the Freeman residence and south of Washington Street relative to occupancy changes within the sites’ commercial building located on SE 1<sup>st</sup> Street have not been studied.

Storm drainage from the site onto Washington Street. Is there an environmental spill study available for this commercial site?

Summary – Storm water runoff down the southern portion of the site makes the lower portion a “virtual swamp” during the rainy season and creates a lake along Washington Street. The City removed a storm drain from Washington Street which exacerbated this problem. Also, has an environmental spill study been done for this site when or if a business on that site has a spill?

Response - The applicant is proposing no exterior modification to the building or physical improvement to the balance of the site, with the exception of restriping of a small portion of the rear parking area. There is no anticipated increase of storm water flow to SW Washington Street from approval of this variance request.

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An accidental spill prevention plan or a spill prevention control and countermeasure plan is not a local requirement for consideration of a parking variance request. As a practical and safety measure, most businesses do have MSDS (Material Safety Data Sheets) available in an easily accessible location to provide health, safety, disposal and emergency countermeasure information for each substance of concern utilized in the workplace.

An additional resource addressing environmental safety concerns is the Oregon Department of Environmental Quality (DEQ). The Oregon DEQ maintains an Environmental Cleanup Site Information Database of known and potential environmental hazard cleanup sites on their website (<http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/ecsi.aspx>). Staff conducted a search of this database and the subject site was not listed as either a known or potential environmental concern to the Oregon DEQ.

**Fiscal Impact:**

None.

**Commission Options:**

- 1) Close the public hearing and **APPROVE** the application, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the approval in the motion to approve.

**Recommendation/Suggested Motion:**

The Planning Department recommends that the Commission make the following motion to approve VR 1-17:

**THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL IN THE DECISION DOCUMENT FOR VR 1-17, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION APPROVES VR 1-17 SUBJECT TO THE FOLLOWING CONDITIONS.**

1. That prior to the issuance of any building permit(s), the applicant shall:
  - a. Eliminate the six parking spaces and the four eastern-most driveways currently located along the front of the building adjacent to SE 1<sup>st</sup> Street;
  - b. Eliminate two parking stalls currently located in front of the vehicle bay doors at the rear of the building that are intended to continue serving loading and unloading needs into the building;
  - c. Provide two handicapped accessible parking spaces in the parking area in order to accommodate the required handicapped parking needs as acceptable to the McMinnville Building Department; and,
  - d. Provide a designated handicap accessible route to both the north and south facing businesses that is acceptable to the McMinnville Building Department.

RP:sjs

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*Attachments:*

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**ATTACHMENT A**



**CITY OF MCMINNVILLE  
PLANNING DEPARTMENT**  
231 NE FIFTH STREET  
MCMINNVILLE, OR 97128

503-434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A VARIANCE FOR TO REDUCE THE REQUIRED NUMBER OF OFF-STREET PARKING SPACES ON A COMMERCIAL ZONED PROPERTY FROM THE STANDARD REQUIREMENT OF 105 PARKING SPACES TO 42 PARKING SPACES.**

**DOCKET:** VR 1-17 (Variance)

**REQUEST:** The applicant has requested 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 1<sup>st</sup> Street and is more specifically described as Tax Lots 1800 and 1900, Section 21CA, T. 4 S., R. 4 W., W.M.

**ZONING:** C-3 (General Commercial) and R-4 (Multiple-Family Residential)

**APPLICANT:** Kelly McDonald, on behalf of Tempe One, LLC

**STAFF:** Ron Pomeroy, Principal Planner

**DATE DEEMED COMPLETE:** November 6, 2017

**HEARINGS BODY:** McMinnville Planning Commission

**DATE & TIME:** December 21, 2017, 6:30 p.m. Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon

**COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, Public Works, Wastewater Services, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Their comments are provided in this exhibit.

Attachments:

Attachment 1 – Application and Attachments

Attachment 2 - December 4, 2017 Letter from Fred and Susan Freeman received December 5, 2017

Attachment 3 – December 8, 2017 Email from the Applicant received December 8, 2017

Attachment 4 – Ordinance 4571

**DECISION**

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the variance request (VR 1-17) subject to conditions.

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**DECISION: APPROVAL**  
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Planning Commission: \_\_\_\_\_  
Roger Hall, Chair of the McMinnville Planning Commission

Date: \_\_\_\_\_

Planning Department: \_\_\_\_\_  
Heather Richards, Planning Director

Date: \_\_\_\_\_

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- Attachment 3 – December 8, 2017 Email from the Applicant received December 8, 2017
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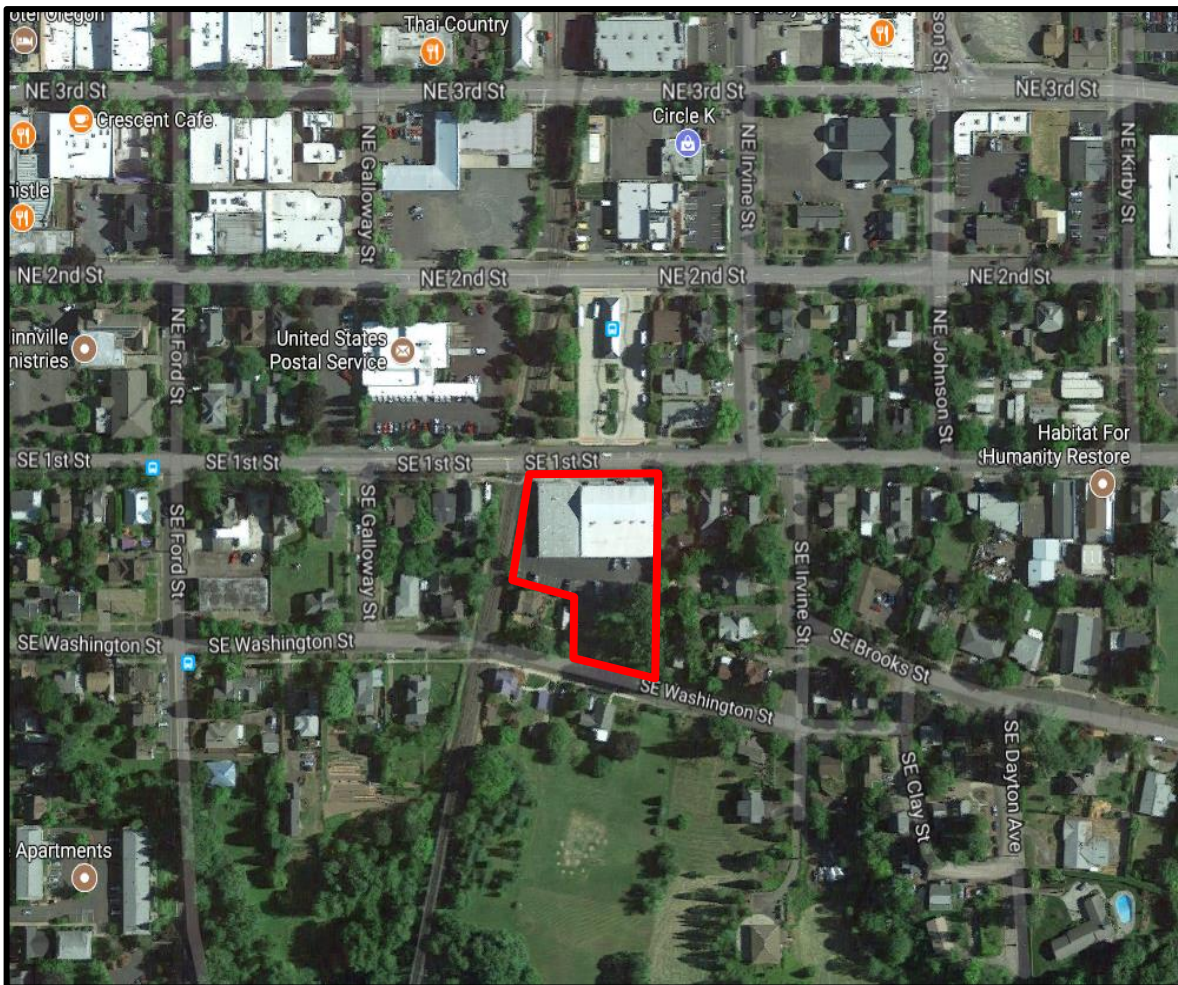
**APPLICATION SUMMARY:**

The applicant has requested a variance to reduce the required number of off-street parking spaces on a commercially zoned property from the standard requirement of 106 parking spaces to 32 parking spaces.

On December 8, 2017, the applicant submitted a revised description of the variance request (Attachment 3). The revision requests that the variance be approved to reduce the required number of off-street parking spaces on a commercially zoned property from the standard requirement of 106 parking spaces to 32 parking spaces. This adjustment is based on the use categories identified for this site and the square footage allocations for each use provided by the applicant totaling an on-site parking need for 106 parking spaces. And although there are currently 42 existing parking on-site spaces, after adjusting the number of existing parking stalls for reasons described by the applicant, the total number of code compliant on-site parking spaces would be 32 rather than the originally stated 42.

The subject site is located at 826 SE 1<sup>st</sup> Street and is more specifically described as Tax Lots 1800 and 1900, Section 21CA, T.4 S., R. 4 W., W.M. North of the site, across SE 1<sup>st</sup> Street, is located the McMinnville Public Transit Mall on land zoned C-3. Located one block north of this site is the southern boundary of the “No Required Parking” portion of McMinnville’s downtown.

The subject site location and the site’s zoning are identified in the graphics below:



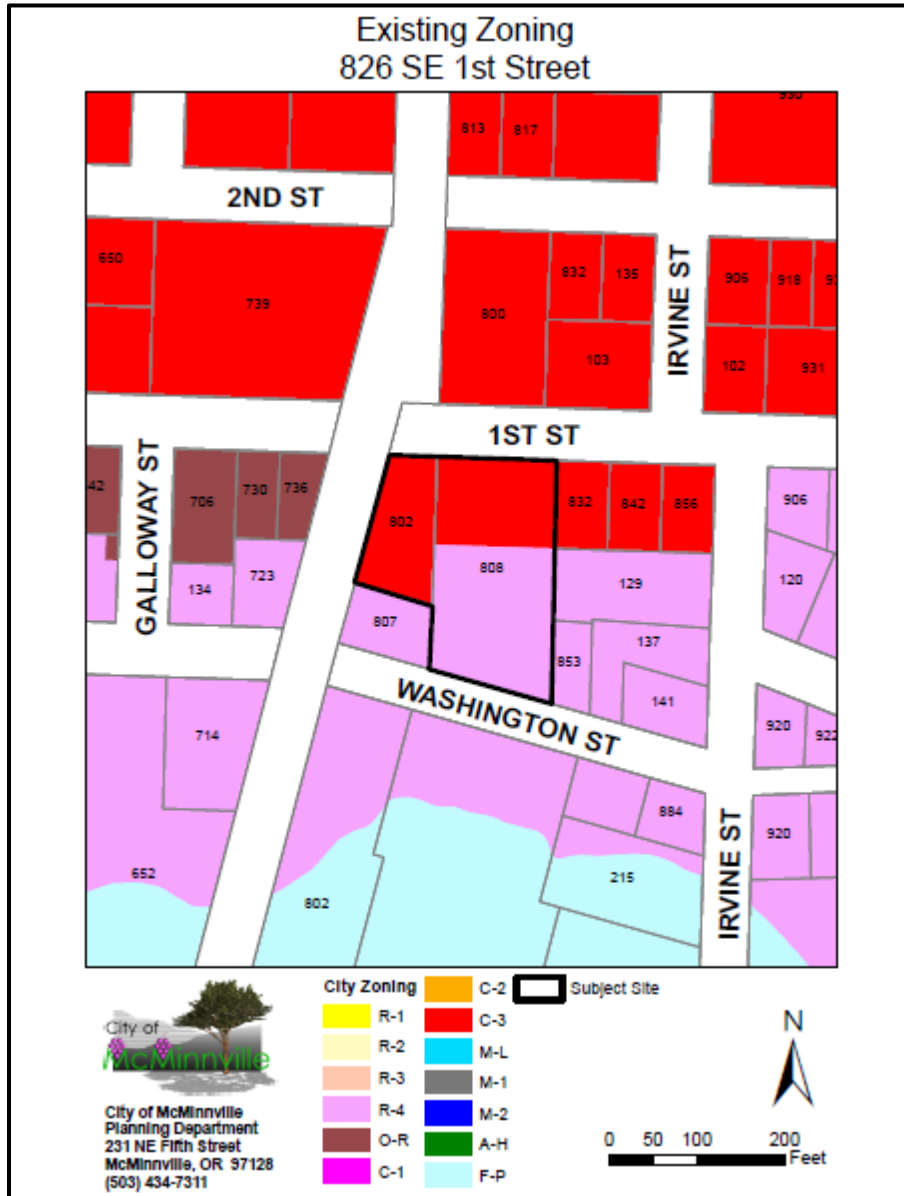
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Attachment 3 – December 8, 2017 Email from the Applicant received December 8, 2017

Attachment 4 – Ordinance 4571



The subject site is currently developed with an 18,500 square foot commercial building that was originally constructed as a 12,500 square foot building in 1949 as noted in the applicant’s narrative. The building was expanded in 1978 to its current footprint of 18,500 square feet in size. On-site parking availability on this site currently remains at 42 stalls as it has for decades.

The owner of this building intends to further evolve the use of the interior space of this building to incorporate a desired mix of artisan craft spaces, retail food and beverage, tasting rooms and other complimentary and compatible uses. As on-site parking deficiencies will not allow this transition to occur, the applicant is seeking a variance to those standards to allow the creative reuse of this building to move forward. In addition, it is proposed that currently non-conforming parking stalls will be eliminated and the required handicapped accessible parking stalls relocated to increase public safety and accessibility.

Attachments:

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- Attachment 2 - December 4, 2017 Letter from Fred and Susan Freeman received December 5, 2017
- Attachment 3 – December 8, 2017 Email from the Applicant received December 8, 2017
- Attachment 4 – Ordinance 4571

**CONDITIONS OF APPROVAL:**

1. That prior to the issuance of any building permit(s), the applicant shall:
  - a. Eliminate the six parking spaces and the four eastern-most driveways currently located along the front of the building adjacent to SE 1<sup>st</sup> Street;
  - b. Eliminate two parking stalls currently located in front of the vehicle bay doors at the rear of the building that are intended to continue serving loading and unloading needs into the building;
  - c. Provide two handicapped accessible parking spaces in the parking area in order to accommodate the required handicapped parking needs as acceptable to the McMinnville Building Department; and,
  - d. Provide a designated handicap accessible route to both the north and south facing businesses that is acceptable to the McMinnville Building Department.

**ATTACHMENTS:**

1. Application and Attachments
2. December 4, 2017 Letter from Fred and Susan Freeman received December 5, 2017
3. December 8, 2017 Email from the Applicant received December 8, 2017
4. Ordinance 4571

**COMMENTS:**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, Public Works, Wastewater Services, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments had been received:

- McMinnville Engineering Department:

We have reviewed proposed VR 1-17, and would note that over time there have been issues with the parking adjacent to the front of the building along 1<sup>st</sup> Street. At times, parked vehicles encroach into the right-of-way and impede portions of the sidewalk/pedestrian accessway. Also, I'm not certain if the width of those spaces meets parking City standards, or if the marked ADA spaces meet building code standards.

Further, the number of driveways, and total width of driveways, along the building frontage does not meet current standards.

It would seem that with redevelopment of the building, those non-conforming and troublesome parking spaces should be removed, and the driveways should be reconfigured to meet standards. Also, the variance submittal should reflect addressing the concerns with those parking spaces and driveways.

- McMinnville Water and Light:

MW&L has no comments on this application.

**Attachments:**

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Attachment 4 – Ordinance 4571

**FINDINGS OF FACT**

1. The applicant, Kelly McDonald, on behalf of Tempe One, LLC, has requested 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.
2. The subject site is located at 826 SE 1<sup>st</sup> Street and is more specifically described as Tax Lots 1800 and 1900, Section 21CA, T. 4 S., R. 4 W., W.M.
3. The subject property is currently zoned C-3 (General Commercial) and R-4 (Multiple-Family Residential), and is designated as Commercial and Residential, respectively, on the McMinnville Comprehensive Plan Map, 1980.
4. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, Public Works, Wastewater Services, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Their comments are provided in this exhibit.
5. Notice of the public hearing was provided by the City of McMinnville in the December 12, 2017 edition of the News-Register. One public comment was received prior to the public hearing (Attachment 2).
6. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.
7. The applicant has submitted a revision to the original variance request (Attachment 3).

**CONCLUSIONARY FINDINGS:****McMinnville's Comprehensive Plan:**

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

**GOAL IV 4: TO PROMOTE THE DOWNTOWN AS A CULTURAL, ADMINISTRATIVE, SERVICE, AND RETAIL CENTER OF McMINNVILLE.**

*Policy 36.00: The City of McMinnville shall encourage a land use pattern that:*

1. *Integrates residential, commercial, and governmental activities in and around the core of the city;*
2. *Provides expansion room for commercial establishments and allows dense residential development;*
3. *Provides efficient use of land for adequate parking areas;*
4. *Encourages vertical mixed commercial and residential uses; and,*
5. *Provides for a safe and convenient auto-pedestrian traffic circulation pattern.*

*Policy 38.00: The City of McMinnville shall encourage the renovation and rehabilitation of buildings in the downtown area, especially those of historical significance or unique design.*

Attachments:

Attachment 1 – Application and Attachments

Attachment 2 - December 4, 2017 Letter from Fred and Susan Freeman received December 5, 2017

Attachment 3 – December 8, 2017 Email from the Applicant received December 8, 2017

Attachment 4 – Ordinance 4571

Finding: Goal IV 4 and Policies 36.00 and 38.00 are satisfied in that the subject site is located within McMinnville's downtown area. The expansion room originally provided for this site has been since maximized with the building expansion that occurred in 1978 and by the provision of as much parking as could be accommodated through the construction of a retaining wall and the leveling the northern portion of the property. While vertical mixing of uses are permitted on the C-3 zoned portion of the site the applicant is not proposing such at this time. Although the site's parking opportunities are limited there still exists a safe and convenient auto-pedestrian circulation pattern within the area by way of a fully improved public street adjacent to the front of the building and on surrounding blocks. Further, the owner of the building is in the process of renovating the building to accommodate new uses that better complement the emerging commercial trends occurring elsewhere in the downtown area.

*Policy 44.00:* The City of McMinnville shall encourage, but not require, private businesses downtown to provide off-street parking and on-site traffic circulation for their employees and customers.

Finding: Policy 44.00 is satisfied in that this policy applies to the "downtown" and not specifically to only the downtown's reduced parking requirements areas that are located north of the subject site. Further, the "downtown" referred to in this policy is also not defined as being that area within either the National Historic District or the area affected by the adopted Downtown Design Standards and Guidelines (Chapter 17.59 of the McMinnville zoning ordinance), each of which have different boundaries. Rather, this site, being commercially developed and located directly across SE 1<sup>st</sup> Street from the McMinnville Public Transit Mall, is a part of the area generally and commonly known as downtown and to which this policy is applicable. In addition, regarding physical expansion opportunities, this site has provided as much on-site parking as can be accommodated given the site size and shape and the existing size of the decades old building.

#### Transportation System

*Policy 127.00:* The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.

*Policy 128.00:* The City of McMinnville shall continue to assist in the provision of parking spaces for the downtown area.

Finding: Policies 127.00 and 128.00 are satisfied in that the subject site has maximized its opportunity to provide onsite parking short of extending the parking area into the downslope portion of the site and further into an established R-4 (Multiple-Family Residential) zoned neighborhood. Additionally, the McMinnville Urban Renewal Agency has contracted to conduct a detailed downtown parking study to determine how downtown parking opportunities are utilized and where there may be opportunities for additional parking efficiencies.

**GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF MCMINNVILLE.**

*Policy 188.00:* The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

#### Attachments:

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Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed Staff Report and Decision Document prior to the McMinnville Planning Commission review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

### **McMinnville's Zoning Ordinance:**

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

#### Chapter 17.60 – Off-Street Parking and Loading

##### 17.60.060(C) Commercial land use category:

- 4. Barber shop and Beauty Parlor – One space per each employee plus two spaces per each barber or beauty chair.
- 9. Establishments for sale and consumption on the premises of beverages, food or refreshments. One space per 100 square feet of floor area or one per four seats, whichever is greater.
- 17. Professional Office (non-medical) – One space per 300 square feet of floor area.
- 18. Retail Store – One space per 250 square feet of floor area.
- 20. Service and Repair Shop – One space per 400 square feet.

Finding: Based on the use categories identified for this site and the square footage allocations provided by the applicant the total on-site parking need is for 106 spaces (Attachment 3). There are currently 42 existing parking on-site spaces. After adjusting the number of existing parking stalls as described by the applicant in Attachment 3, the total number of code compliant on-site parking spaces is 32 which precipitates the need for this variance request.

17.74.100 Variance-Planning Commission Authority. The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

Finding: Section 17.74.100 is satisfied in that the Planning Commission found that special and unusual circumstances related to this a fully developed site, as described in more detail below, authorize the variance.

17.74.110 Conditions for Granting Variance. A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;

Finding: This site was originally developed in 1949 and expanded in 1978 and has not changed in any substantive way since that time. What changed over the decades were parking needs and desirable

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commercial uses within close proximity to the historic portion of McMinnville's downtown. The existing building and parking area currently occupy the entirety of the flat portion of the site north of the retaining wall. The applicant has explored alternatives to requesting variance approval (such as extending parking further into the R-4 zoned portion of the site to the south) but has found none to be viable. Without requesting approval of this parking variance, the applicant would need to settle for a great under-occupancy utilization of the building in order to comply with current parking requirements. Alternatively, the applicant would need to employ a use that has a low commercial parking requirement, such as a retail store handling bulky merchandise or household furniture (which has a 1 space per 50 square feet parking ratio) that could occupy a large portion, but not all, of the space as it would require a minimum of 36 parking stalls to accommodate even this least intensive commercial parking use. Rather, the applicant has requested that the Planning Commission recognize the unusual predicament currently defining the commercial use of this site and has requested recognition of the site's history and is asking for relief from a standard that cannot realistically be met. Based upon these circumstances, the Planning Commission finds that this criterion is satisfied.

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

Finding: The variance is necessary for the preservation of the property right to pursue full utilization of this existing commercial building with uses more appropriate for the downtown area than those realized in 1949 and 1978 when the building was first constructed and then expanded. The main purpose in requiring the provision of onsite parking is for each development to have the ability to accommodate the anticipated parking needs of purveyors and customers. In this case, disallowing the variance request would be harmful to the property owner in that its denial would be to withhold a legally viable remedy to a decades old problem that seems to otherwise have no reasonably viable solution. The inability to secure creative re-use of the full building or to relegate the building to a use such as bulky retail sales would also detract from its future value as a place of diverse craft employment and service to the greater community as desired by the applicant. No public need would be served by denying this variance request and no other remedy knowingly exists to afford the owner the ability to seek the full range of commercial tenants available to other similarly zoned commercial sites; especially to those properties located in the "No Required Parking" portion of the downtown located only one block to the north. Therefore, the Planning Commission finds that this criterion has been satisfied.

- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

Finding: The applicant, by way of this variance request, is proposing to remedy a long standing, and somewhat unsafe, parking situation that has existed along the SE 1<sup>st</sup> Street frontage of this site for decades. Additionally, the applicant is proposing to ensure that all on-site parking is compliant with current codes and that there is a safe accessible route for handicapped mobility provided to both the commercial uses along the front and back of the building. These efforts are materially beneficial to the purposes of this title and within the vicinity within which this property is located. As the existing state of parking at this site is legally non-conforming, since they predate the current code requirements, it is this vehicle of the requested parking variance that allows the City to require their compliance as a condition of approval of this request. Therefore, the Planning Commission finds that this criterion has been satisfied.

- D. The variance requested is the minimum variance which would alleviate the hardship.

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Finding: The variance requested is the minimum possible that would alleviate the hardship while providing code-compliant on-site vehicle parking opportunities. As there is no room on this site to expand parking availability, and no supportable opportunity to extend additional commercial parking use further into the adjacent R-4 (Multiple-Family Residential) zoned neighborhood to the south, the requested variance is the minimum that could be requested in order to allow continued economic viability to the site and existing building. Additionally, as noted by the applicant, employee parking can be encouraged to occur off-site without detriment to the surrounding neighborhood as indicated by relevant portions of the parking study recently initiated by the McMinnville Urban Renewal Agency that is currently underway. Therefore, the Planning Commission finds that this criterion has been satisfied.

RP:sjs

Attachments:

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**Planning Department**

231 NE Fifth Street • McMinnville, OR 97128  
 (503) 434-7311 Office • (503) 474-4955 Fax  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**Office Use Only:**File No. VR 1-17 - AmendedDate Received 11-1-17Fee 990.00Receipt No. 17m0210Received by RP

## Zoning Variance Application - Amended

**Applicant Information**

**Applicant is:**  Property Owner  Contract Buyer  Option Holder  Agent  Other \_\_\_\_\_

Applicant Name Kelly McDonald Phone 503-209-9591

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
 (If different than above)

Address 845 NE 5th Street, STE200

City, State, Zip McMinnville, OR 97128

Contact Email kely@granarydistrict.com

**Property Owner Information**

Property Owner Name Tempe One, LLC Phone 503-720-5577  
 (If different than above)

Contact Name Ron Rubin Phone 503-720-5577

Address PO Box 91178

City, State, Zip Salt Lake City, UT 84109

Contact Email ronlrubin@me.com

**Site Location and Description**

(If metes and bounds description, indicate on separate sheet)

Property Address 802 - 826 Se 1st St, McMinnville, OR

Assessor Map No. R4 421CA01800 & 1900 Total Site Area 1.1 acres (47,784 sq ft)

Subdivision McPhillips Addition Block \_\_\_\_\_ Lot 4,5,6,7

Comprehensive Plan Designation Commercial & Residential Zoning Designation C3 and R4

Lot 1800 is zoned half C3 and half R4

Please indicate the type of variance requested:

- Lot Size Requirement \_\_\_\_\_ Reduction to \_\_\_\_\_
- Setback – Front, Rear, Side Requirement \_\_\_\_\_ Reduction to \_\_\_\_\_
- Other Parking

1. Describe the nature of the request in detail: See attached Narrative

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2. What exceptional or extraordinary circumstances apply to the property which do not apply generally to other property in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this ordinance, topography, or other circumstance over which the applicant has no control? \_\_\_\_\_

See attached Narrative

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3. What property right would be preserved by granting the variance? See attached Narrative

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4. What unnecessary hardship would be avoided by granting the variance? See attached Narrative

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5. Why won't this request be detrimental to the surrounding area? See attached Narrative

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6. Please explain how this would be the minimum variance necessary to alleviate the hardship? \_\_\_\_\_

See attached Narrative

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In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed buildings, dimensions, and adjacent street(s), distances from property lines, access, and any other information that would help substantiate or clarify your request.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

**I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.**

*Kelly McDonald*

Applicant's Signature

31 October 2017

Date

Property Owner's Signature

Date

6. Please explain how this would be the minimum variance necessary to alleviate the hardship? \_\_\_\_\_

~~Allowing the reduction for off street parking by one half of the current requirement is sufficient to allow for the continued rehabilitation and re-leasing of spaces more fitting to the local neighborhood based upon existing lot and building size. The owner will attempt to lease spaces to businesses which have alternating hours of operation, thereby reducing total demand. It is our belief that the entire 1st Street corridor area will eventually become the type of commercial transition area with pedestrian friendly uses such as is being attempted on this property and will not be required to conform with the Hwy 99 large box commercial standard that now exists.~~

In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed buildings, dimensions, and adjacent street(s), distances from property lines, access, and any other information that would help substantiate or clarify your request.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

**I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.**

DocuSigned by:  
  
\_\_\_\_\_  
Applicant's Signature

Oct-05-2017 | 7:24 AM PDT  
\_\_\_\_\_  
Date

DocuSigned by:  
  
\_\_\_\_\_  
Property Owner's Signature

Oct-05-2017 | 5:12 AM MDT  
\_\_\_\_\_  
Date

# SUBMITTED TO CITY OF McMinnville PLANNING DEPARTMENT

This is a request for approval of a variance to reduce the number of required off-street vehicle parking spaces for an existing commercial building from one hundred five (105) to forty-two (42) spaces).

Location: The subject property is at 814 SE 1st Street, in McMinnville, Oregon. It is a 18,500 square foot Commercial Building originally built in 1949 (12,500 sq ft) and subsequently expanded in 1978 (6,000 sq ft). It is located on the east side of the railroad tracks on the south side of first street in McMinnville, Oregon, and is more specifically described as Tax Lot R4421CA1800 & Tax Lot R4421CA1900

Zoning: C-3, General Commercial and R4 – Multifamily residential (lot 1800 is split zoned)

Applicant: Kelly McDonald on behalf of owner Ron Rubin.

## SUBJECT SITE

The subject Commercial Building occupies the site. To the North, across 1st Street, is the newly constructed Yamhill County Transit Center (zoned C3). To the east is a residence facing first street that is zoned C3. There are two additional lots to the east at the mid and southern ends also residential and zoned C3 and R4 respectively. The southern edge of the site is bordered by Washington Street with R4 Residential zoning. The SW corner of the site is zone R4 and has a residence. The western edge is bordered by the Portland and Western Railroad.

The subject site and all parcels facing 1st street are zoned C-3 (General Commercial). The comprehensive plan designation of the subject site, as well as that of the rest of the block, is a combination of Commercial and Residential. Total square footage of the existing commercial building is 18,500 sf. The requirement for parking for proposed mixed uses is as follows: ### x ### =

## NARRATIVE

The subject building was constructed in 1949 and expanded in 1971. Tax assessor records show that the building was historically used for "50% store and 50% warehouse". Over the years, more of the building was used for commercial/retail purposes as the area became more commercialized.

The applicant purchased the property in 2016 and is proposing to remodel the existing building for additional commercial/retail types of uses. In its current configuration there are 13 different units that range in uses from light industrial to retail. The intent of the owner is to create a mix of artisan craft spaces, retail food & beverage, tasting rooms and other complimentary and compatible uses.

This development is intended to provide commercial opportunities to business people and to boost the downtown McMinnville commercial vitality. Due to the physical characteristics of the site, it is virtually impossible to provide more than forty-two (42) proposed parking spaces. Therefore, the applicant is requesting approval of a variance allowing a reduction in the number of required vehicle parking spaces for this development from approximately one hundred five (105) to forty-two (42) parking spaces. The current parking study being conducted by the city of McMinnville supports extra capacity of off street parking in the immediate vicinity of the site. (see attachments). McMinnville's downtown reduced parking area falls just to the NW of the subject site and is reflective that in any city, it is an expectation that people routinely walk to their destination and not always rely on parking next to an established business. Our request is not for a zero requirement of off street but a reduction in off street given the proximity to the downtown core commercial area.

### FINDINGS OF FACT

1. The applicant is requesting approval of a variance to reduce the number of required off-street vehicle parking spaces for a proposed commercial building (from one hundred five (105) to forty-two (42) parking spaces).
2. The site is located at 814 NE 1st Street, and is more specifically described as Tax Lot R4421CA1800 & Tax Lot R4421CA1900.
3. The subject property is currently zoned C-3 (General Commercial) and R4 Multi-Family Residential, and is designated as Commercial and Residential on the McMinnville Comprehensive Plan Map.
4. Sanitary sewer and municipal water and power are all available to the site.
5. The provisions of the McMinnville Zoning Ordinance (No. 3380) applicable to this request are as follows:

### GENERAL PROVISIONS

"17.03.020 Purpose. The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare."

#### Off-Street Parking and Loading:

17. 60. 060(C)(4) Barber shop and beauty parlor
17. 60. 060(C)(7) Dance hall, skating rink, pool or billiard parlor, and similar commercial recreational uses without fixed seating
17. 60. 060(C)(9) Establishments for sale and consumption on the premises of beverages, food, or refreshments
17. 60. 060(C)(17) Professional office (non-medical or dental)



17. 60. 060(C)(18) Retail store, except as otherwise specified in this section

17. 60.100 Reduced requirements for certain area. In the area bounded by Adams Street, Ford Street, Fourth Street, and Seventh Street, required off-street parking spaces for commercial establishments may be one-half of the number stated for the particular use in Section 17. 60. 060

Variance Criteria:

17. 74.110 (Circumstances/or granting a variance) "A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property, which do not apply generally, to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;
- C. The variance would not be materially detrimental to the purpose of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy;
- D. The variance requested is the minimum variance, which would alleviate the hardship.

#### CONCLUSIONARY JUSTIFICATIONS

1. Section 17.03.020 Purpose:

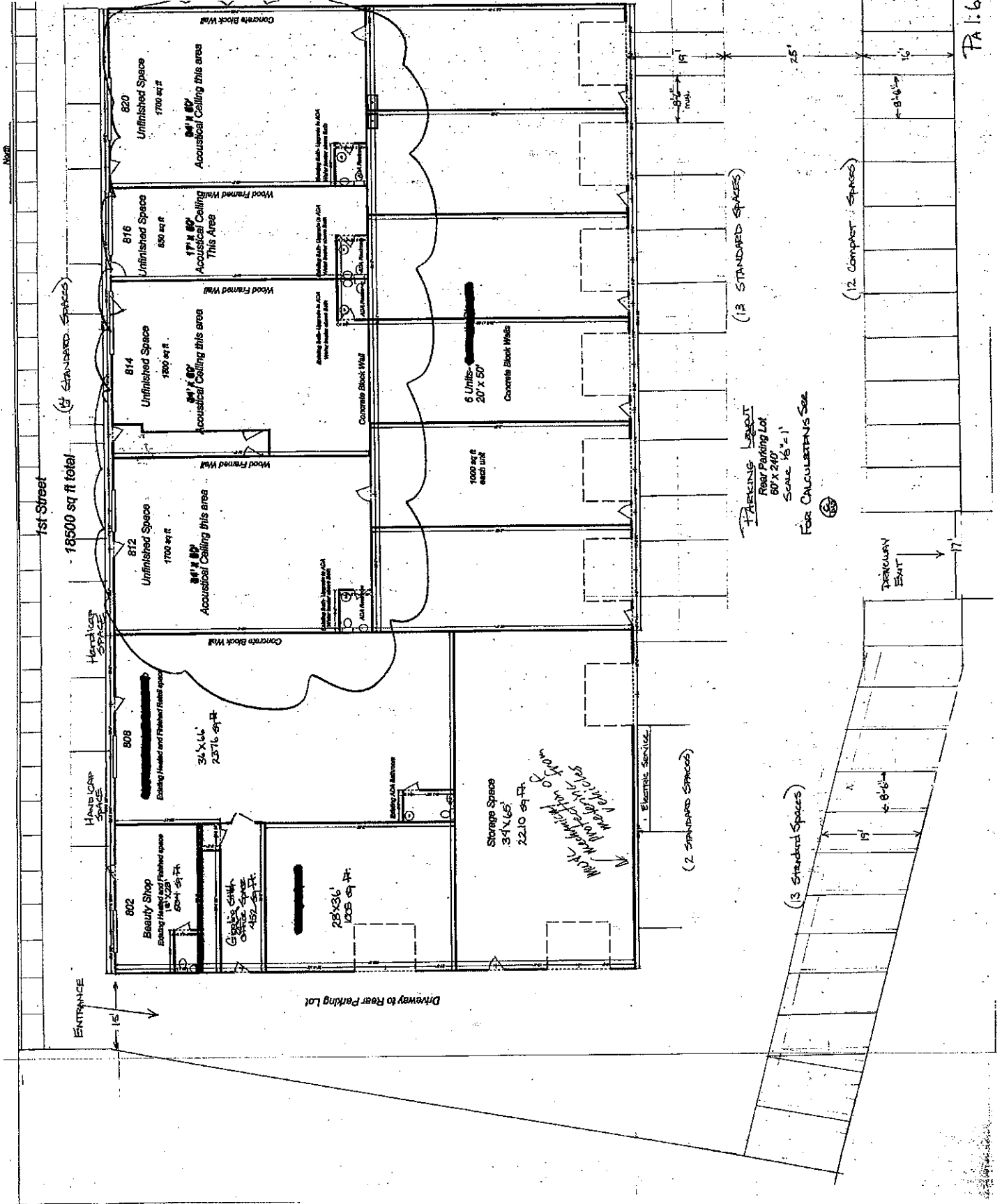
The request satisfies this requirement in that the commercial development on this site, which is in McMinnville's Business District and next to Yamhill County Government Agencies, promotes appropriate, efficient, and orderly physical development in the city. This proposal, and subsequent development, would continue a cohesive pattern of land uses and provide for a workable relationship between the proposed land use and the adjacent and surrounding street system. Competent administration of state and local building codes and adequate utility provision promote the public health, safety, convenience, and general welfare of the community.

2. The subject request complies with the requirements of Variance Criteria listed in Section 17 4.110 of the McMinnville Zoning Ordinance in that:

- (A) The extraordinary circumstance is that the existing building was constructed in 1949, and at the time, no one could have anticipated the growth of traffic and automobile industry. The subject building is in an area of other commercial uses, all built decades ago. The density of buildings in the vicinity and adjacent railroad tracks physically prevent any further development of the subject parcel. The current zoning and parking design criteria prohibit more than forty two (42) parking spaces. This finding does not directly address physical uniqueness of the site (e.g., slope, topography, etc.) that is referenced in this criterion. Rather, the finding speaks to the unique or exceptional needs of the business opportunities this development is proposed to serve.
- (B) The variance is necessary for the ability to provide commercial opportunities on this site that are in harmony with the other commercial uses within this business district. The main

reason in requiring the provision of onsite parking spaces is for each development to have the ability to accommodate the anticipated parking needs of the occupants and their clientele. While this is relevant to large box stores on the commercial Hwy 99 corridor, it is not typical in a high density commercial core. In this case, requiring the applicant to provide the standard number of parking spaces for this proposed development would burden this project, in that requiring the provision of more than forty-two parking stalls on this site would result in demolition of an existing building and the infrastructure and constructing a smaller building envelope and reduce the square footage of any future valuable retail space that could be constructed on this site. This action would force a reduction in needed commercial space the applicant is attempting to provide for the surrounding neighborhood and the proposition would be financially prohibitive to the applicant. No public interest would be served by denying this variance request. There are mitigating circumstances that exist in the immediate vicinity. The parking study being conducted by the city of McMinnville has identified the area immediately around the site as having excess capacity on street capacity.

- (C) Approval of this variance request would not be materially detrimental, as it would support Plan Policies regarding Commercial Development allowing and encouraging the development of commercial opportunities in a commercial zone in the McMinnville downtown area. Established businesses around the 1<sup>st</sup> street corridor are a valuable asset to the City and the County. Approval of this request would not conflict with the objectives of any city plan or policy regarding transportation in that, a large and easily accessible supply of parking tends to promote single occupancy vehicle driving, whereas expensive or less available parking, supply tends to lower driving rates. In keeping with the City's Transportation plan policies, the proposed variance, would serve to keep the overall parking supply limited in an effort to reduce driving, and promoting use of public transportation, but not so limited as to create a parking problem on streets that may spill over into the adjoining neighborhood so as to be detrimental to the surrounding neighborhood. Thus, the granting of the variance is fully consistent with adopted City policies and will promote public welfare. However, without this variance, the proposed building would have to stay partially empty and deteriorate into a dilapidated structure, which would be detrimental to the surrounding properties.
  
- (D) The variance requested is the minimum possible that would alleviate the hardship while still providing a significant amount of onsite vehicle parking opportunities for those visiting the site, and with excess street parking as identified in the current city parking study, employee parking can be moved off site without detriment to the surrounding neighborhoods.



ENTRANCE

1st Street

18500 sq ft total  
(17 Standard Spaces)

Handicap Spaces

802 Beauty Shop  
Existing Handicap and Finished Rest room  
28' x 36'  
1208 sq ft

808 Existing Handicap and Finished Rest room  
34' x 44'  
1516 sq ft

812 Unfinished Space  
34' x 50'  
1700 sq ft  
Acoustical Ceiling this area

814 Unfinished Space  
34' x 50'  
1700 sq ft  
Acoustical Ceiling this area

816 Unfinished Space  
34' x 50'  
1700 sq ft  
Acoustical Ceiling this area

820 Unfinished Space  
34' x 50'  
1700 sq ft  
Acoustical Ceiling this area

Storage Space  
34' x 65'  
2210 sq ft

6 Units  
20' x 50'  
Concrete Block Walls  
1000 sq ft each unit

Electric Service

(2 Standard Spaces)

(13 Standard Spaces)

(12 Computer Spaces)

TERMINAL EXIT

17'

19'

16'

PARKING LOT  
Rear Parking Lot  
80' x 240'  
SCALE 1/8" = 1'

FOR CALCULATION'S SEE

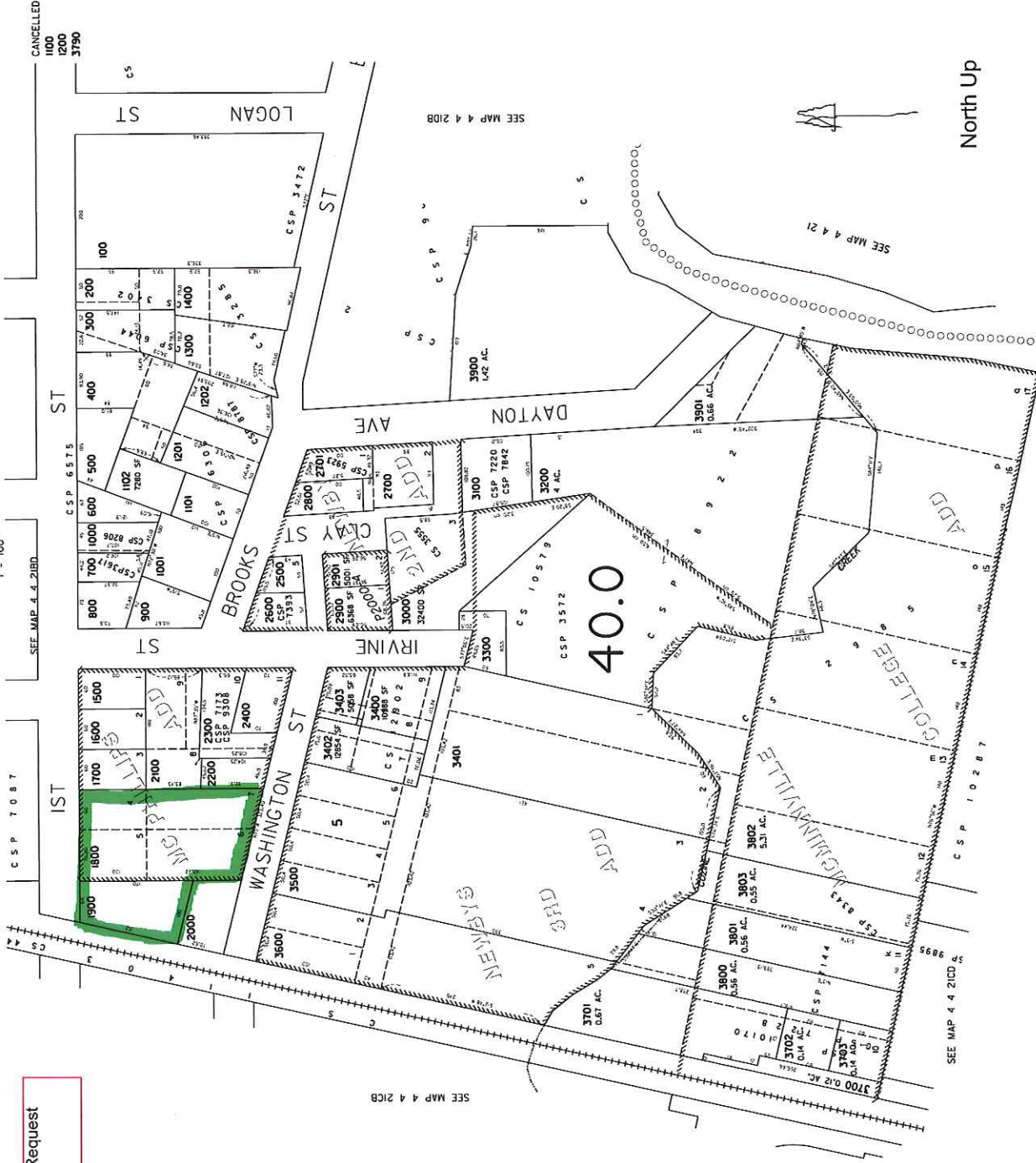
PA 1:6

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

NE 1/4 SW 1/4 SEC 21 T4S R4W W.M.  
YAMHILL COUNTY

4 4 21CA  
MCMINNIVILLE

Tempe One - Parking Variance Request  
September 27, 2017



North Up

4 4 21CA

REVISED 5-10-15 BR



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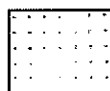
**17.60.090 Requirements for uses not listed.** The parking space requirements for buildings and uses not set forth herein shall be determined by the Planning Director, and such determination shall be based upon the requirements for the most comparable building or use specified herein. All decisions made by the Planning Director may be appealed to the Planning Commission. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**17.60.100 Reduced requirements for certain area.** In the area bounded by Adams Street, Ford Street, Fourth Street, and Seventh Street, required off-street parking spaces for commercial establishments may be one-half of the number stated for the particular use in Section 17.60.060 (see special parking requirements map below).

### REDUCED PARKING REQUIREMENTS



No Required Parking



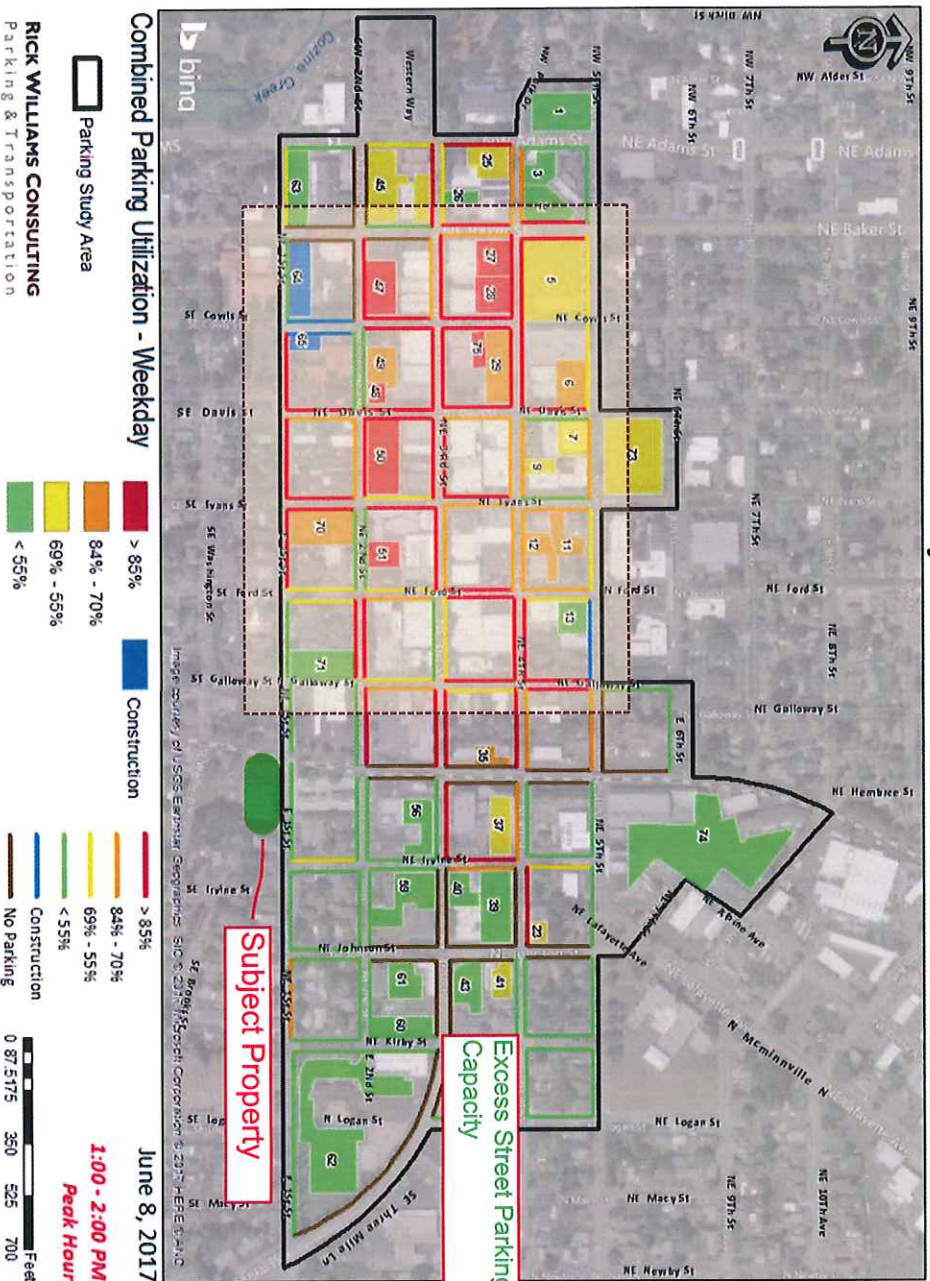
One-Half Required Parking

(Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**17.60.110 More than one use per structure.** In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

# Study Area Heat Map (Thursday Peak Hour)

City of McMinnville



**RICK WILLIAMS CONSULTING**  
Parking & Transportation

□ Parking Study Area

> 85%  
84% - 70%  
69% - 55%  
< 55%

Construction  
Construction  
Construction  
Construction  
No Parking

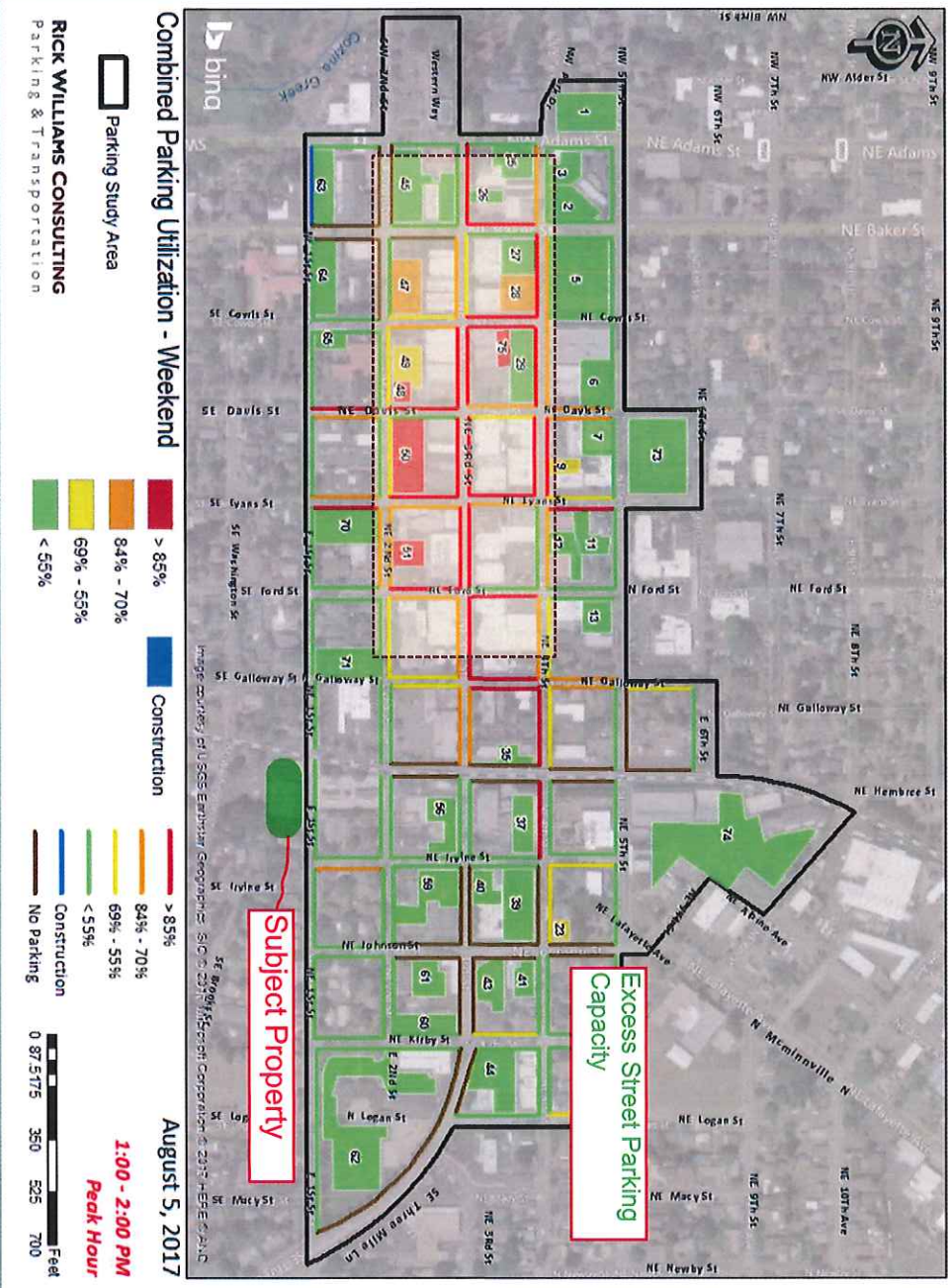
1:00 - 2:00 PM  
Peak Hour

0 87.5 175 350 525 700  
Feet

- Note shaded area and “hot’ block faces”
- West end of DT much more robust than east end.
- We will do further analysis for this “high occupancy node.”

# Study Area Heat Map (Saturday Peak Hour)

City of McMinnville



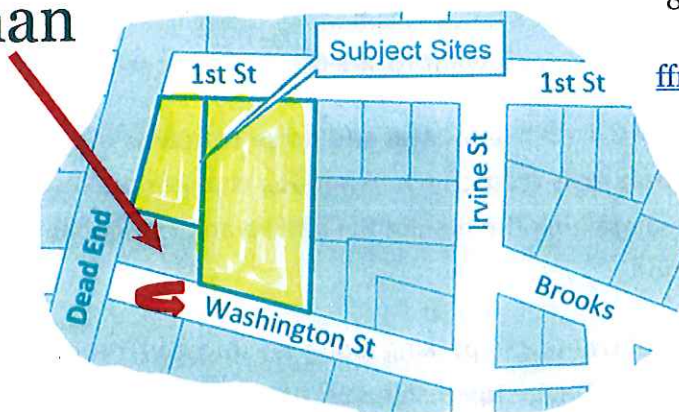
- Note smaller shaded area for "hot" block faces"
- Significant supply availability (on and off-street)



# Fred & Susan Freeman

807 SE Washington Street  
McMinnville, OR 97128  
[ffreeman917@frontier.com](mailto:ffreeman917@frontier.com)  
503-547-3722

12/4/17



Dear Heather Richards,  
Planning Director, **RE Docket Number VR-1-17**

We own and have lived next to the "Subject Sites" since 2010. The properties in question surround our home on two sides and we are directly affected by the traffic load and the traffic patterns of the business' that operate at that location.

Our concerns have many facets which need to be discussed and considered as part of the hearing process.

- 1) Washington Street, which borders our property and the "Subject Sites" has no exit! Currently our dead-end street has **minimal firetruck and safety access**. Large vehicles such as trucks cannot easily turn around in front of or near the property. Non-resident, smaller vehicles constantly turnaround in our neighborhood driveways. Reduced and poor parking access will make this issue worse. Additional traffic and parking along Washington will change the nature on the area and if poorly done could present a public access hazard. **Has a study been done?**
- 2) There are several **noise and personal concerns** we have regarding changes caused by traffic patterns in the area and by the types of business that surround our property. Currently individuals in their vehicles turn on their headlights, honk their horns, raise their voices, and play loud music just 10' from our bedroom. An increase in the noise and confusion created by more congestion in the parking lot will be



detrimental to our quality of life, our privacy, and our peace of mind. In the past we have had individuals running their vehicles into our adjoining fence to the extent the fence was damaged and collapsing at several critical points. We don't want to see this parking problem return.

- 3) There are several **environmental and noise concerns** regarding traffic patterns, potentially created when parking changes are made, that are critical to maintaining the residential nature and tranquility of the neighborhood.

Any additional traffic and parking along Washington Street from parking overflow would change the residential nature on the area and if improperly designed will represent a reduction in our quality of life.

The turn at the corner of Irvine and Washington cannot sustain additional traffic, it's already dangerous! There have been traffic incidents.

Properties across from Washington currently represent a virtual wildlife habitat for deer, birds and other animals. Has any consideration been made for the change in parking created traffic patterns that may affect the area?

- 4) Drainage patterns off the property along and onto Washington Street is already problematic. Water from the parking lot run-off makes the lower portion of the "Subject Sites" a virtual swamp during the rainy season and creates a lake along Washington Street during heavy rains. The city in recent years removed a drain on the street that exacerbated this problem. Secondly, has an environmental spill study been done when or if business on the property has a spill? **Is there a written emergency spill and cleanup response plan available from this company and the business's that operate at these locations?**

Regards,

Fred & Sue Freeman





Subject Site Docket # VR-1-17 Lower Lot Area

# Side Yard Below Parking Lot



# Secret Garden Next to Parking



# Flower Bed Next to Subject Site



# Deck Next to House Below Parking



# Painted & Refurbished House





# Back of Garage and Pond



# Garage and House and Driveway



# Camera Pod Birdhouse



**Ron Pomeroy**

---

**From:** kelly@mcdonald-properties.com  
**Sent:** Friday, December 8, 2017 5:07 PM  
**To:** Ron Pomeroy  
**Subject:** modification to application

Ron,

Please attach this addendum to our application for a parking variance at 826 1st Street.

Upon further discussions with city staff it has been brought to our attention that the 6 parking stalls on the 1<sup>st</sup> Street frontage of the building (North) do not meet current standards and cannot be included in our calculation of available off street parking spaces for future uses. Further, there are two stalls on the South side of the building that must be eliminated from our calculation due to use of existing overhead doors for unloading. The remaining overhead doors on the South Side of the building will remain for architectural purposes but are not used for loading/unloading access.

The owner proposes to install handicap accessible spaces on the South side of the building as well. This will require the reduction of 2 spaces to accommodate the extra size of the ADA stalls. The owner will then work with city staff to designate an accessible route to both the North and South facing businesses that is acceptable to the building department.

With these adjustments, our total available off street parking space number needs to be adjusted from 42, down to 32. We believe that all remaining parking stalls meet city requirements and can be utilized for parking for future uses.

Lastly, in review of our calculation for the number of parking spaces required for the proposed uses, we need to modify the number to 106 spaces as our calculation for 1,000 sq ft of storage space used industrial zoning calculations vs the C-3 calculation.

So in summary, the modification to our original application is for approval of a reduced requirement of off street parking spaces from 106 to the available 32.

Kind Regards,  
Kelly McDonald

*Engineering*  
*Don*

ORDINANCE NO. 4571

An Ordinance pertaining to driveways, including information regarding permit requirements, sidewalks crossing driveways and penalties for violations, and repealing Ordinance Nos. 3045 and 4088.

RECITALS:

The existing driveway Ordinance No. 3045 was adopted in 1962, and a portion of it was amended in 1980 by Ordinance No. 4088. As several items regarding this ordinance are not being enforced and others do not make any sense, this revised driveway ordinance is to delete those sections not enforced and to clarify the existing provisions.

THE CITY OF McMinnville ORDAINS AS FOLLOWS:

Section 1. The following revised provisions are added to the McMinnville Municipal Code:

Chapter 12.20

DRIVEWAYS

Sections:

- 12.20.010 Definitions
- 12.20.020 Permit requirements
- 12.20.030 Width--Designated
- 12.20.040 Width--Determination
- 12.20.050 Separate frontage--Method of determination
- 12.20.060 Distance between service driveways
- 12.20.070 Distance from street intersection
- 12.20.080 Variances--Issuance conditions--City Engineer authority
- 12.20.090 Sidewalks crossing driveways
- 12.20.100 Violation--Penalty

12.20.010 Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

- A. "Automobile service station" means any premises used for supplying gasoline, oil, minor accessories and services for automobiles at retail, direct to consumer.
- B. "Commercial service driveway" means a driveway to serve business or commercial premises.
- C. "Frontage" means the boundary of private property abutting upon a street line.
- D. "Industrial driveway" means a driveway for business in zones adopted for industrial purposes in the McMinnville Zoning Ordinance.
- E. "Private driveway" means a driveway to serve residential premises.

F. "Service driveway" means and includes any driveway constructed, installed or maintained in or over any portion of a public street for the purpose of ingress and egress of vehicles from the street to property abutting the street.

12.20.020 Permit requirements. It is unlawful for any person, business or contractor to construct or install any service driveway across any sidewalk, parking strip or curb, or in or upon any part of any street without first obtaining a permit from the City Engineer. Any person desiring to construct or install a service driveway shall make application in writing to the City Engineer, in addition to paying permit fees as required; and such application shall state the location of the proposed service driveway, a description of the property to be served by such driveway, the kind or nature of business, if any, conducted upon such premises, the kind of material proposed to be used in the construction of such driveway, the width of the proposed driveway and such other data and information as the City Engineer may require before issuance of a permit. The fee schedule shall be established by resolution.

12.20.030 Width--Designated.

A. A service driveway for an automobile service station, drive-in restaurant or refreshment bar shall not exceed the following maximum widths:

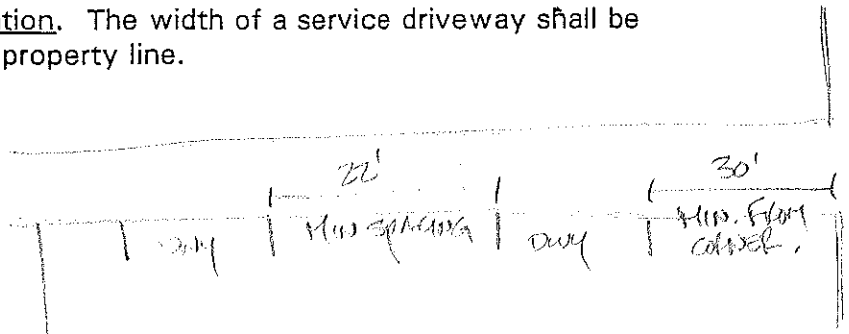
<u>Property Frontage</u>	<u>Maximum Width</u>	
	<u>One Driveway</u>	<u>Two Driveways Each</u>
Less than 16 feet	8 feet	
16 to 30 feet	50% of property frontage	
30 to 50 feet	22 feet	
Over 50 feet to 75 feet	26 feet	18 feet
Over 75 feet-- not exceeding 100 feet	30 feet	22 feet

B. A private driveway or commercial driveway, excepting as noted above, shall not exceed the following maximum width:

<u>Property Frontage</u>	<u>Maximum Width</u>
	<u>One Driveway</u>
Less than 20 feet	8 feet
Between 20 and 75 feet	Not more than 40% of frontage
Over 75 feet to 100 feet	34 feet

C. Industrial driveway width to be determined and approved by City Engineer based on use, property frontage and street widths.

12.20.040 Width--Determination. The width of a service driveway shall be determined by measurement at the property line.



12.20.050 Separate frontage--Method of determination. For any frontage in excess of one hundred (100) feet, each additional one hundred (100) feet, or fraction thereof, shall be considered as a separate frontage.

12.20.060 Distance between service driveways. Not less than twenty-two (22) feet of straight curb must separate service driveways on premises under one ownership.

12.20.070 Distance from street intersection. In case the service driveway is constructed or installed on a corner lot, such driveway shall not be built closer than thirty (30) feet from the point of intersection of the two curb lines projected ahead.

12.20.080 Variances--Issuance conditions--City Engineer authority. In case any property owner desires a service driveway of a greater width or at a variance to the provisions of this chapter, the property owner may apply for the same to the City Engineer, setting forth in the application the peculiar, exceptional or extraordinary circumstances or conditions upon which the variance is based.

A variance to the standards set forth above may be approved when one or a combination of the factors below are present and have been considered by the City Engineer:

- A. Unique traffic patterns--one-way street, industrial traffic or intensive traffic usage at particular times.
- B. Topography--of the lot being served or the configuration of the roadway adjacent to the lot.
- C. Configuration of the lot--size and shape of lot being served.
- D. Location of adjacent streets and driveways--number, angle of street to lot and number and exit characteristics of adjoining lots.

The application of the standard requirements to the lot and the weight to be given the factors to be considered when a variance may be granted shall be based upon the City Engineer's professional training and his experience in regulating traffic with the objective of obtaining the maximum safety possible to the users of the driveway and the traffic upon the abutting street.

Upon approval, the City Engineer shall issue the permit upon payment of the required fee.

12.20.090 Sidewalks crossing driveways. The sidewalk across any service driveway shall not exceed 1/4-inch fall to the foot and shall be constructed of Portland cement concrete not less than six (6) inches minimum thickness. Also, the sidewalk shall be definitely marked with lines parallel to the curb in a manner approved by the City Engineer.

12.20.100 Violation--Penalty. Any person, business or contractor violating any provision of this chapter shall be punished by a fine not exceeding two hundred dollars (\$200). Trial shall be before the Municipal Court without a jury. A decision of the Court is final and no appeal may be taken.

Section 2. Ordinance Nos. 3045 and 4088 are hereby repealed.


Section 3. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823, entitled "Initiative and Referendum," for a period of thirty (30) days.

Passed by the Council this 13th day of September 1994 by the following votes:

Ayes: Kirchner, Massey, Olson, Payne, Tomcho, Windle

Nays: \_\_\_\_\_

Approved this 13<sup>th</sup> day of September 1994.

  
\_\_\_\_\_  
MAYOR

Attest:

  
\_\_\_\_\_  
RECORDER PRO TEM





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

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## **EXHIBIT 2 - STAFF REPORT**

**DATE:** December 21, 2017  
**TO:** McMinnville Planning Commission  
**FROM:** Chuck Darnell, Associate Planner  
**SUBJECT:** VR 2-17 – Variance – 101 NE Highway 99W

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### **Report in Brief:**

This is a public hearing to consider an application for 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. 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.

### **Background:**

The sign in question is an existing freestanding sign that is associated with the Chevron gas station located at 101 NE Highway 99W. The property is zoned C-3 General Commercial.

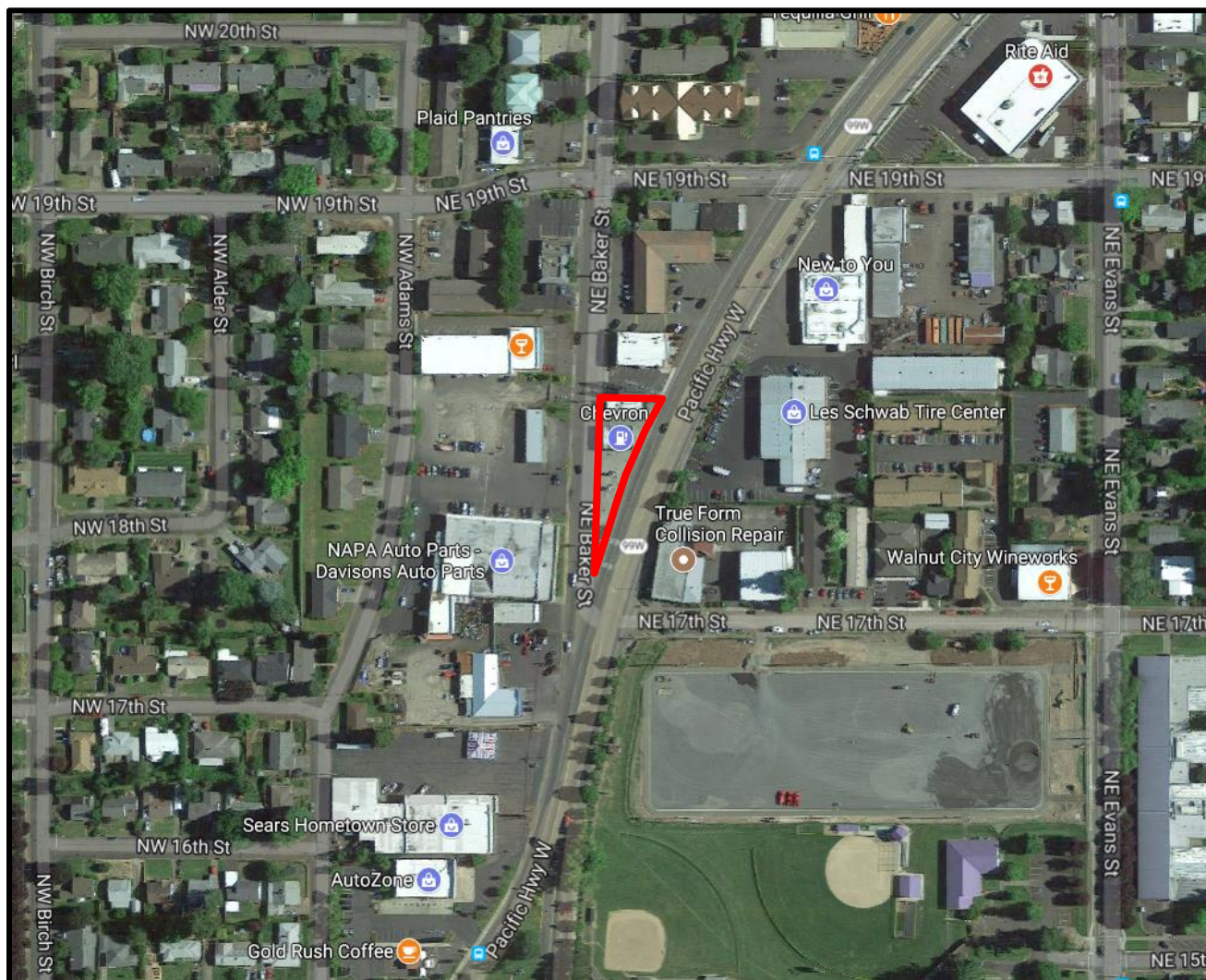
The subject sign and site are identified below:



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### **Attachments:**

*Attachment A – Decision, Findings of Fact, and Conclusionary Findings for the Approval of a Variance for a Freestanding Sign at 101 NE Highway 99W*



The existing freestanding sign is 22 feet in height, which exceeds the maximum height for freestanding signs in commercial zones. The applicant is proposing to reduce the height of the freestanding sign to 20 feet in height, which is the maximum height allowed by the McMinnville Zoning Ordinance in Section 17.62.070 (C)(1) for freestanding signs on commercially zoned property.

As part of the alteration of the freestanding sign, the applicant would like to update the changeable copy cabinet on the freestanding sign. The existing changeable copy cabinet is a manual changeable copy cabinet, which means that the gas prices and numbers are actual panels that are manually changed. The applicant is proposing to replace this cabinet with new sign faces that include electronic changeable copy (ECC) for the gas prices and numbers.

### **Discussion:**

The existing freestanding sign is located on the southernmost point of the subject site, which is a unique shaped lot including a very narrow strip of land bounded on the east by NE Highway 99W and on the west by NE Baker Street. The applicant is proposing to alter the sign and add an ECC component to the freestanding sign, but is also proposing to keep the sign in the same location as it exists today. This creates the basis for the variance request. The existing sign is located in the narrow portion of the site, and is not setback from either the west or east property lines. The McMinnville

#### **Attachments:**

Attachment A – Decision, Findings of Fact, and Conclusionary Findings for the Approval of a Variance for a Freestanding Sign at 101 NE Highway 99W

Zoning Ordinance, in Section 17.62.070 (E)(4), requires that ECC signs be set at least ten (10) feet from all property lines. Therefore, the applicant is requesting a variance from the ten (10) foot setback requirement for the ECC portion of the freestanding sign.

The applicant is also requesting a variance from the required clearance for freestanding signs adjacent to arterial streets. Both NE Baker Street and NE Highway 99W are designated as arterial streets in the McMinnville Transportation System Plan. Section 17.54.050 (F) of the McMinnville Zoning Ordinance requires the following:

- F. Yards required along arterial streets. Except in zones where greater setbacks are required, a minimum five (5) foot yard shall be provided where a lot or parcel abuts an arterial street, as those streets are defined in the City's Transportation Master Plan. The required five (5) foot yard shall be maintained as a clear vision area as defined in Section 17.54.080 except that the following uses may be allowed when alternatives are unavailable:
  1. The exceptions described in Section 17.54.080.
  2. Signs and signposts provided that the body of the sign is below three (3) feet in height or above eight (8) feet in height when measured from the top of the curb, or where no curb exists, eight and one-half (8.5) feet from the edge of the pavement or top of asphalt measured at the property line.

The proposed sign would be located less than five (5) feet from both the west and east property lines. The sign cabinets would therefore normally be required to maintain a clearance of at least eight (8) feet from grade to provide adequate clear vision. The applicant is requesting a variance from the required eight (8) foot clearance requirement to allow the lowest point of the cabinet to be seven (7) feet and four (4) inches above grade.

### **Variance Review Criteria**

In reviewing variance requests, the Planning Commission must determine whether, owing to special and unusual circumstances related to a specific piece of property, strict application of the McMinnville Zoning Ordinance would cause an undue or unnecessary hardship. In order to grant a variance, the Planning Commission must show that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;

The applicant is arguing that the unique lot size of the subject site results in the need for the requested variance from the ECC setback and arterial yard clearance requirements. The subject site is unique in that the southernmost point of the site is a very narrow, triangular portion of property bounded on both sides by public right-of-way. The location of the existing sign is suitable for a freestanding sign in general, but would not allow for the addition of ECC signage to the freestanding sign because the ten (10) foot setback requirements would not be satisfied.

The applicant is further arguing that there is no location on the site that would be suitable for relocation of the freestanding sign to allow for the addition of ECC signage. The use of the site as a gas station results in further site limitation and complications in attempting to locate a freestanding sign in a location that would meet the ECC setback requirements. The site contains underground storage tanks, underground water cleaning systems, and underground monitoring wells required to be maintained by the Oregon Department of Environmental Quality (DEQ). The applicant has provided site plans showing the locations of the underground equipment and the minimum clearances required from the

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#### *Attachments:*

*Attachment A – Decision, Findings of Fact, and Conclusionary Findings for the Approval of a Variance for a Freestanding Sign at 101 NE Highway 99W*

underground monitoring wells. These clearances, along with the existing circulation patterns through the uniquely shaped and sized lot, do result in a difficulty in locating a freestanding ECC sign and meeting required setbacks.

In terms of the reduced clearance from grade for the base of the cabinet, the applicant has argued that the unique size and shape of the lot again create the need for the variance. The typical eight (8) foot clearance requirement and five (5) foot setback is to ensure adequate clear vision exists beneath the sign for motorists traveling in the right-of-way and making turning movements between streets. The intersection of NE Baker Street and NE Highway 99W, which are the two right-of-ways immediately adjacent to the freestanding sign, is a unique intersection in terms of intersection geometry. The stopping point for southbound traffic on NE Baker Street is actually much further south than the southernmost point of the subject property. The applicant has provided an image of the sightlines from this location, which shows that the eight (8) inch reduction in cabinet height will not impact clear vision for motorists in the vicinity. For westbound/southbound traffic on NE Highway 99W, right turns onto northbound NE Baker Street are not permitted, so the lower sign in this location would not impact those turning movements at the intersection. The Engineering Department and the Oregon Department of Transportation (ODOT) have also reviewed the applicant's request, and neither department has any concerns with the reduced sign height impacting clear vision on the adjacent right-of-ways. The image of the sightlines from the stop sign on NE Baker Street looking north, as provided by the applicant, is shown below:



- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

The existing use of the property as a gas station results in a state requirement to display gas prices on site. The applicant is attempting to meet that requirement and utilize new technology that is becoming more of a standard in the gas station industry, which is the ECC signage, to more efficiently update and display gas prices on site. The applicant is arguing that the variance will allow for the property owner to utilize this technology in the most practical location on the site, given the existing site constraints described in more detail above. Each property in McMinnville is allowed to have one (1) ECC sign for

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*Attachments:*

*Attachment A – Decision, Findings of Fact, and Conclusionary Findings for the Approval of a Variance for a Freestanding Sign at 101 NE Highway 99W*

the entire site, and the applicant also would like to utilize the existing freestanding sign location to allow for the gas prices to be visible from both streets adjacent to the property.

- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

The purpose of the Signs chapter of the McMinnville Zoning Ordinance is, in part, to “improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards.” Also, the purpose speaks to minimizing “visual clutter caused by signs by limiting their numbers and duration of use”. The applicant is updating the freestanding sign on the property to meet other required standards for freestanding signs on commercial property. The sign will be reduced in height to the maximum allowed for freestanding signs, and will also be reduced in overall surface area by removing the existing lowest cabinet and therefore reducing the overall size of the freestanding sign. The site only has one (1) freestanding identification sign, which is under the maximum number allowed, and therefore does not unnecessarily clutter the streetscape in this location.

The applicant is also arguing that the variance would not be detrimental to other property in the zone, as it would not negatively impact any properties or block sightlines to other properties. Overall, staff believes that the variance for the ECC setbacks and minimum clearance will not be materially detrimental, given the site constraints and the property owner’s attempts to have the signage on the site altered to be more consistent with other sign regulations.

- D. The variance requested is the minimum variance which would alleviate the hardship.

Given the site constraints, as described above in more detail, the ECC setback variance requested is the minimum variance that would alleviate the hardship. The applicant has argued that there is no other practical location for the freestanding sign, and the site constraints create a difficulty in meeting the ECC setbacks. The applicant is arguing that the existing location of the freestanding sign is the most practical location, which results in their request for the minimum variance to alleviate the hardship. The variance for the reduced clearance from grade for the base of the cabinet is also the minimum variance to alleviate the hardship. The applicant is lowering the entire sign to meet the maximum height requirement, and is also removing one (1) other existing cabinet from the base of the existing set of cabinets. This results in the lowest point of the proposed sign being only eight (8) inches shorter than the standard clearance requirement, which is the minimum variance to alleviate the hardship.

#### **Fiscal Impact:**

None.

#### **Commission Options:**

- 1) Close the public hearing and **APPROVE** the application, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the approval in the motion to approve.

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#### **Attachments:**

*Attachment A – Decision, Findings of Fact, and Conclusionary Findings for the Approval of a Variance for a Freestanding Sign at 101 NE Highway 99W*

**Recommendation/Suggested Motion:**

The Planning Department recommends that the Commission make the following motion to approve VR 2-17:

**THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL IN THE DECISION DOCUMENT FOR VR 2-17, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION APPROVES VR 2-17.**

CD:sjs

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*Attachments:*

*Attachment A – Decision, Findings of Fact, and Conclusionary Findings for the Approval of a Variance for a Freestanding Sign at 101 NE Highway 99W*



**CITY OF MCMINNVILLE  
PLANNING DEPARTMENT**  
231 NE FIFTH STREET  
MCMINNVILLE, OR 97128

503-434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A VARIANCE FOR A FREESTANDING SIGN AT 101 NE HIGHWAY 99W**

- DOCKET:** VR 2-17 (Variance)
- REQUEST:** The applicant has requested 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 sign is located on the property at 101 NE Highway 99W. The subject site is more specifically described as Tax Lot 4700, Section 16CB, T. 4 S., R. 4 W., W.M.
- ZONING:** C-3 (General Commercial)
- APPLICANT:** Jian Koid, on behalf of Double R Products
- STAFF:** Chuck Darnell, Associate Planner
- DATE DEEMED COMPLETE:** October 31, 2017
- HEARINGS BODY:** McMinnville Planning Commission
- DATE & TIME:** December 21, 2017. Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon
- COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Oregon Department of Transportation, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Their comments are provided in this exhibit.

**DECISION**

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the variance request (VR 2-17).

////////////////////////////////////  
**DECISION: APPROVAL**  
////////////////////////////////////

Planning Commission: \_\_\_\_\_  
Roger Hall, Chair of the McMinnville Planning Commission

Date: \_\_\_\_\_

Planning Department: \_\_\_\_\_  
Heather Richards, Planning Director

Date: \_\_\_\_\_



**APPLICATION SUMMARY:**

The applicant has requested 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.

The sign in question is an existing freestanding sign that is associated with the Chevron gas station located at 101 NE Highway 99W. The property is zoned C-3 General Commercial.

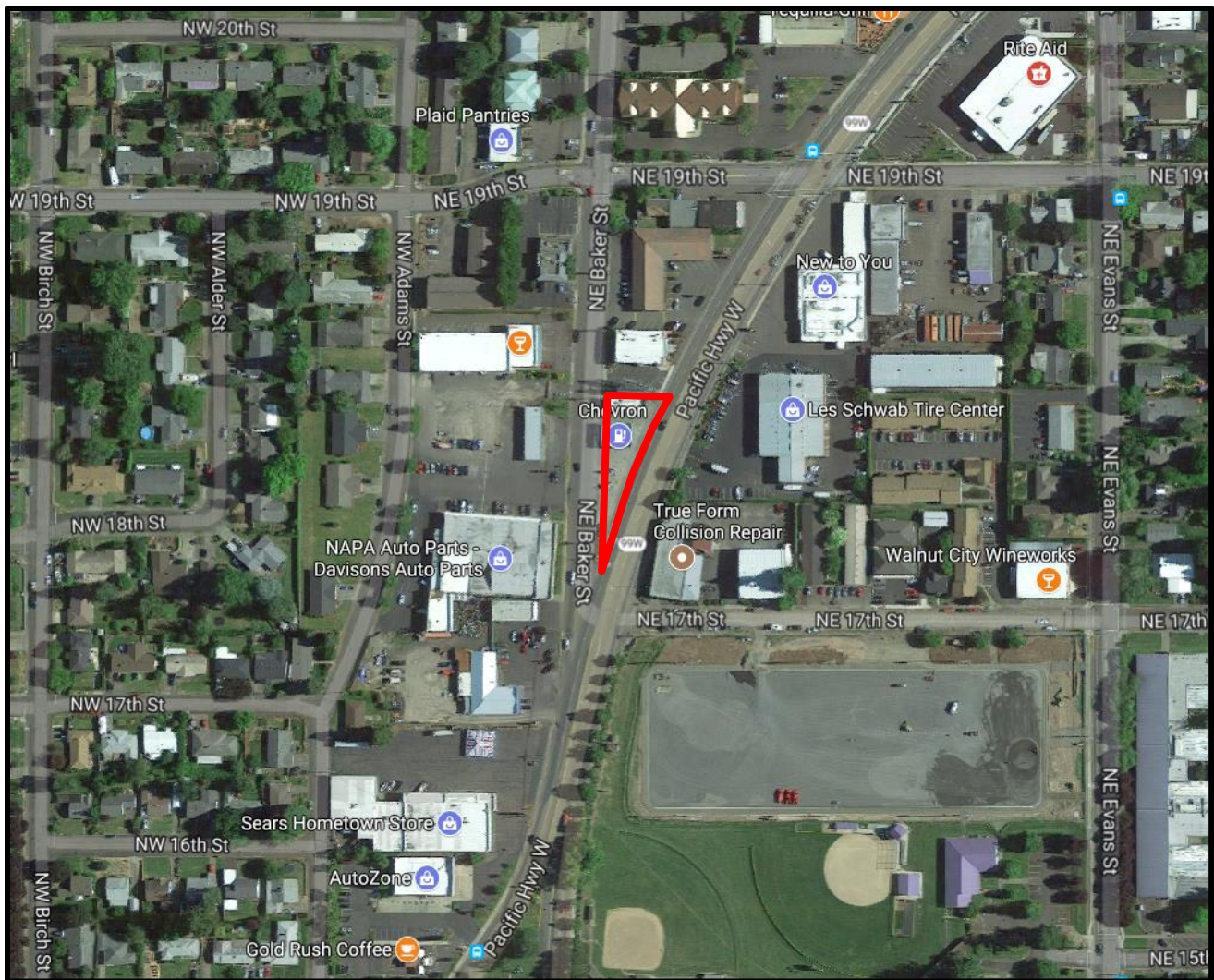
The subject sign and site are identified below:



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***Attachments:***

Attachment 1 – Application and Attachments



The existing freestanding sign is 22 feet in height, which exceeds the maximum height for freestanding signs in commercial zones. The applicant is proposing to reduce the height of the freestanding sign to 20 feet in height, which is the maximum height allowed by the McMinnville Zoning Ordinance in Section 17.62.070 (C)(1) for freestanding signs on commercially zoned property.

As part of the alteration of the freestanding sign, the applicant would like to update the changeable copy cabinet on the freestanding sign. The existing changeable copy cabinet is a manual changeable copy cabinet, which means that the gas prices and numbers are actual panels that are manually changed. The applicant is proposing to replace this cabinet with new sign faces that include electronic changeable copy (ECC) for the gas prices and numbers.

The existing freestanding sign is located on the southernmost point of the subject site, which is a unique shaped lot including a very narrow strip of land bounded on the east by NE Highway 99W and on the west by NE Baker Street. The applicant is proposing to alter the sign and add an ECC component to the freestanding sign, but is also proposing to keep the sign in the same location as it exists today. This creates the basis for the variance request. The existing sign is located in the narrow portion of the site, and is not setback from either the west or east property lines. The McMinnville Zoning Ordinance, in Section 17.62.070 (E)(4), requires that ECC signs be set at least ten (10) feet from all property lines. Therefore, the applicant is requesting a variance from the ten (10) foot setback requirement for the ECC portion of the freestanding sign.

*Attachments:*

Attachment 1 – Application and Attachments

The applicant is also requesting a variance from the required clearance for freestanding signs adjacent to arterial streets. Both NE Baker Street and NE Highway 99W are designated as arterial streets in the McMinnville Transportation System Plan. Section 17.54.050 (F) of the McMinnville Zoning Ordinance requires the following:

- F. Yards required along arterial streets. Except in zones where greater setbacks are required, a minimum five (5) foot yard shall be provided where a lot or parcel abuts an arterial street, as those streets are defined in the City's Transportation Master Plan. The required five (5) foot yard shall be maintained as a clear vision area as defined in Section 17.54.080 except that the following uses may be allowed when alternatives are unavailable:
1. The exceptions described in Section 17.54.080.
  2. Signs and signposts provided that the body of the sign is below three (3) feet in height or above eight (8) feet in height when measured from the top of the curb, or where no curb exists, eight and one-half (8.5) feet from the edge of the pavement or top of asphalt measured at the property line.

The proposed sign would be located less than five (5) feet from both the west and east property lines. The sign cabinets would therefore normally be required to maintain a clearance of at least eight (8) feet from grade to provide adequate clear vision. The applicant is requesting a variance from the required eight (8) foot clearance requirement to allow the lowest point of the cabinet to be seven (7) feet and four (4) inches above grade.

#### **ATTACHMENTS:**

1. Application and Attachments

#### **COMMENTS:**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Oregon Department of Transportation, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments had been received:

- McMinnville Engineering Department:

We have reviewed proposed VR 2-17, and do not have any comments.

- McMinnville Fire Department:

We have no issues with this variance.

- Oregon Department of Transportation:

Thank you for notifying the Oregon Department of Transportation (ODOT) of the variance application. ODOT has no concerns related to the applicant's proposal.

- McMinnville Water and Light:

MW&L has no comments on this application.

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#### *Attachments:*

Attachment 1 – Application and Attachments

**FINDINGS OF FACT**

1. The applicant, Jian Koid on behalf of Double R Products, has requested 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.
2. The property on which the subject sign is located is 101 NE Highway 99W. The subject site is more specifically described as Tax Lot 4700, Section 16CB, T. 4 S., R. 4 W., W.M.
3. The subject property is currently zoned C-3 (General Commercial), and is designated as Commercial on the McMinnville Comprehensive Plan Map, 1980.
4. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Oregon Department of Transportation, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. No comments in opposition were provided to the Planning Department.
5. Notice of the public hearing was provided by the City of McMinnville in the December 12, 2017, edition of the News-Register. No public comments were received prior to the public hearing.
6. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

**CONCLUSIONARY FINDINGS:****McMinnville's Comprehensive Plan:**

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

**GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF MCMINNVILLE.**

*Policy 188.00: The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

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***Attachments:***

Attachment 1 – Application and Attachments

## McMinnville’s City Code:

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

### Chapter 17.54 – General Regulations

#### 17.54.050 Yards [...]

- F. Yards required along arterial streets. Except in zones where greater setbacks are required, a minimum five (5) foot yard shall be provided where a lot or parcel abuts an arterial street, as those streets are defined in the City’s Transportation Master Plan. The required five (5) foot yard shall be maintained as a clear vision area as defined in Section 17.54.080 except that the following uses may be allowed when alternatives are unavailable:
1. The exceptions described in Section 17.54.080.
  2. Signs and signposts provided that the body of the sign is below three (3) feet in height or above eight (8) feet in height when measured from the top of the curb, or where no curb exists, eight and one-half (8.5) feet from the edge of the pavement or top of asphalt measured at the property line.

Finding: The variance request is for a reduced clearance from the normally required eight (8) feet from the bottom of the sign body to the top of the curb, also measured in this scenario as the grade adjacent to the sign.

### Chapter 17.62 - Signs

17.62.010 Purpose. The City Council finds that signs provide an important medium through which individuals and businesses may convey a variety of messages. However, left completely unregulated, signs can become a threat to public safety and a traffic hazard as well as an obstruction to the aesthetic appeal of McMinnville’s unique landscape.

The standards contained in this chapter are primarily intended to balance the needs of businesses and individuals to convey their messages through signs, and the right of the public to be protected against the unrestricted proliferation of signs and their effect on public and traffic safety and the aesthetic qualities of the City such as vistas and gateways. In an attempt to achieve that balance, the purpose of this chapter is to:

- A. Improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards;
- B. Provide minimum, consistent, and enforceable sign standards by regulating sign location, size, height, illumination, construction, and maintenance;
- C. Minimize visual clutter caused by signs by limiting their numbers and duration of use;
- D. Protect citizen safety by prohibiting hazardous signs;
- E. Ensure compliance with state and federal laws regarding advertising by providing rules and standards that are content neutral; and
- F. Provide for near term and longer term improvements to signage through the use of appropriate amortization and incentive policies.

Finding: Section 17.62.010 is satisfied by the decision in that the Planning Commission finds that the approval of the variance request will not result in a situation that would be materially detrimental to the purpose of the Signs chapter of the McMinnville Zoning Ordinance, as described in more detail below.

17.62.070 Permanent Sign Regulations. Permanent signs may be erected and maintained only in compliance with the following specific provisions: [...]

- E. Electronic changeable copy signs are subject to the following standards:

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*Attachments:*

Attachment 1 – Application and Attachments

1. One (1) electronic changeable copy sign is permitted per site or multi-tenant complex and shall only be allowed as part of a permanent freestanding or wall sign.
2. The electronic changeable copy portion of a freestanding sign may be no higher than twelve (12) feet above grade.
3. The electronic changeable copy portion of a sign may not exceed twenty-four (24) square feet in area.
4. Electronic changeable copy signs must be set at least ten (10) feet from all property lines.
5. The electronic changeable copy portion of a sign will have its area calculated at a rate two (2) times that of other signs.
6. On sites or multi-tenant complexes on which an electronic changeable copy sign is located, temporary signage is limited to that described in Section 17.62.060(B)(2) and (3).
7. Electronic changeable copy signs must be permanently mounted to the ground or a structure. [...]

Finding: The variance request is for a reduced setback of the electronic changeable copy portion of the freestanding sign from the normally required ten (10) feet from all property lines. All other requirements for electronic changeable copy signs would be satisfied by the signage proposed by the applicant.

17.74.100 Variance-Planning Commission Authority. The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

Finding: Section 17.74.100 is satisfied in that the Planning Commission found that special and unusual circumstances related to a specific piece of property, as described in more detail below, and therefore authorizes the variance.

17.74.110 Conditions for Granting Variance. A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;

Finding: The applicant has argued that the unique lot size of the subject site results in the need for the requested variance from the ECC setback and arterial yard clearance requirements. The subject site is unique in that the southernmost point of the site is a very narrow, triangular portion of property bounded on both sides by public right-of-way. The location of the existing sign is suitable for a freestanding sign in general, but would not allow for the addition of ECC signage to the freestanding sign because the ten (10) foot setback requirements would not be satisfied.

The applicant is further arguing that there is no location on the site that would be suitable for relocation of the freestanding sign to allow for the addition of ECC signage. The use of the site as a gas station results in further site limitation and complications in attempting to locate a freestanding sign in a location that would meet the ECC setback requirements. The site contains underground storage tanks, underground water cleaning systems, and underground monitoring wells required to be maintained by the Oregon Department of Environmental Quality (DEQ). The applicant has provided

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*Attachments:*

Attachment 1 – Application and Attachments

site plans showing the locations of the underground equipment and the minimum clearances required from the underground monitoring wells. These clearances, along with the existing circulation patterns through the uniquely shaped and sized lot, do result in a difficulty in locating a freestanding ECC sign and meeting required setbacks.

In terms of the reduced clearance from grade for the base of the cabinet, the applicant has argued that the unique size and shape of the lot again create the need for the variance. The typical eight (8) foot clearance requirement and five (5) foot setback is to ensure adequate clear vision exists beneath the sign for motorists traveling in the right-of-way and making turning movements between streets. The intersection of NE Baker Street and NE Highway 99W, which are the two right-of-ways immediately adjacent to the freestanding sign, is a unique intersection in terms of intersection geometry. The stopping point for southbound traffic on NE Baker Street is actually much further south than the southernmost point of the subject property. The applicant has provided an image of the sightlines from this location, which shows that the eight (8) inch reduction in cabinet height will not impact clear vision for motorists in the vicinity. For westbound/southbound traffic on NE Highway 99W, right turns onto northbound NE Baker Street are not permitted, so the lower sign in this location would not impact those turning movements at the intersection. The Engineering Department and the Oregon Department of Transportation (ODOT) have also reviewed the applicant's request, and neither department has any concerns with the reduced sign height impacting clear vision on the adjacent right-of-ways. The image of the sightlines from the stop sign on NE Baker Street looking north, as provided by the applicant, is shown below:



- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

Finding: The existing use of the property as a gas station results in a state requirement to display gas prices on site. The applicant is attempting to meet that requirement and utilize new technology that is becoming more of a standard in the gas station industry, which is the ECC signage, to more efficiently update and display gas prices on site. The applicant is arguing that the variance will allow for the property owner to utilize this technology in the most practical location on the site, given the existing site constraints described in more detail above. Each property in McMinnville is allowed to have one (1) ECC sign for the entire site, and the applicant also would like to utilize the existing freestanding sign location to allow for the gas prices to be visible from both streets adjacent to the property.

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*Attachments:*

Attachment 1 – Application and Attachments

- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

Finding: The purpose of the Signs chapter of the McMinnville Zoning Ordinance is, in part, to “improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards.” Also, the purpose speaks to minimizing “visual clutter caused by signs by limiting their numbers and duration of use”. The applicant is updating the freestanding sign on the property to meet other required standards for freestanding signs on commercial property. The sign will be reduced in height to the maximum allowed for freestanding signs, and will also be reduced in overall surface area by reducing the overall size of the cabinets. The site only has one freestanding identification sign, which is under the maximum number allowed, and does not unnecessarily clutter the streetscape in this location. Therefore, the applicant is arguing that the variance is not detrimental to the purposes of the McMinnville Zoning Ordinance.

The applicant is also arguing that the variance would not be detrimental to other property in the zone, as it would not negatively impact any properties or block sightlines to other properties. Overall, staff believes that the variance for the ECC setbacks and minimum clearance will not be materially detrimental, given the site constraints and the property owner’s attempts to have the signage on the site altered to be more consistent with other sign regulations.

- D. The variance requested is the minimum variance which would alleviate the hardship.

Finding: Given the site constraints, as described above in more detail, the ECC setback variance requested is the minimum variance that would alleviate the hardship. The applicant has argued that there is no other practical location for the freestanding sign, and the site constraints create a difficulty in meeting the ECC setbacks. The applicant is arguing that the existing location of the freestanding sign is the most practical location, which results in their request for the minimum variance to alleviate the hardship. The variance for the reduced clearance from grade for the base of the cabinet is also the minimum variance to alleviate the hardship. The applicant is lowering the entire sign to meet the maximum height requirement, and is also removing one (1) other existing cabinet from the base of the existing set of cabinets. This results in the lowest point of the proposed sign being only eight (8) inches shorter than the standard clearance requirement, which is the minimum variance to alleviate the hardship.

CD:sjs





**Planning Department**  
 231 NE Fifth Street • McMinnville, OR 97128  
 (503) 434-7311 Office • (503) 474-4955 Fax  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

<b>Office Use Only:</b>	
File No.	<u>VR 2-17</u>
Date Received	<u>10-5-17</u>
Fee	<u>\$990.00</u>
Receipt No.	<u>17M0217</u>
Received by	<u>CD</u>

## Zoning Variance Application

### Applicant Information

Applicant is:  Property Owner  Contract Buyer  Option Holder  Agent  Other \_\_\_\_\_

Applicant Name Double R Products Phone 541 476 1387

Contact Name Jian Koid / Rick Plouse Phone 541 476 1387  
*(If different than above)*

Address 901 NW E St

City, State, Zip Grants Pass OR 97526

Contact Email jian@doublerproducts.com / rick@doublerproducts.com

### Property Owner Information

Property Owner Name TRUAX Corporation Phone 541-758-1500  
*(If different than above)*

Contact Name John Truax Phone 541-758-1500

Address 4221 SW Research Way

City, State, Zip Corvallis OR 97333

Contact Email jtruax@truaxcorp.com

### Site Location and Description

*(If metes and bounds description, indicate on separate sheet)*

Property Address 101 NE Hwy 99W McMinnville OR 97128

Assessor Map No. R4 - 4 - 16CB 04700 Total Site Area \_\_\_\_\_

Subdivision \_\_\_\_\_ Block \_\_\_\_\_ Lot 4700

Comprehensive Plan Designation commercial Zoning Designation c3

Please indicate the type of variance requested;

- Lot Size Requirement \_\_\_\_\_ Reduction to \_\_\_\_\_
- Setback – Front, Rear, Side Requirement 10' Reduction to 0'
- Other \_\_\_\_\_

1. Describe the nature of the request in detail: Changes to the sign code has caused the existing freestanding sign on the property to be out of conformance. While the height of the sign could be reduced to meet the 20' requirement, The sign would no longer meet the clearance requirements based setbacks from the property line at its current location. In addition, new technology has made the standard for gas station price signs to have LED gas prices which also has a setback requirement we cannot meet. We would like to request a variance to allow for these setback requirements to be waived due to our unique circumstance.

2. What exceptional or extraordinary circumstances apply to the property which do not apply generally to other property in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this ordinance, topography, or other circumstance over which the applicant has no control? \_\_\_\_\_  
With the unique shape of the property, the existing location of the freestanding sign is the best location that provides good visibility from the street while not obstructing the flow of traffic on site.  
Relocation of the sign is further complicated by the fact that site is a gas station with underground storage tanks. The only other acceptable location for the sign is currently occupied by a building that cleans underground water from fuel contaminants as required by DEQ.

3. What property right would be preserved by granting the variance? \_\_\_\_\_  
This variance would allow the property to maintain it's business identification sign. In addition, State of Oregon requires all gas stations to display fuel prices on the site and this variance will allow that.

4. What unnecessary hardship would be avoided by granting the variance? \_\_\_\_\_  
In addition to the tremendous cost of relocating the sign, visibility of the sign would be hindered to traffic. And if relocated, the sign would no longer be visible from Baker St.

5. Why won't this request be detrimental to the surrounding area? \_\_\_\_\_  
The sign is an existing sign at its current location and has not been detrimental to any parties.  
Changes to the sign could be detrimental to someone in the future.

6. Please explain how this would be the minimum variance necessary to alleviate the hardship? \_\_\_\_\_  
 By obtaining this variance the sign would come close to meeting the new sign code. As there is no other  
 logical location on the site to place a new sign.

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In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed buildings, dimensions, and adjacent street(s), distances from property lines, access, and any other information that would help substantiate or clarify your request.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.

  
 \_\_\_\_\_  
 Applicant's Signature

10/3/17  
 \_\_\_\_\_  
 Date

John Tunney, Pres TRVAX Corp.  
 \_\_\_\_\_  
 Property Owner's Signature

9/29/17  
 \_\_\_\_\_  
 Date

## Chuck Darnell

---

**From:** jian@doublerproducts.com  
**Sent:** Tuesday, October 24, 2017 1:19 PM  
**To:** Chuck Darnell  
**Subject:** 101 Hwy 99W Variance  
**Attachments:** VARIANCE DRAWINGS.pdf

Chuck,

Attached are the updated drawings for our gas station variance application.

I've located the company that manages the DEQ equipment on site and was told that we would need a minimum of 5' clearance from any monitoring well. I've updated the drawings with his contact and to show the 5' radius.

I've also included a traffic layout to show current site congestion. Which should further reinforce our point that there is no room on site for a new sign.

Thanks,

*Jian Koid*

Double R Products  
(541) 476-1387



Virus-free. [www.avast.com](http://www.avast.com)



**NOTES**

SIGN IS LOCATED 23' FROM  
END OF PROPERTY LINE

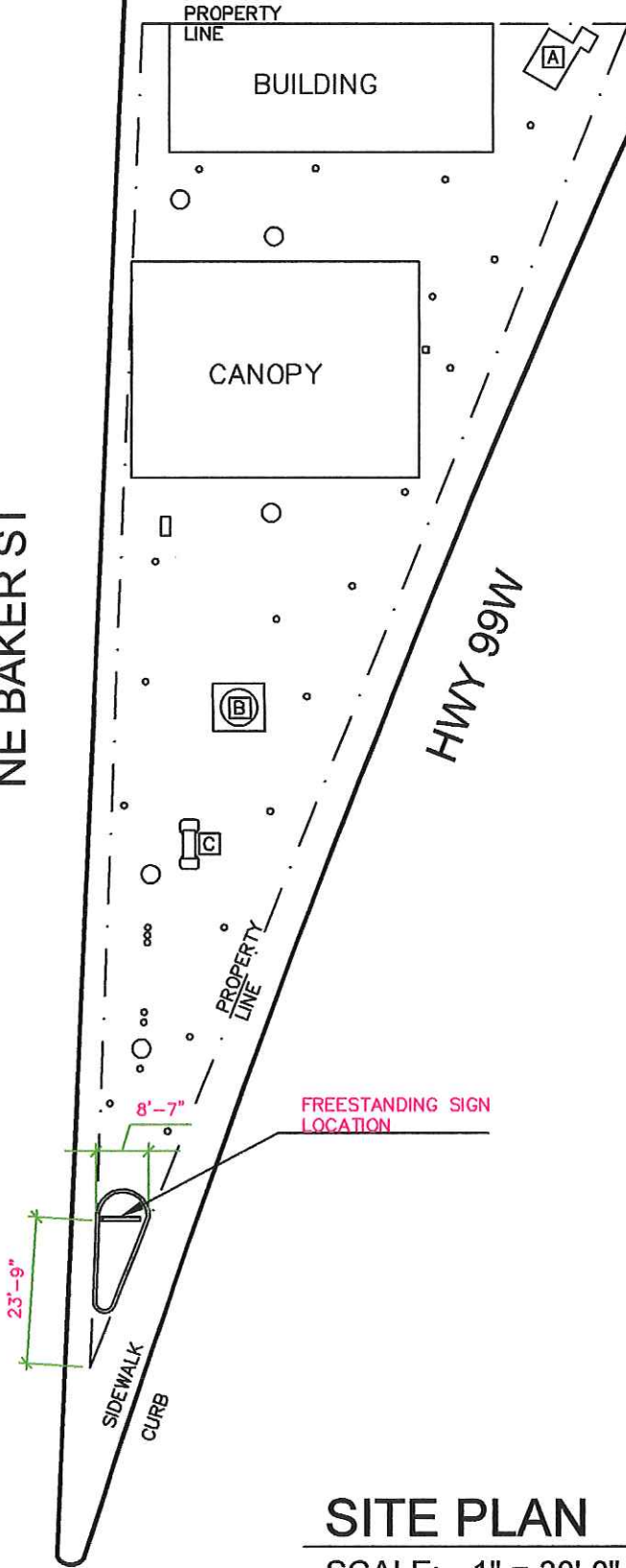
WIDTH BETWEEN PROPERTY  
LINES AT CURRENT SIGN  
LOCATION IS ONLY 8'-7"

**LEGEND**

- [A] DEQ WASTE WATER RECYCLING SHED
- [B] ABOVE GROUND PROPANE TANK & DISPENSOR
- [C] STANDALONE DIESEL DISPENSOR AND AIR/WATER MACHINE
- LARGE STEEL COVER PLATE INDICATING UNDERGROUND EQUIPMENT OR SENSORS
- SMALL STEEL COVER PLATE INDICATING UNDERGROUND EQUIPMENT OR SENSORS
- ◻ CATCH BASIN

NE BAKER ST

HWY 99W



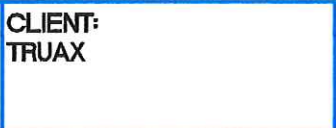
**SITE PLAN**

SCALE: 1" = 30'-0"

REVISION 10  
OF 2  
**SHEET 1**  
JOB 07-0223  
DATE 03/27/17  
PLAN

**SITE**  
PROJECT:  
PID SIGN VARIANCE  
101 N HWY 99W  
MCMINVILLE OR 97128

CLIENT:  
TRUAX



901 NORTHWEST E  
GRANTS PASS, OR 97526  
Phone: 541-476-1387 Fax: 541-474-2528  
CCB #40432

VERIFY SCALE:  
THIS DRAWING  
MEASURES 1/8" ON  
ORIGINAL DRAWING  
0 1/2"

Sign post shortened, and sign cabinet lowered to 20' sign height to meet city ordinance. Lower Diesel cabinet removed, face of existing price cabinet replaced with new LED face to achieve the maximum vision clearance while meeting new Chevron standards.



### EXISTING SIGN

SCALE: NOT TO SCALE



### PROPOSED SIGN

SCALE: NOT TO SCALE

REVISION: 10

OF 3

3

SHEET

JOB: 17-028

DATE: 10/17

ELEVATION

PROJECT: PID SIGN VARIANCE

101 N HWY 99W  
MCMINVILLE OR 97128

CLIENT: TRUAX



901 NORTHWEST E  
GRANTS PASS, OR 97526  
Phone: 541-476-1387 Fax: 541-474-2528  
CCB #40432



VERIFY SCALE: THIS BAR MEASURES 1/2" ON ORIGINAL DRAWING

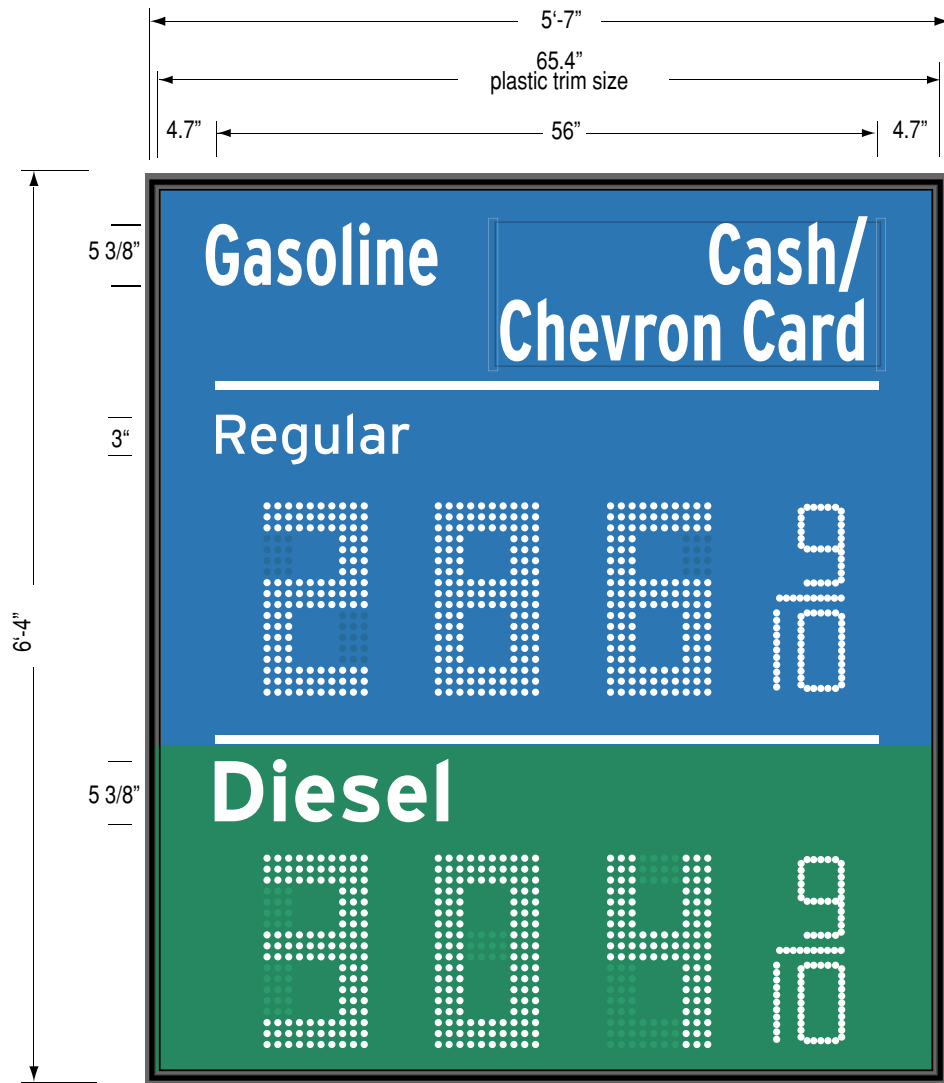




# C-60 LPS - 1+1 LPS - LED

Translucent formed SG Lexan plastic face.  
Background screen-printed to match Chevron Blue - PMS 2935 and PMS 3415 Green.

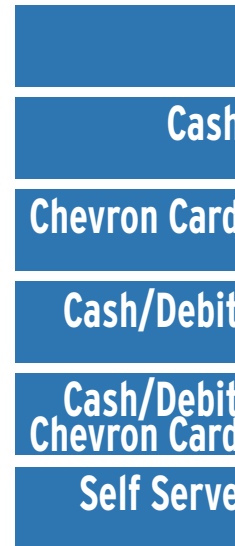
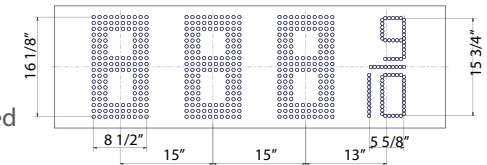
-  Dark Blue PMS 2935
-  PMS 3415



35.28 sq.ft per side

"Gasoline" copy to be Interstate Bold Condensed font condensed 85%

12" x 32" changeable panel  
Copy to be Interstate Bold Condensed font condensed 85%



White Line 7/8"

"Regular" copy to be Interstate Regular font.

"Diesel" copy to be Interstate Bold font.

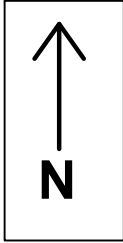
Design # 72409B  
 Scale 3/4" = 1'-0" Date 8-29-2013  
 Created for the approval of: Chevron  
 Drawn by: S. Hawke



THIS DESIGN REMAINS OUR EXCLUSIVE PROPERTY AND CANNOT BE DUPLICATED WITHOUT WRITTEN CONSENT

**PART #**  
**822-C602P-SMDFC**  
**822-C602P-IPNL**

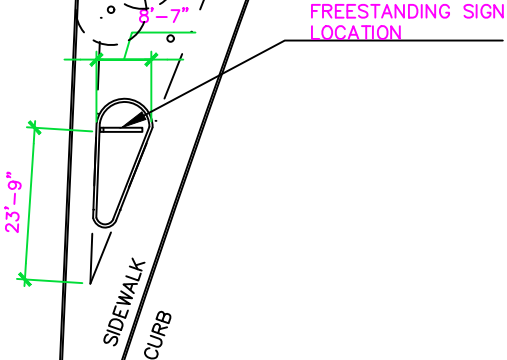
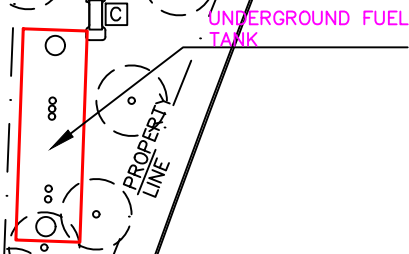
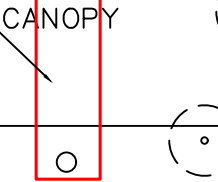
UL# E364288



UNDERGROUND FUEL TANK

NE BAKER ST

HWY 99W



# SITE PLAN

SCALE: 1" = 30'-0"

## NOTES

SIGN IS LOCATED 23' FROM END OF PROPERTY LINE  
 WIDTH BETWEEN PROPERTY LINES AT CURRENT SIGN LOCATION IS ONLY 8'-7"

MONITORING WELLS AND OTHER ENVIRONMENTAL EQUIPMENT IS MANAGED BY BB&A ENVIRONMENTAL. ALL DATA IS REPORTED DIRECTLY TO DEQ

PER BB&A CLOSEST EXCAVATION TO A MONITORING WELL WITHOUT DAMAGING THE INTEGRITY OF THE WELL IS 5'

CONTACT AT BB&A IS RANDY BOESE  
 WWW.BBAENV.COM

## LEGEND

- A DEQ WASTE WATER RECYCLING SHED
- B ABOVE GROUND PROPANE TANK & DISPENSOR
- C STANDALONE DIESEL DISPENSOR AND AIR/WATER MACHINE
- LARGE STEEL COVER PLATE INDICATING UNDERGROUND EQUIPMENT OR MONITORING WELL
- SMALL STEEL COVER PLATE INDICATING UNDERGROUND EQUIPMENT OR MONITORING WELL
- ▣ CATCH BASIN
- 5' RADIUS AROUND A MONITORING WELL THAT WE WOULD NOT BE ABLE TO EXCAVATE

REVISION: 10  
 OF 3  
 SHEET  
 1

DATE: 10/9/17  
 JOB: 17-028  
 SITE PLAN

PROJECT: PID SIGN VARIANCE  
 101 N HWY 99W  
 MC MINNILLE OR 97128

CLIENT: TRUAX

901 NORTHWEST E  
 GRANTS PASS, OR 97526  
 Phone: 541-476-1387 Fax: 541-474-2528  
 CCB #40432

VERIFY SCALE: THIS BAR MEASURES 1/2" ON ORIGINAL DRAWING





## Chuck Darnell

---

**From:** jian@doublerproducts.com  
**Sent:** Thursday, November 9, 2017 9:20 AM  
**To:** Chuck Darnell  
**Subject:** RE: 101 Hwy 99W Variance  
**Attachments:** Stop sign @ NE BAKER St.JPG

Hi Chuck,

Per your conversation with Rick could you also add to our application the following notes:

1. As only 1 electronic copy sign is allowed per site, the current location of the sign is the only location on site where a sign would be visible from both Hwy 99 and Baker St.
2. The attached picture shows a view of the sign from the Stop sign on Baker St. At a clearance of less than 8' the sign would not pose a clear vision hazard.

Thanks,  
Jian

---

**From:** Chuck Darnell [mailto:Charles.Darnell@mcminnvilleoregon.gov]  
**Sent:** Tuesday, October 31, 2017 3:18 PM  
**To:** jian@doublerproducts.com  
**Subject:** RE: 101 Hwy 99W Variance

Hi Jian,

Just following up on our conversation today in regards to the variance application for the freestanding sign located at 101 NE Highway 99W. I have attached the updated drawings that you provided to your application. The application has now been filed with the McMinnville Planning Department as application VR 2-17.

The application as submitted is hereby deemed complete. The application will be presented to the Planning Commission during a public hearing at the Planning Commission's December regular meeting. That meeting will be held on Thursday, December 21<sup>st</sup>, 2017 at 6:30 PM. The meeting will be held at the McMinnville Civic Hall (200 NE 2<sup>nd</sup> Street, McMinnville, OR 97128).

I will let you know if I have any other questions as I prepare my staff report for your application. Feel free to reach out if you have any questions prior to the public hearing.

Thanks,  
Chuck

**Chuck Darnell**  
Associate Planner  
City of McMinnville  
231 NE 5<sup>th</sup> Street  
McMinnville, OR 97128

503-434-7330

At a clearance of less than 8' the sign would not pose a clear vision hazard.



N  
01 Ore



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

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## **EXHIBIT 3 - STAFF REPORT**

**DATE:** December 21, 2017  
**TO:** Planning Commissioners  
**FROM:** Ron Pomeroy, Principal Planner  
**SUBJECT:** VR 3-17 – 1214 SW Baker Street

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### **Report in Brief:**

This is a public hearing to consider an application for a variance to allow a commercial recreational marijuana retail business to operate within 478.5 feet of another commercial recreational marijuana retail business rather than maintaining a minimum distance separation of 1,000 feet between such facilities as is currently required in the McMinnville City Code (Section 17.64.040(5)).

The property is located at 1208, 1212 and 1214 SW Baker Street, and is more specifically described as Tax Lots 3400, 3900 and 4000, Section 29AB, T. 4 S., R. 4 W., W.M. While there are three addresses listed for the commercial building sited on tax lot 4000, the main address for the site, and referenced by this document, is 1214 SW Baker Street.

### **Background:**

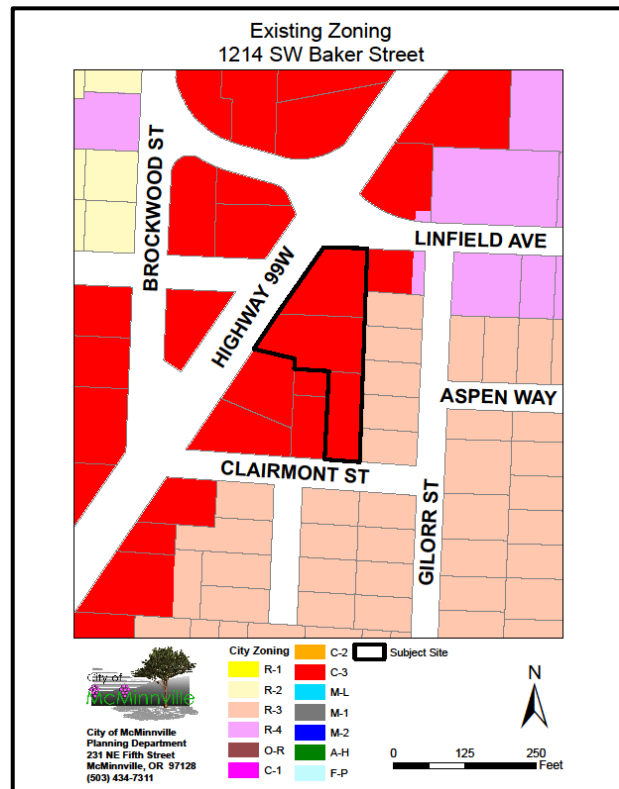
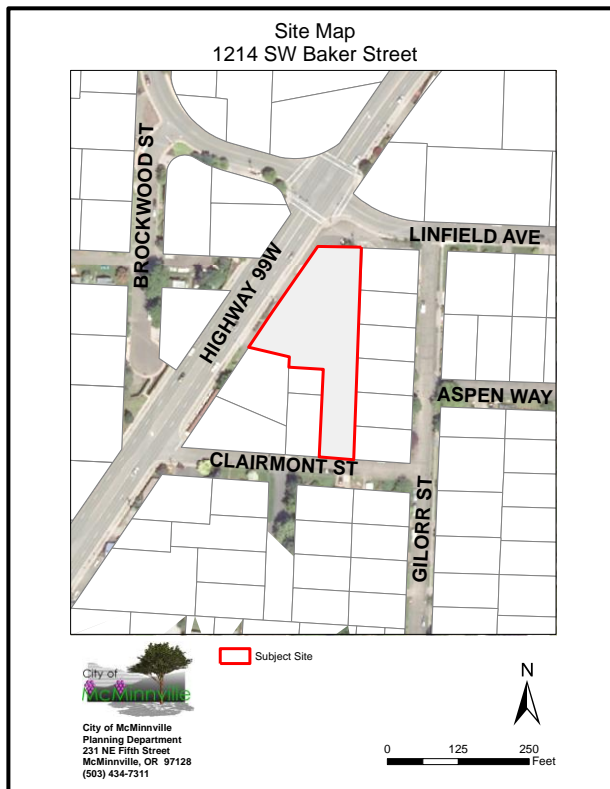
The subject site is currently vacant and is the former site of Green Heart, a commercial recreational marijuana related business that relocated to a new site 478.5 feet south on Highway 99W. Previous to that use, this site was the decades-long location of Jake's Deli. The main portion of the site is located at the southeast quadrant of the intersection of South Baker Street and SE Linfield Avenue. The site is comprised of three tax lots and extends south from the existing commercial building to SE Clairmont Street. While the commercial building is located on the northerly tax lot (tax lot 4000) most of the parking that supports this site is located on the remaining two tax lots to the south (tax lots 3400 and 3900).

The subject site is zoned C-3 (General Commercial) and is designated on the comprehensive plan map as Commercial. The site is surrounded by commercial properties on the west and north, and residential on the east and south. Properties immediately adjacent to the subject site to the west are zoned C-3 (General Commercial) and developed with commercial uses except the southernmost lot which fronts SE Clairmont Street and hosts a single-family residence. The northernmost adjacent parcel to the east is also zoned C-3 and commercially developed. All other land to the east is zoned R-3 (Two-Family Residential) and is developed with single-family residence. Please see Site Map and Zoning Map on the next page.

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### **Attachments:**

*Attachment A -- Decision, Findings of Fact and Conclusionary Findings for the Denial of a Variance request to reduce the 1,000 foot spacing requirement for commercial recreational retail marijuana businesses to 478.5 feet at 1214 SW Baker Street.*



The subject site had a long history in the community as the location of Jakes Deli. In 2015, after the adoption of local marijuana related activity regulations (Chapter 17.64 of the McMinnville Zoning Ordinance), the restaurant transitioned to become the location of Green Heart Oregon, a marijuana related commercial business. Since that time, Green Heart Oregon vacated the site and is now in the process of reopening as The Green Heart at a commercial site on property located at the northeast corner of S. Baker Street and SE Taft Street. The City of McMinnville approved a LUCS form for a commercial recreational marijuana retail business, The Green Heart, on February 3, 2017, allowing them to move forward toward opening at this new location. At this time, the commercial building located at the subject site currently remains vacant.

The site plan provided with the application submittal identifies uses for the site in three phases:

- Phase 1 – Remodel existing Banquet Hall - permitted use – Pharmacy
- Phase 1.5 – Remodel existing Kitchen – permitted use – Kitchen
- Phase 2 – Remodel existing Restaurant – 48 occupants

While these phases and uses are identified on the applicant’s site plan, this is the only location in the application packet where these phases and uses are referenced.

The site plan identifies 34 onsite vehicle parking stalls that exist in various locations throughout the property. However, the applicant’s submitted materials do not identify the square footage of the existing building or the portion of the building intended for commercial recreational marijuana retail business use. This lack of information does not allow for a calculation of the minimum number of parking stalls required to support the intended retail use.

The vehicle parking standard for retail use is based on a requirement of one space for each 250 square feet of floor area. The 34 existing spaces then would be sufficient to support a retail use of up to 8,478.5 square feet based on commercial retail use. While the square footage of the existing facility is

*Attachments:*

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not provided in the submitted materials, it appears that the existing building is approximately 4,478.5 square feet in size. Existing onsite parking would be sufficient to support a general commercial retail use at site even if the entire building was utilized for retail use. Additionally, as the zoning ordinance allows up to 35 percent of vehicle parking stalls to be sized for compact use only, eleven compact vehicle parking stalls are identified on the site plat which equates to 32 percent of the existing parking stalls being identified as compact stalls. Two handicapped accessible parking spaces are also required for the number of spaces provided.

The only substantive comments were returned by the Oregon Department of Transportation (ODOT) and are provided in full in the Comments section of the VR 3-17 Decision Document. ODOT's comments state that while there is no access permit on record for the site's vehicular opening onto South Baker Street (OR Hwy 99W), that under 2014 Oregon Administrative Rule (OAR) ODOT can grant a Presumption of Written Permission for an Existing Private Connection such as has been authorized by ODOT in this case. Any future work affecting the Hwy 99W right-of-way must first receive ODOT approval.

### **Discussion:**

The Planning Commission's responsibility regarding this type of land use request is to conduct a public hearing and, at its conclusion, render a decision to approve, approve with conditions, or deny the Variance request. The Planning Commission should rely upon the criteria of Section 17.74.100, "Variance – Planning Commission Authority", and Section 17.74.110, "Conditions for Granting Variance", of the McMinnville Zoning Ordinance to review the proposal and render a decision.

The applicant is requesting a variance from Section 17.64.040(5) of the McMinnville City Code, which states "Commercial recreational retail businesses may not be located within 1,000 feet of another state licensed commercial recreational retail business." Specifically, the applicant is requesting that this standard be reduced to a separation requirement of 500 feet for the purpose of the applicant being able to establish a commercial recreational retail marijuana related business at the subject site. However, a straight line measurement from the southwestern corner of the subject site (tax lot 3400 that fronts SE Clairmont Street) to the northeast (closest) corner of the site that Green Heart has been licensed to operate from (tax lot 5600 located at the corner of South Baker and Taft Streets) is a separation distance of 478.5 feet (Decision Document Attachment 2). The applicant provided email to the Planning Department on December 12, 2017, modifying the variance request to allow a marijuana related commercial recreational retail business to operate with 478.5 feet of another such business (Decision Document Attachment 3).

#### *Section 17.74.100*

##### *Variance – Planning Commission Authority:*

The Planning Commission may authorize variances from the requirements of the zoning ordinance where it can be shown that, due to unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship. However, no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of the zoning ordinance.

The applicant provided a response in regards to the unnecessary hardship that would be avoided by granting the variance. The applicant stated "With no real purpose for this ordinance. And no known problems in over a year. With the new marijuana law. Restricting fair trade is not serving the population of McMinnville with reduced retail choices. There are several properties that could benefit from a reduced restriction. The hardship is lost lease value." The applicant provided an additional response related to

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#### *Attachments:*

*Attachment A -- Decision, Findings of Fact and Conclusionary Findings for the Denial of a Variance request to reduce the 1,000 foot spacing requirement for commercial recreational retail marijuana businesses to 478.5 feet at 1214 SW Baker Street.*

the unnecessary hardship, which was that the variance “would allow an increased lease base and eliminate lost land and lease value”.

The applicant’s response does not speak to any unusual circumstances that are related to the specific piece of property in question, which results in the specific unnecessary hardship at the subject property. The applicant’s response speaks to land lease opportunities and reduced retail choices. However, the applicant provides no information to substantiate the hardship that exists uniquely to this property due to strict application of the Zoning Ordinance.

### **Variance Review Criteria**

In reviewing variance requests, the Planning Commission must determine whether, owing to special and unusual circumstances related to a specific piece of property, strict application of the McMinnville Zoning Ordinance would cause an undue or unnecessary hardship.

When an applicant applies for a land-use decision, the burden of proof is on the applicant to provide the findings as to why their application should be approved. Below is a summary of the applicant’s findings relative to the criteria for the land-use decision. The full application is included as an attachment of the Decision Document.

#### *Section 17.74.110*

A variance may be granted only in the event that the following circumstances substantially exist.

- A. *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;*

Applicant’s Finding: The applicant responded to this criterion by stating, “There is two times as much commercially zoned property on the north side of McMinnville. Based on the available land in south McMinnville the distance limit should be half as much. This would allow equal land lease and property value to the property at 1208, 1212 and 1214 Baker Street.”

Staff Response: The applicant’s response does not speak to any exceptional or extraordinary circumstance relative to the subject site that other properties in the same zone or vicinity do not have, resulting from lot size or shape, topography or other circumstance over which the applicant has no control. The applicant’s response speaks to land lease opportunities and property valuations based on the number of commercially zoned properties located in one portion of the McMinnville as opposed to another. However, the applicant provides no information to substantiate the inference of unequal property lease opportunities or financial valuation relative to the subject site. Further, matters of property lease opportunities or property valuation do not speak to a land use property right. If the argument is that commercial land supply on the south side of McMinnville is the exceptional or extraordinary circumstance applicable to this particular property that same argument would hold for all commercially zoned properties in south McMinnville and not just this particular property. The applicant did not provide a finding to substantiate how this approval criterion has been satisfied.

- B. *The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;*

Applicant’s Finding: The applicant responded to this criterion by stating, “Property value. Lease rates”

Staff Response: The applicant does not make a clear distinction as to how the spacing standard which is applied to all properties in the C-3 zone equally, takes away a property right of the applicant that is

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#### *Attachments:*

*Attachment A -- Decision, Findings of Fact and Conclusionary Findings for the Denial of a Variance request to reduce the 1,000 foot spacing requirement for commercial recreational retail marijuana businesses to 478.5 feet at 1214 SW Baker Street.*

substantially different from owners of other property in the same zone or vicinity possess. As the applicant has provided no other information, this criterion has not been satisfied.

*C. The variance would not be materially detrimental to the purpose of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy;*

**Applicant's Finding:** The applicant responded to this criterion by stating, "The City has no clear purpose for this ordinance. It was enacted because other cities did the same. Reducing the 1000 ft would not be detrimental to the surrounding properties it would increase land lease or sale values."

**Staff Response:** The applicant claims that the variance, which would set a precedent of reducing the spacing standards for commercial recreational marijuana facilities would be beneficial to surrounding properties by adding a free market component to all properties and eliminate any perceived restrictions. However the applicant's response is relative to a precedent and not a specific variance request for the subject site and how that specific variance impacts surrounding properties. Based upon the applicant's response it is not clear how the variance requested would not be materially detrimental to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy. Conversely though, if the variance is granted it sets a precedent for the spacing standard that is in the city ordinance that is not property specific or tied to any particular unique circumstances associated with the property, thereby in effect setting the stage for the variance to be applicable to all other properties in the C-3 zone. This criterion was not satisfied by the applicant's finding.

*D. The variance requested is the minimum variance which would alleviate the hardship."*

**Applicant's Finding:** The applicant states: "750 ft would eliminate the zoning obstacle. However 478.5 ft would be fair for all property owners."

**Staff Response:** The applicant does not provide information as to how or why modifying the subject separation standard to 750 feet would eliminate the "zoning obstacle." Neither does the applicant provide information as to how or why the granting of this variance to allow a site specific 478.5 foot separation standard would be fair for all property owners. However, approval of this variance request to allow a 478.5 foot separation standard for this site is the minimum variance request that would alleviate the claimed hardship. This criterion is therefore satisfied.

### **Fiscal Impact:**

None.

### **Commission Options:**

- 1) Close the public hearing and **APPROVE** the application, providing findings of fact for the approval in the motion to approve.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, per the decision document provided which includes the findings of fact.

### **Recommendation/Suggested Motion:**

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#### **Attachments:**

*Attachment A -- Decision, Findings of Fact and Conclusionary Findings for the Denial of a Variance request to reduce the 1,000 foot spacing requirement for commercial recreational retail marijuana businesses to 478.5 feet at 1214 SW Baker Street.*



The Planning Department recommends that the Commission make the following motion to deny VR 3-17:

**THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR DENIAL IN THE DECISION DOCUMENT FOR VR 3-17, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION DENIES VR 3-17.**

RP:cd

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*Attachments:*

*Attachment A -- Decision, Findings of Fact and Conclusionary Findings for the Denial of a Variance request to reduce the 1,000 foot spacing requirement for commercial recreational retail marijuana businesses to 478.5 feet at 1214 SW Baker Street.*

**CITY OF MCMINNVILLE  
PLANNING DEPARTMENT  
231 NE FIFTH STREET  
MCMINNVILLE, OR 97128**

503-434-7311  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)



**DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE DENIAL OF A VARIANCE FOR A REDUCTION OF THE MINIMUM 1,000 FOOT SEPARATION REQUIREMENT BETWEEN COMMERCIAL RECREATIONAL RETAIL MARIJUANA FACILITIES TO 478.5 FEET.**

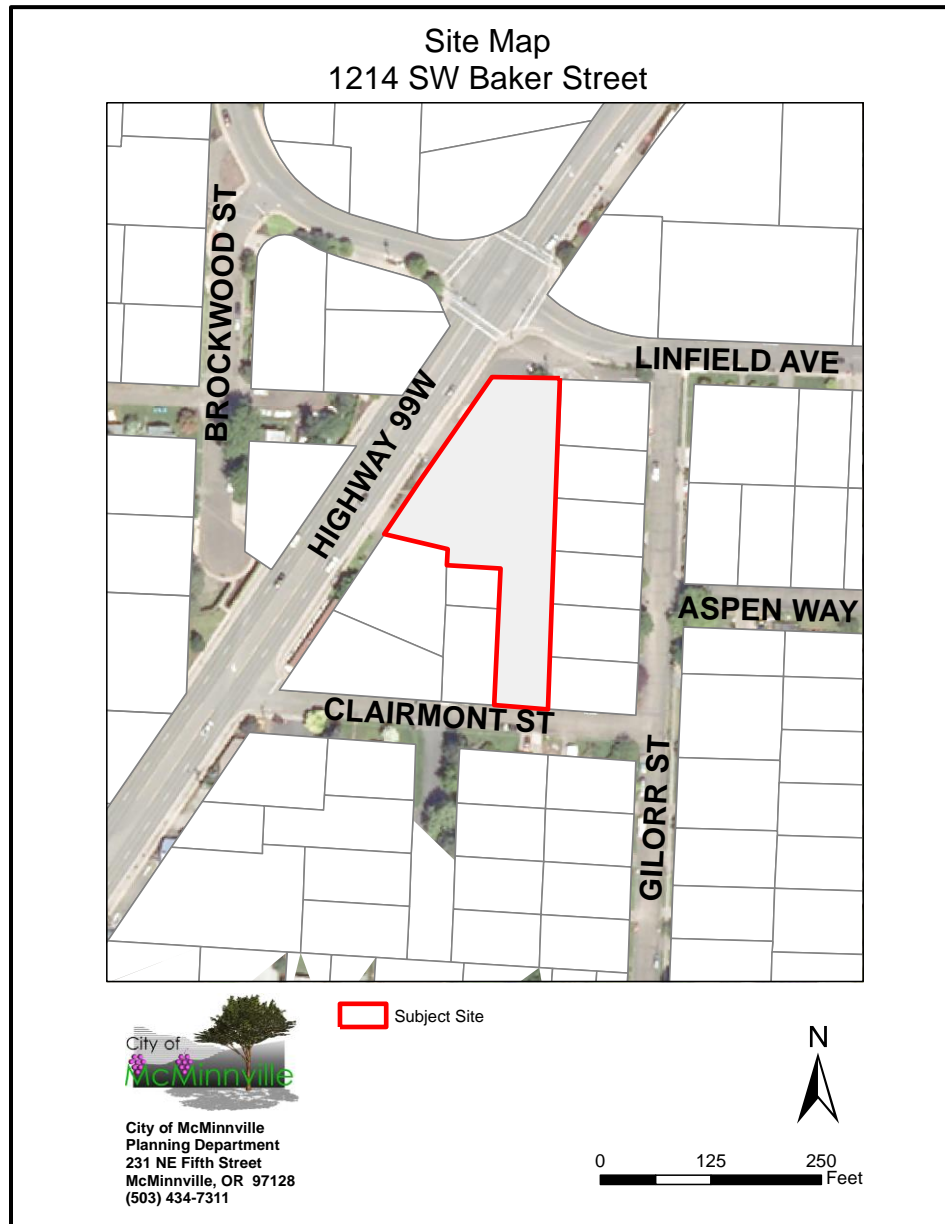
- DOCKET:** VR 3-17 (Variance)
- REQUEST:** Waynes World LLC is requesting approval of a zoning variance to allow a reduction in the minimum 1,000 foot separation requirement between commercial recreational retail marijuana facilities to a minimum separation requirement of 478.5 feet.
- LOCATION:** The property is located at 1214 SE Baker Street, and is more specifically described as Tax Lots 3400, 3900 and 4000, Section 29AB, T. 4 S., R. 4 W., W.M.
- ZONING:** The subject site’s current zoning is C-3 (General Commercial).
- APPLICANT:** Waynes World, LLC
- STAFF:** Ron Pomeroy, Principal Planner
- DATE DEEMED COMPLETE:** November 14, 2017
- HEARINGS BODY:** McMinnville Planning Commission
- DATE & TIME:** December 21, 2017. Meeting held at the Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon.
- COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Public Works Department, Wastewater Services, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; Recology Western Oregon; and the Oregon Department of Transportation. Their comments are provided in this decision document.



**Application Summary:**

The applicant is requesting approval of a zoning variance to allow a reduction in the minimum 1,000 foot separation requirement between commercial recreational retail marijuana facilities to a minimum separation requirement of 478.5 feet.

A site reference map is provided below:



**ATTACHMENTS**

- 1: VR 3-17 Application and Attachments
- 2: Separation Distance Graphic
- 3: December 12, 2017 Email from Applicant modifying variance request, received December 12, 2017

Attachments:

Attachment 1 – Application and Attachments

Attachment 2 – Separation Distance Graphic

Attachment 3 – December 12, 2017 Email from Applicant modifying variance request, received December 12, 2017

## **COMMENTS**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville Parks Department, McMinnville School District No. 40, McMinnville Water and Light, McMinnville Public Works, Wastewater Services, Yamhill County Planning Department, Frontier Communications, Comcast, Oregon Department of Transportation, Northwest Natural Gas, and Recology. The following comments have been received:

### **McMinnville Engineering Department:**

We have reviewed proposed VR 3-17, and have no comments.

### **McMinnville Water and Light:**

MW&L has no comment on this application.

### **Oregon Department of Transportation:**

ODOT staff has completed a review of the submitted application and has the following comments.

The property abuts the Pacific Highway West, No. 91, State Route OR-99W, and is subject to state laws administered by the Oregon Department of Transportation. These laws may require the applicant to obtain one or more state permits to carry out the intended use of the property, or to otherwise comply with state law without need for a permit. ODOT has reviewed its access permit records and determined there is not an existing permit for the highway access.

In June 2014 new administrative rules were adopted by the Oregon Legislature related to the issuance of access permits for connections (driveways) to the state highway system. The rule contained a new section related to existing private connections that do not have an access permit issued by ODOT; OAR 734-051-3015, Presumption of Written Permission for an Existing Private Connection. This portion of rule gives ODOT the ability to acknowledge existing connections as if they had legal status similar to an access permit. ODOT makes this determination based on documentation that indicates a connection was in existence as of January 1, 2014. Specific to the highway connection associated with this land use notice, ODOT has verified that the connection meets the administrative rule criteria and thereby can be viewed as permitted. No further access permitting action is necessary at this time provided the existing OR-99W connection is not physically modified or relocated in any manner.

Please note if the applicant or their contractor is required to occupy state highway right-of-way to relocate or reconstruct franchise utilities, A Permit To Occupy Or Perform Operations Upon A State Highway will be necessary. The permit can be obtained by contacting Tom Sagers, District 3 Permit Specialist at 503.986.2876. The applicant or their contractor shall obtain the permit 30 calendar days prior to commencing any activities within state highway right-of-way.

If you have any questions please feel free to contact me at 503.986.2732. Gerry Juster

#### Attachments:

Attachment 1 – Application and Attachments

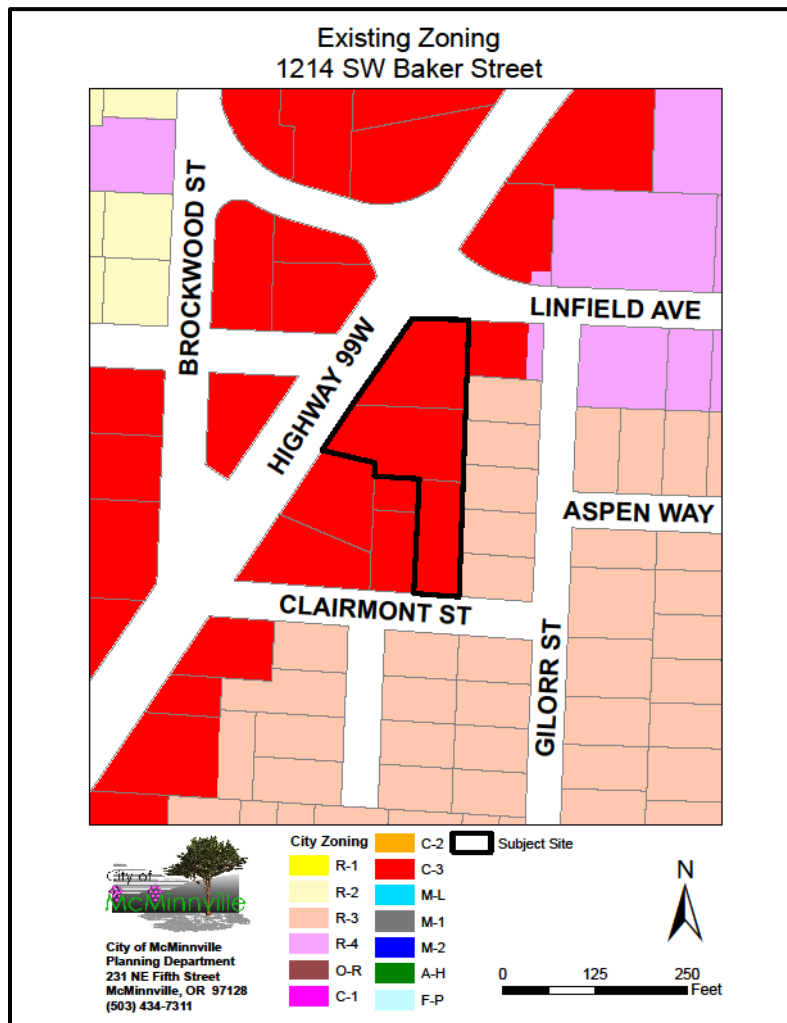
Attachment 2 – Separation Distance Graphic

Attachment 3 – December 12, 2017 Email from Applicant modifying variance request, received December 12, 2017

**FINDINGS OF FACT**

1. Waynes World LLC is requesting approval of a zoning variance to allow a reduction in the minimum 1,000 foot separation requirement between commercial recreational retail marijuana facilities to a minimum separation requirement of 478.5 feet. The property is located at 1214 SE Baker Street, and is more specifically described as Tax Lots 3400, 3900 and 4000, Section 29AB, T. 4 S., R. 4 W., W.M.
2. The site is currently zoned C-3 (General Commercial), and is designated as Commercial on the McMinnville Comprehensive Plan Map, 1980. The site is comprised of three tax lots and extends south from the existing commercial building to SE Clairmont Street. While the commercial building is located on the northerly tax lot (tax lot 4000) most of the parking that supports this site is located on the remaining two tax lots to the south (tax lots 3400 and 3900).

Properties immediately adjacent to the subject site to the west are also zoned C-3 (General Commercial) and developed with commercial uses except the southernmost lot which fronts SE Clairmont Street and is developed with a single-family residence. The northernmost adjacent parcel to the east is also zoned C-3 and commercially developed. All other land to the east is zoned R-3 (Two-Family Residential) and is developed with single-family residences.



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Attachment 3 – December 12, 2017 Email from Applicant modifying variance request, received December 12, 2017

3. Sanitary sewer and municipal water and power can serve the site. The municipal water reclamation facility has sufficient capacity to accommodate expected waste flows resulting from development of the property.
4. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Public Works Department, Wastewater Services, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; Recology Western Oregon; and the Oregon Department of Transportation. Their comments are provided in this decision document.
5. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

### **CONCLUSIONARY FINDINGS**

#### **McMinnville's Comprehensive Plan:**

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF MCMINNVILLE.

*Policy 188.00: The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

#### **McMinnville's City Code:**

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

##### General Provisions:

**"17.03.020 Purpose.** The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of

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the land resource; and to promote in other ways public health, safety, convenience, and general welfare."

Finding: Section 17.03.020 (Purpose) of the McMinnville Zoning Ordinance is satisfied by the request in that the continued commercial use of this existing building for one or more of the permitted types of commercial uses specified in the zoning ordinance promotes appropriate, efficient and orderly physical development in the city. Further commercial utilization of this site would continue a cohesive pattern of viable economic uses of existing commercial buildings and support mutually beneficial economic relationships with the area. Competent administration of state and local building codes and adequate utility provision promote the public health, safety, convenience and general welfare of the community.

#### Chapter 17.64 – Marijuana Related Activities

##### 17.56.040 (5)

5. "Commercial recreational retail businesses may not be located within 1,000 feet of another state licensed commercial recreational retail business."

Finding: The variance request is to reduce this 1,000 foot separation requirement to 478.5 feet relative to the subject site.

#### Off-Street Parking and Loading:

##### "17.60.060 Spaces – Number Required.

##### C. Commercial land use category

##### 18. Retail store [..]

One space per 250 square feet of floor area."

Finding: Section 17.60.060(C)(18) of the McMinnville Zoning Ordinance is satisfied by the request in that based on the square footage of the existing building being approximately 4,500 square feet in size, the maximum number of parking spaces required to sufficiently serve this site for retail use would be 18 spaces. This site currently provides 34 existing spaces which greatly exceeds the maximum number of spaces that would be required should this variance request be approved.

"17.74.100 Variance-Planning Commission Authority. The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title."

Finding: The applicant provided a response in regards to the unnecessary hardship that would be avoided by granting the variance. The applicant stated "With no real purpose for this ordinance. And no known problems in over a year. With the new marijuana law. Restricting fair trade is not serving the population of McMinnville with reduced retail choices. There are several properties that could benefit from a reduced restriction. The hardship is lost lease value." The applicant provided an additional response related to the unnecessary hardship, which was that the variance "would allow an increased lease base and eliminate lost land and lease value".

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The applicant's response does not speak to any unusual circumstances that are related to the specific piece of property in question, which results in the specific unnecessary hardship at the subject property. The applicant's response speaks to land lease opportunities and reduced retail choices. However, the applicant provides no information to substantiate the hardship that exists uniquely to this property due to strict application of the Zoning Ordinance.

Section 17.74.100 is satisfied in that the Planning Commission is provided with decision making authority to consider a zoning variance request such as this current request (VR 3-17). The Planning Commission finds that the applicant did not provide findings to support the authorization of the variance requested, which is described in more detail below in the findings for the specific variance review criteria.

"17.74.110 Conditions for Granting Variance. A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;"

Finding: The applicant's response does not speak to any exceptional or extraordinary circumstance relative to the subject site that other properties in the same zone or vicinity do not have, resulting from lot size or shape, topography or other circumstance over which the applicant has no control. The applicant's response speaks to land lease opportunities and property valuations based on the number of commercially zoned properties located in one portion of the McMinnville as opposed to another. However, the applicant provides no information to substantiate the inference of unequal property lease opportunities or financial valuation relative to the subject site. Further, matters of property lease opportunities or property valuation do not speak to a land use property right. If the argument is that commercial land supply on the south side of McMinnville is the exceptional or extraordinary circumstance applicable to this particular property that same argument would hold for all commercially zoned properties in south McMinnville and not just this particular property. The applicant did not provide a finding to substantiate how this approval criterion has been satisfied. The Planning Commission finds that this criterion has not been satisfied.

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

Finding: The applicant does not make a clear distinction as to how the spacing standard which is applied to all properties in the C-3 zone equally, takes away a property right of the applicant that is substantially different from owners of other property in the same zone or vicinity possess. As the applicant does not provide this information for consideration, the Planning Commission finds that this criterion has not been satisfied.

- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

Finding: The applicant claims that the variance, which would set a precedent of reducing the spacing standards for commercial recreational marijuana facilities, would be beneficial to surrounding properties by adding a free market component to all properties and eliminate any perceived restrictions. However the applicant's response is relative to a precedent and not a specific variance request for the subject site and how that specific variance impacts surrounding properties. Based upon the applicant's response it is not clear how the variance requested would not be materially detrimental to property in

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the zone of vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy. Conversely though, if the variance is granted it sets a precedent for the spacing standard that is in the city ordinance that is not property specific or tied to any particular unique circumstances associated with the property, thereby in effect setting the stage for the variance to be applicable to all other properties in the C-3 zone. The Planning Commission finds that this criterion has not been satisfied.

D. The variance requested is the minimum variance which would alleviate the hardship.

Finding: The applicant does not provide information as to how or why modifying the subject separation standard to 750 feet would eliminate the “zoning obstacle.” Neither does the applicant provide information as to how or why the granting of this variance to allow a site specific 478.5 foot separation standard would be fair for all property owners. However, approval of this variance request to allow a 478.5 foot separation standard for this site is the minimum variance request that would alleviate the claimed hardship. This criterion is therefore satisfied. The Planning Commission finds that this criterion is satisfied.

RP:cd

Attachments:

Attachment 1 – Application and Attachments

Attachment 2 – Separation Distance Graphic

Attachment 3 – December 12, 2017 Email from Applicant modifying variance request, received December 12, 2017



Planning Department  
231 NE Fifth Street o McMinnville, OR 97128  
(503) 434-7311 Office o (503) 474-4955 Fax  
www.ci.mcminnville.or.us

<b>Office Use Only:</b>	
File No.	<u>VR 3-17</u>
Date Received	<u>10/19/17</u>
Fee	<u>990.00</u>
Receipt No.	<u>17MD223</u>
Received by	<u>[Signature]</u>

## Zoning Variance Application

### Applicant Information

Applicant is:  Property Owner  Contract Buyer  Option Holder  Agent  Other RENTER

Applicant Name WAYNES WURLO LLC Phone \_\_\_\_\_

Contact Name WAYNE STOCKS Phone 503 434-1716  
(If different than above)

Address PO BOX 297

City, State, Zip McMinnville, OR 97128

Contact Email WKSTOCKS@KOUNTIKR.COM

### Property Owner Information

Property Owner Name Steve & Mary Allen DBA Great LLC Phone 971-237-1461  
(If different than above)

Contact Name STEVE & MARY ALLEN Phone \_\_\_\_\_

Address 1208 BAKER ST 1212 & 1214

City, State, Zip McMinnville, OR 97128

Contact Email \_\_\_\_\_

### Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 1214 SW BAKER ST McMinnville, OR 97128

Assessor Map No. R4 4429-AB-04000 Total Site Area .31 acres

Subdivision Gilson Subdivision Block 1 Lot 4000 12

Comprehensive Plan Designation COM Zoning Designation L-3

Please indicate the type of variance requested:

- Lot Size Requirement \_\_\_\_\_ Reduction to \_\_\_\_\_
- Setback – Front, Rear, Side Requirement \_\_\_\_\_ Reduction to \_\_\_\_\_
- Other ZONING STANDARDS

1. Describe the nature of the request in detail: \_\_\_\_\_  
SEE ATTACHED SHEETS

2. What exceptional or extraordinary circumstances apply to the property which do not apply generally to other property in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this ordinance, topography, or other circumstance over which the applicant has no control? \_\_\_\_\_

3. What property right would be preserved by granting the variance? \_\_\_\_\_

4. What unnecessary hardship would be avoided by granting the variance? \_\_\_\_\_

5. Why won't this request be detrimental to the surrounding area? \_\_\_\_\_

6. Please explain how this would be the minimum variance necessary to alleviate the hardship? \_\_\_\_\_

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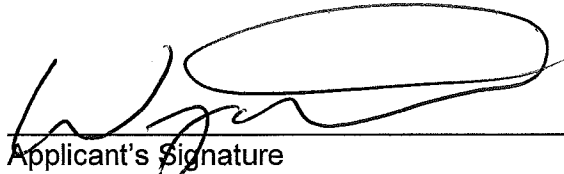
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In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed buildings, dimensions, and adjacent street(s), distances from property lines, access, and any other information that would help substantiate or clarify your request.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

**I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.**

  
\_\_\_\_\_  
Applicant's Signature

10-19-17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Property Owner's Signature

10.19.17  
\_\_\_\_\_  
Date

#1, WE REQUEST LOWERING THE 1000 FT RESTRICTION BETWEEN SAME TYPE MARIJUANA DISPENSARY TO A MINIMUM DISTANCE OF 500 FT.

#2, THERE IS TWO TIMES AS MUCH COMMERCIALY ZONED PROPERTY ON THE NORTH SIDE OF McMinnville. BASED ON THE AVAILABLE LAND IN SOUTH McMinnville THE DISTANCE LIMIT SHOULD BE HALF AS MUCH. THIS WOULD ALLOW EQUAL LAND LEASE VALUE TO BOTH NORTH AND SOUTH McMinnville

#3, PROPERTY VALUE, LEASE RATES.

#4, WITH NO REAL PURPOSE FOR THIS ORDINANCE, AND NO KNOWN PROBLEMS IN OVER A YEAR. WITH THE NEW MARIJUANA LAW, RESTRICTING FAIR TRADE IS NOT SERVING THE POPULATION OF McMinnville WITH REDUCED RETAIL CHOICES. THERE ARE SEVERAL PROPERTIES THAT COULD BENEFIT FROM A REDUCED RESTRICTION. THE HARSHIP IS LOST LEASE VALUE.

#5. THE CITY HAS NO CLEAR PURPOSE FOR THIS ORDINANCE, IT WAS PASSED BECAUSE OTHER CITIES DID THE SAME. REDUCING THE 1000 FT WOULD NOT BE DETRIMENTAL TO THE SURROUNDING PROPERTIES IT WOULD INCREASE LAND LEASE OR SALE VALUES.

#6. 750 FT WOULD ELIMINATE THE ZONING OBSTACLE. HOWEVER 500 FT WOULD BE FAIR FOR ALL PROPERTY OWNERS.

TO: RON POMEROY

Amended

- ① PROPERTY SITE LOTS ARE 03400, 03900 AND R4429-AB-0400
- ② PROPERTY OWNERS ADDRESS IS 835 SW HILARY ST McMol.
- ③ THERE ARE THREE ADDRESSES AT THIS SITE 1208, 1212 AND 1214. ALL BAKER ST
- ④ COMPREHENSIVE PLAN IS COMMERCIAL ZONING DESIGNATION IS C-3  
TOTAL SITE AREA IS 25,000 SQ. FT.
- ⑤ AMEND TO ADDRESS ZONING ORDINANCE 17.64.040 A.(5) WE REQUEST THE VARIANCE TO BE 500 FT FOR THIS LOCATION.
- ⑥ THE RESPONSE TO APPLICATION QUESTION #2. THE LAST SENTENCE SHOULD READ; THIS WOULD ALLOW EQUAL LAND LEASE AND PROPERTY VALUE TO THE PROPERTY LOCATED AT 1208, 1212 AND 1214 BAKER ST.
- ⑦ CHANGE RESPONSE TO #4 OF VARIANCE APPLICATION TO READ AS FOLLOWS,  
WOULD ALLOW AN INCREASED LEASER BASE AND ELIMINATE LOST LAND AND LEASE VALUE.

RECEIVED

NOV 13 2017

COMMUNITY DEVELOPMENT  
CENTER

THANK YOU

  
WANDA STOCKS



THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

NW 1/4 NE 1/4 SEC 29 T4S R4W W.M.  
YAMHILL COUNTY  
1" = 100'

4 4 29AB  
MCMINNVILLE

SEE MAP 4 4 20CD

SEE MAP 4 4 20DC

CANCELLED  
400

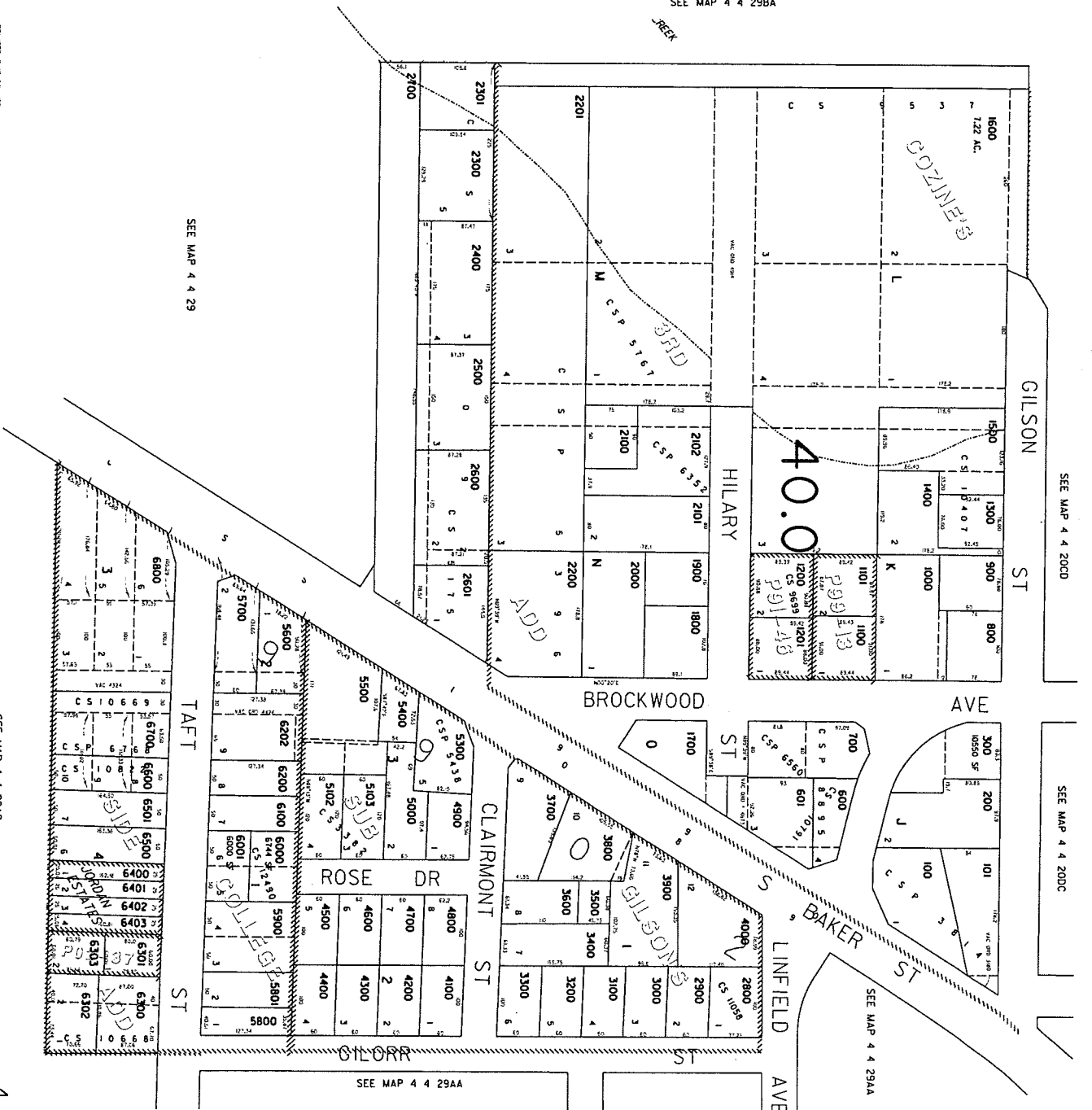
SEE MAP 4 4 29BA

SEE MAP 4 4 29

REVISED 5-13-09 58

SEE MAP 4 4 29AC

4 4 29AB



SEE MAP 4 4 29AA

LINFIELD WAY

FILE ON L ME

APPROXIMATE LOCATION OF EXISTING SLOPED PAVING

VAN PARKING SPACE STRIPE 12'-0" X 19'-0"

NEW STRIPING: 6'-0" X 19'-0" ACCESS AISLE ON EXISTING CONCRETE

PORTION OF SITE NOT INDICATED ON SURVEY ASSUMED R.O.W.

REPAIR EXIST STRIPE FOR 6 STD. SPACES 8'-6" X 19'-0"

EXISTING SERVICE POLE AND YARD VAULT  
EXISTING ELECTRIC METER AND CABINET

EXISTING SOLID WOOD FENCE  
REPAIR EXISTING WOOD DECK FOR COFFEE SHOP

PHASE 2: REMODEL EXISTING RESTAURANT 48 OCCUPANTS

PHASE 1.5: REMODEL EXISTING KITCHEN: PERMITTED USE:: KITCHEN

PHASE 1: REMODEL EXISTING BANQUET HALL PERMITTED USE:: PHARMACY

EXISTING SERVICE POLE 4429 : 224

EXISTING CONCRETE HALF WALL AROUND TRASH BINS

NEW 36" WIDE ACCESS ROUTE WIDE WHITE LINES EACH SIDE

ACCESSIBLE PARKING SPACE STRIPE 9'-6" WIDE X 19'-0"

NEW STRIPING: 8'-0" WIDE SHARED ACCESS AISLE

VAN PARKING SPACE STRIPE 9'-0" X 19'-0"

CONFIRM/REPAIR EXISTING PARKING STRIPE FOR 9 STAND SPACES 8'-6" X 19'

EXISTING SOLID WOOD FENCE



99W / BAKER STREET

EXISTING SIDEWALK  
EXIST. PAVED R.O.W.

12'-6" ONE WAY

512 sq.ft EXIST LANDSCAPE

EXIST. DECK COFFEE SHOP

CONFIRM EXIST. SAN SEWER

2828 sq ft EXISTING LANDSCAPE

ACCESS TO PUBLIC WAY

EXISTING LIGHT AND STREETLIGHT

CONFIRM MAXIMUM 1:48 SLOPE ANY DIRECTION AT ALL PEDESTRIAN ACCESS ROUTES, PUBLIC ENTRANCES AND ACCESS AISLES

116 sq.ft EXIST. LANDSCAPE

ABANDON EXISTING SPACE SIGNED AS ACCESSIBLE: LOCATE NEW WOOD FENCE SCREEN AROUND CARDBOARD DUMPSTER

EXISTING LIGHT

RE-STRIPLE FOR 11 COMPACT SPACES 8'-0" X 16'

EXISTING CB

EXISTING PARKING AREA

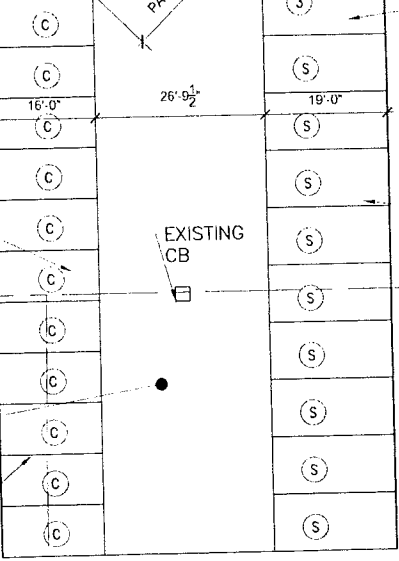
EXISTING SOLID WOOD FENCE

ING D AND

ATE-  
RN,

CONFIRM 19'-0"

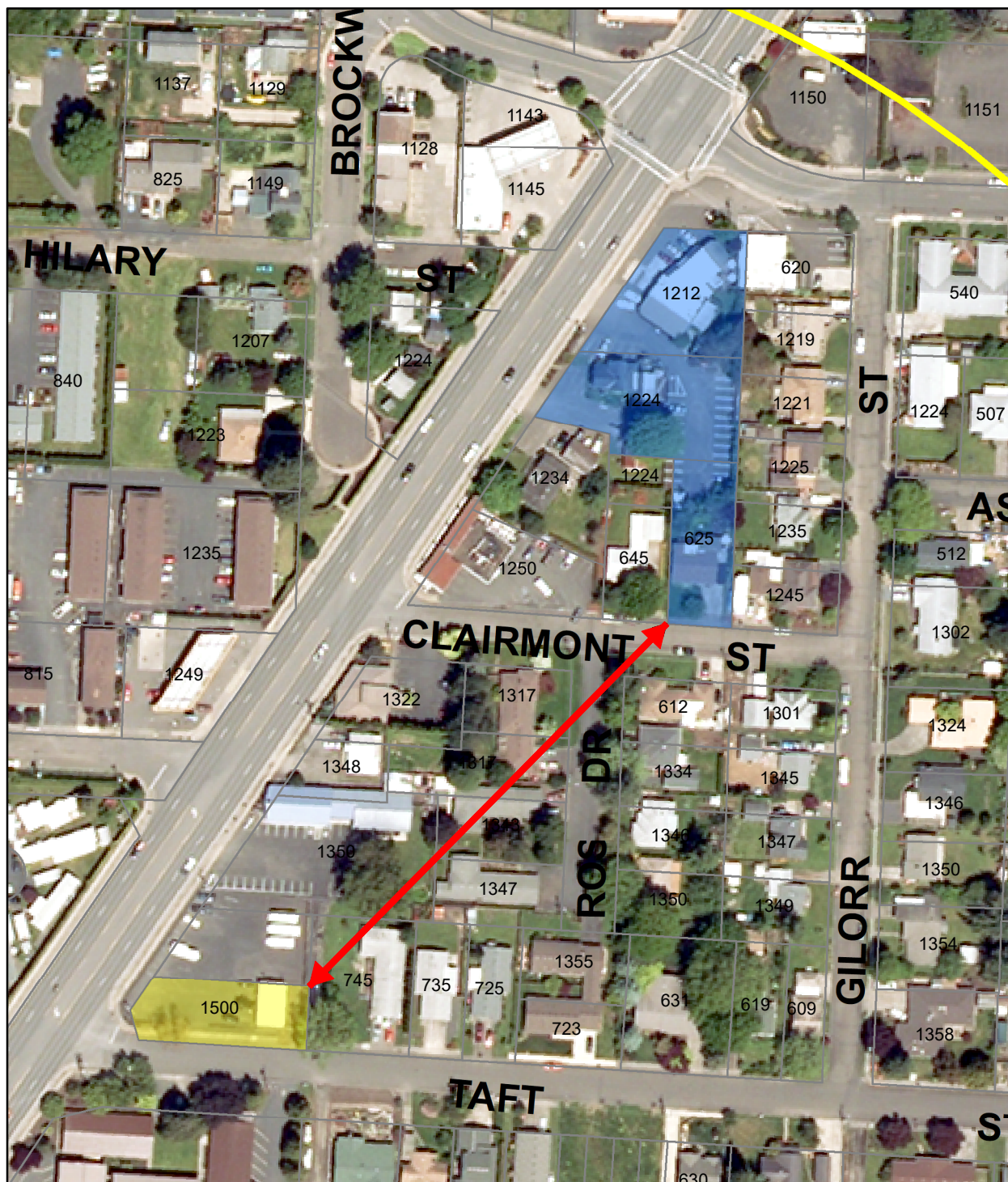
PARKING



# VR 3-17 - 1214 SW Baker Street



## Distance Between Subject Site and Existing Dispensary Site



- VR 3-17 Subject Site
- Existing Marijuana Dispensary Site
- 1500 SW Baker - 1000 Foot Buffer
- Distance Between Sites - 478.5 Feet

0 200 400 Feet



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

**From:** [\(null\) wkstocks](#)  
**To:** [Ron Pomeroy](#)  
**Subject:** Re: Information regarding your Variance request (VR 3-17) - Distance Map  
**Date:** Tuesday, December 12, 2017 11:39:07 AM

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I would like to modify my request to allow a commercial recreational marijuana retail business to operate within 478.5 feet of another commercial recreational marijuana retail business rather than maintaining a minimum distance separation of 1000 feet between such facilities as it is currently required in the McMinnville City code section 17.64.040(5).

Thank you  
Sent from my iPhone

On Dec 12, 2017, at 11:17 AM, Ron Pomeroy <[Ron.Pomeroy@mcminnvilleoregon.gov](mailto:Ron.Pomeroy@mcminnvilleoregon.gov)> wrote:

Wayne,

In reviewing your materials submitted for your variance request (VR 3-17), it appears that the 500-foot reduction in the separation requirement is not sufficient, if approved, to allow your facility to meet that spacing standard.

Specifically, the distance from your subject site to the new location of Green Heart is 478.5 feet measured property line to property line as shown on the attached graphic.

If you are in agreement with this graphic and distance measurement, would you please send a response email to me indicating that you would like to modify your request to “allow a commercial recreational marijuana retail business to operate within 478.5 feet of another commercial recreational marijuana retail business rather than maintaining a minimum distance separation of 1,000 feet between such facilities as is currently required in the McMinnville City Code (Section 17.64.040(5)).”

I apologize for this just coming to light now. However, with your agreement to modify the distance as noted above, your request will still move forward to the Commission hearing on December 21<sup>st</sup> and the distance needed for your request to be beneficial to you will be clear.

Thank you.

Best regards,

Ron Pomeroy

**Ron Pomeroy, AICP**  
**Principal Planner**  
**City of McMinnville**

231 NE Fifth Street  
McMinnville, OR 97128  
Department: 503.434.7311  
Direct: 503.474.5108  
Fax: 503.474.4955  
[ron.pomeroy@mcminnvilleoregon.gov](mailto:ron.pomeroy@mcminnvilleoregon.gov)

<1214 SW Baker - Distance to Existing Dispensary.pdf>