

MILL CITY PLANNING COMMISSION
Meeting of November 20, 2018

The Planning Commission held a short site visit beginning at 4:00 p.m. at 815 SW Linn Blvd then to 158 SW Broadway St. and ending at the 200 block of SE Fairview St. in preparation of the public hearing that begins at 6:30 p.m.

Planning Commission members present: Chair Ann Carey, Marge Henning, David Leach Woody Koenig, Grant Peterson and Frances Villwock. Dennis Chamberlin was absent.

Staff in attendance: Planning Advisor David Kinney.

City Council Representatives: None.

Agency Representatives: None.

Citizens: Scott Baughman, Ken Cartwright, Randall Craig, JoAnn Hebing, William Kelley, Jeff Keto, Cheryl Lundquist, Roel Lundquist and Mark Nicot.

The meeting was called to order at 6:30 a.m. Chair Ann Carey led the pledge of allegiance.

APPROVAL OF MINUTES: It was noted that the date for the next meeting at the end of the minutes and reference to the discussion to take place should be removed.

Woody Koenig moved, seconded by Marge Henning to approve the minutes of September 21, 2018. The motion carried unanimously (6:0).

PUBLIC COMMENT: None.

PUBLIC HEARINGS: Proposal: Amend the Comprehensive Plan (Residential to Commercial) Amend the Zoning Map (R-1 Residential to Central Commercial CC) Location: 815 SW Linn Blvd
Prop Owner: William Kelley

Chair Carey opened the public hearing at 6:35 p.m. and called for any conflict of interest, bias or ex parte contact. Being none, Mrs. Carey turned the meeting over to Planner David Kinney.

APPLICANT'S TESTIMONY: William Kelley, stated that his proposal is to change the zoning from residential to commercial. This is because the current zoning does not allow his business to extend the footprint because they are a non-conforming use. Mr. Kelley said that the business has grown enough that they need to be able to accommodate the new customers they are attracting. This includes serving food/beverage outside the building, modification of kitchen to accommodate increase in food sales and possibly open a steak house in the future.

STAFF REPORT: Mr. Kinney said that the property that Mr. Kelley is speaking of includes the parcel that the Trio Tavern sits on as well as the parcel to the west. If the zone change is approved, both of these parcels could be used for future expansion.

Mr. Kinney said that this is currently a non-conforming use. The existing covered area to the east of the building is for smoking in order to comply with the state smoking regulations that prohibits smoking inside of an establishment. The City concluded that this was not outside of the current use because it did not change the use, only allowed the business to meet compliance with the new law.

The City's Comprehensive Plan requires that with any change to the plan designation, the City comply with certain statewide planning goals, the primary being goal nine, which is related to economic development. The City's comprehensive plan includes a plan policy that encourages small business development and expansion of hospitality services within the City. Staff's conclusion is that providing the opportunity to expand is consistent with this policy.

A second plan policy requires the City to ensure that there is sufficient available land for residential needs if taking away residential zoning. This small portion of land does not impact the City's need to allow for future residential growth as we have an excess of land available for this development.

The available water and sewer lines within the neighborhood are large enough that the business can expand and not make an impact on the service within the community. Mr. Kinney said that if the business wishes to expand in the future there would be requirement for a site plan review application which would look at parking, utilities and the like to ensure that the site can serve as proposed.

The staff concludes that the proposal does comply with the criteria for a comprehensive plan amendment and a zone change. The Planning Commission can make a recommendation to the City Council to approve the application, continue the hearing to another date and time or deny the proposal.

PROPONENT'S TESTIMONY: Randall Craig, SW 6th Avenue, said that he supports this application.

Roel Lundquist, SW Linn Blvd, said that he is a proponent for the commercial activity but has suggestions for the site plan review process. For example, expanding the kitchen may require the installation of a grease tank. What kicks in the requirement for a site plan review? Mr. Kinney said that if the kitchen were to be remodeled, this would only be a building permit. However, if they were to expand the kitchen space and other customer area then a site plan review would be required.

Scott Baughman, SE Whitten, said that he is in favor and believes anytime a small business can be helped then it would be done.

Cheryl Lundquist, SW Linn Blvd, said that this is a unique circumstance and asked for clarification on the potential need for conditions of approval. Mr. Kinney said that there are no conditions of approval required with this application. If approved, the ordinance authorizing the amendments will be adopted.

OPPONENT'S TESTIMONY: None.

GENERAL TESTIMONY: None.

QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION: Grant Peterson clarified that there is no service outside at this time. Mr. Kelley said that they are not allowed to serve food or drink outside except for specially approved events that the City allows.

APPLICANT'S SUMMARY: None.

STAFF SUMMARY: None.

CLOSE OF HEARING: Chair Carey closed the public hearing at 6:57 p.m.

DELIBERATION: Mr. Peterson asked how the improvements to SW Broadway Street may impact this property and what will be done to divert traffic. Mr. Kinney said that he does not know how the project may impact the business. However, the improvements are not anticipated to go any further than SW 8th Place, which is just before the Trio Tavern.

Frances Villwock moved, seconded by Woody Koenig to recommend the City Council approve the application of William C. Kelley, File No. 2018-09 to amend the Mill City Comprehensive Plan Map from Residential to Commercial for the applicant's 0.90 acre parcels at 815 SW Linn Boulevard, to rezone the parcels to the Central Commercial (CC) zone and to adopt the findings of fact as prepared. The motion carried, (6:0).

Mr. Kinney said that this will be referred to the Council for a public hearing at the first meeting in January.

PUBLIC HEARINGS: Proposal: Variance to Building Height Requirements in a Commercial Zone – 44' tall pole/radio antenna for KYAC
Community Radio Location: 158 SW Broadway Street
Applicant: Santiam Hearts to Arts
Prop Owner: Mill City IOOF Lodge

Chair Carey opened the public hearing at 7:03 p.m. and called for any conflict of interest, bias or ex parte contact. Being none, Mrs. Carey turned the meeting over to Planner David Kinney.

APPLICANT'S TESTIMONY: Ken Cartwright, Santiam Hearts to Arts, stated that for KYAC to grow the antenna needs to be moved to their new location at the IOOF building. The power company has agreed to move the antenna for KYAC from its existing location. At this time, there are no plans to move the metal skeleton that is current around it. The pole is 50' with 6' buried in the ground. There will be a stinger on the top of the pole. The total above ground height will not exceed 50'.

Mr. Cartwright said that the FCC is very concerned with safety against radiation. This location and pole will require about a 35' buffer, which the site meets. The site must be registered with the FCC and the site will be listed on the license agreement.

STAFF REPORT: Mr. Kinney said that the variance is for height. The code has a height limit of 35'. The applicant must identify whether the variance complies with the zoning code and whether it will be in conflict with other uses in the area. The zone is commercial, which allows a radio station. Therefore, the variance is in compliance and does not pose a conflict.

Staff recommendation is to approve the variance with the following conditions:

1. Maximum height of pole is 50'.
2. Placement must comply with any other applicable building codes.
3. Pole and antennas must be installed by December 1, 2019.

PROPONENT'S TESTIMONY: Mr. Kinney said that there is a letter in the record from the property owners supporting the application.

Randall Craig, SW 6th Avenue, said that he is in favor of this application, adding that the growth of the arts within the community is much needed, especially since arts are not within the school.

JoAnn Hebing, Dewitt Lane, said that she is on the Board of Hearts to Arts. The radio station has been valuable to the community and is used by many to make announcements for community events and information.

OPPONENT'S TESTIMONY: None.

GENERAL TESTIMONY: Roel Lundquist, SW Linn Blvd. said that when the radio first started there was some interference issues that people had and asked if this more central location may cause intermittent problems for listeners. Mr. Cartwright said that this location will make for a clearer signal.

Mr. Kinney asked if the phone company equipment being in such a close proximity will cause any interference issues. Mr. Cartwright said that they have been told by their engineer that it will not.

QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION: Grant Peterson asked if there is any potential impact on the proposed skatepark if a Class A license is obtained. Mr. Cartwright said that it will not because the transmission area is on Mt. Horeb.

Woody Koenig said that the building is looking great.

APPLICANT'S SUMMARY: Mr. Cartwright said that the reason for the location of the pole is two-fold, 1; it gives a straight shot over the building and 2; a Class A license is being considered for the future, which this site is key to.

STAFF SUMMARY: None.

CLOSE OF HEARING: Chair Carey closed the public hearing at 7:25 p.m.

DELIBERATION: *Woody Koenig moved, seconded by Dave Leach grant the building height variance to Santiam Hearts to Arts organization, File No. 2018-10, subject to the conditions of approval and to adopt the findings of fact and conclusions in the staff report dated October 26, 2018. The motion carried, (6:0).*

Mr. Kinney said that under the zoning ordinance a variance does not have to be approved by the Council and is final if there is no appeal filed within 15 days of the Notice of Decision.

PUBLIC HEARINGS: Proposal: Site Plan Review for Two Single Family Homes Land Use Action Adjacent to the North Santiam River
Location: 200 Block SE Fairview Street (east of City Hall)
Prop Owner: Scott Baughman

Chair Carey opened the public hearing at 7:28 p.m. and called for any conflict of interest, bias or ex parte contact. Being none, Mrs. Carey turned the meeting over to Planner David Kinney.

APPLICANT'S TESTIMONY: Scott Baughman said that he proposes to build two new houses just east of City Hall. The houses are both potentially sold. The site plan for 299 SE Fairview Street will end up having the garage flipped to the other side to give more room to the back. Mr. Baughman said that he tried to give enough room for parking to deter street parking because it is not wide enough until the other side is developed.

The city required a 10' dedication with the last process for the properties east of this then only constructed a 5' sidewalk. The last house there was an approval to grant a waiver to the setback to the garage be able to set the home closer to the property line.

Mr. Baughman said that the architectural design standards noted in the staff report state there is a 3/12 roof. This should be 6/12.

Mr. Baughman asked where the 50' of riparian zone comes from when the rest of his property has a lesser setting of 25'-30' per the study that was done. Mr. Kinney said that this measurement is solely related to this parcel and was based on the slope.

Mr. Baughman asked that the applicant be present on the property when a site tour is done adding that someone should be there to explain what is going on.

STAFF REPORT: Mr. Kinney said that the Planning Commission reviewed and approved the partition of these lots some time ago. The Planning Commission toured the site this afternoon and expressed concerns with parking once the homes are constructed.

The garage on the west lot is set back approximately 25' from behind the sidewalk and the garage is about 24' deep. This leaves roughly 10' to the bank, which looks like it may be sloughing off. There could be an opportunity to move the house to the east and lessen the impact on the slope.

The issue this evening is to review the site plan for the homes, which is an allowed use, including reviewing the riparian area. The applicant did a riparian study with the Whitten

Addition which indicated a 30' riparian. For this property the bank is so steep that the top of bank goes a little further than those around it, which makes this a 50' riparian setback.

Mr. Kinney recommended the following modification to the conditions of approval: move home at 227 SE Fairview 5' to east and 2' to front.

PROPONENT'S TESTIMONY: None.

OPPONENT'S TESTIMONY: None.

GENERAL TESTIMONY: None.

QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION: None.

APPLICANT'S SUMMARY: None.

STAFF SUMMARY: None.

Mr. Baughman asked if the request to move the house on the west closer to the sidewalk is acceptable. Mr. Kinney said that his preference and recommendation is to approve the setbacks as modified for the home at 227 SE Fairview – 5' to the east and 2' to the front property line. Staff recommends approval of the application with the following modified conditions of approval.

1. **EXPIRATION DATE:** The site plans for construction of new homes at 227 SE Fairview Street and 299 SE Fairview Street with a minimum 20' setback from the garage to the front property line are hereby approved.
 - a. 227 SE Fairview Street. The building shall be moved 5' to the east and 2' closer to SE Fairview Street, as shown on the approved site plan.
 - b. The approval will expire on December 7, 2019 at 4:00 p.m. if the applicant does not file an application for a building permits for construction of new homes at 227 and 299 SE Fairview Street in Mill City.
 - c. No building permits will be issued until the applicant completes and files the Lot Line Adjustment survey for these parcels and records a Sewer Easement to the City of Mill City for each parcel.
2. **PUBLIC WORKS REQUIREMENTS:**
 - a. Water: Install two new water service lines and meter boxes for the two lots at 227 and 299 SE Fairview Street. The contractor will need to bore under the street to install the service lines to avoid a street cut.
 - b. Sewer Easement: Record a sewer easement for each parcel prior to the issuance of a building permit.
 - c. Sewer: Obtain plumbing permits and install individual sewer interceptor tanks at 227 and 299 SE Fairview Street.
 - d. Streets and Sidewalks: Replace any sidewalk panels and curbs removed for the installation of driveways and/or utilities.

- e. Storm Drainage: Storm drainage shall be detained or retained on site using low impact storm water management facilities or roof gutters may be directed to a curb outlet in SE Fairview Street. No storm drainage may run over the sidewalk.
- f. ROW Construction Permit and Compliance with Public Works Design and Construction Standards: The builder shall obtain a ROW permit from the City for all work within the public right-of-way including water, sewer, storm drainage and sidewalk work. All work shall comply with the city's public works design standards and construction specifications.

3. RIPARIAN EASEMENT REQUIREMENTS

In order to maintain, enhance and protect existing fish and wildlife habitat along the river the applicant and future property owners will preserve the riparian easement area. The property owner will agree to:

- a. Do not remove existing trees or native plants or riparian vegetation. This does not restrict the property owners' ability to remove dead or hazardous trees or limbs, to remove or manage noxious vegetation which might be harmful to the river ecosystem, existing fish habitat and wildlife or to replant native plants within the riparian easement area.¹
- b. Do not construct or maintain any man-made structure, fence, deck, or facility within the riparian easement.

After the decision Mr. Baughman said that he plans to hire an attorney and get the 5' of property that was dedicated to the City, but was not needed for the sidewalk. The Planning Commission and staff did not respond to Mr. Baughman's comment.

CLOSE OF HEARING: Chair Carey closed the public hearing at 7:53 p.m.

DELIBERATION: Marge Henning moved, seconded by Grant Peterson to approve the site plans for Scott Baughman, SBC Construction Inc., to construct two single-family dwellings at 227 and 299 SE Fairview Street, to adopt the findings of fact, conclusions and recommended conditions for File No. 2018-11 as modified. The motion carried, (6:0).

PRESENTATIONS: None.

OLD BUSINESS:

File 2018-08 – Ward – Minor Partition Final Plat Modifications: Mr. Kinney said that the conditions of approval for the Ward minor partition have been modified. This is in part due to items that are not allowed per state statute. A no access strip will be shown on the map at 30' from the center line of the street because SE Kingwood Avenue is not straight. The setbacks cannot be shown on the map per statute. A 30' easement will extend from SE Kingwood to the south in line with the parcels created with the partition. This allows for the continuation of a street should there be development of the larger lot in the future.

¹ *Riparian Buffer Assessment (Whitten Addition Subdivision)* prepared for Scott Baughman Construction dated August 12, 2004 by Environmental Technology Consultants, Vancouver, WA, p. 5.

Mrs. Carey asked how many of the Planning Commission members would like to have the notice of decisions that are done by staff. All present asked for copies of the final decisions.

Nuisance Ordinance Amendments Draft #3: Mr. Kinney suggested using the December meeting to discuss the nuisance ordinance amendments briefly.

Landlord/Tenant Code Amendments & Enforcement Discussion: No update.

TIGER Grant Agreement Status: Mr. Kinney said that the FHWA agreement and the transfer of jurisdiction agreement have been moved into a semi-final form. A teleconference is scheduled for tomorrow to review these final changes.

NEW BUSINESS: None.

INFORMATIONAL ITEMS:

City Recorder Report: City Recorder Stacie Cook provided a written report to the Planning Commission.

Planning Consultant Time Report: Mr. Kinney will provide a copy of his October timesheet and bill next month.

Current Applications:

File 2017-02 – Baughman-Lucas Annexation (waiting for legal)

Prospective Applications:

1. Site Plan Review – Santiam Sports Center.

BUSINESS FROM THE PLANNING COMMISSION: Mr. Leach asked if anything will be done with the parking on SE Fairview Street. Mr. Kinney said that if this is an issue that the Planning Commission thinks needs to be addressed then it should be forwarded to the Council for consideration.

Ms. Henning said that she likes the idea of having applicants at the site visits. Mrs. Carey said that she does not like having questions asked of the applicants at the site visits because not everyone may hear and get the information.

OTHER BUSINESS: Mr. Kinney said that there was a meeting with members of SKATE today. Dreamland is proceeding with the site plan review design. This will have to be approved by the Planning Commission and the design by the Council before they can proceed with any work.

The next meeting of the Planning Commission will be December 21st at 9:00 a.m. to discuss landlord/tenant issues.

The meeting was adjourned at 8:37 p.m.
Prepared by:

Stacie Cook, MMC, City Recorder

Minutes approved by the Planning Commission on the 18th day of December 2108.