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ORDINANCE NO. 4177

An Ordinance amending Ordinance No. 4048 by allowing a 3,600± square foot restaurant as a permitted use in the Baker Street Square shopping center and by requiring a periodic review of the parking situation at said shopping center.

RECITALS:

The Planning Commission received an application dated October 13, 1981 for a variance (VR 14-81) to the off-street parking requirements of the zoning ordinance as they pertain to a restaurant so that a restaurant could be placed in the Baker Street Square shopping center which is located on the property described as Tax Lot 1591, Section 16CC, T. 4 S., R. 4 W., W.M.; and

A public hearing was held on November 12, 1981 at 7:30 p.m. before the Planning Commission after due notice had been given in the local newspaper on November 2, 1981, and written notice had been mailed to property owners within 100 feet of the boundary of the affected property; and

At said public hearing the testimony of the applicants was received, testimony from surrounding property owners in opposition to the request was received, a staff report was presented; and

The Planning Commission, being fully informed of the facts available at the time, and based on the findings of fact for denial, voted to deny the requested variance; and

On November 25, 1981, an appeal of the decision referred to above was received from Portland Fixture Company, and the City Council set the hour of 8:15 p.m., December 22, 1981 to consider the appeal, and the matter came on for hearing as scheduled; and

All testimony received was favorable to the request and the applicants brought forth new facts which were unavailable to the Planning Commission and which considerably strengthened the applicants case; now, therefore,

THE CITY OF McMinnville Ordains as follows:

Section 1. That the Council adopts the following findings and conclusions which were derived from the testimony received at the public hearing conducted December 22, 1981.

(a) Studies presented by the applicants show that the hours of peak traffic generation differ between a retail outlet and a restaurant. If the 3,600 square feet in question were to be placed in a retail shop type use, that use would be directly competing with the major tenant for parking spots during the peak demand periods. A restaurant use, on the other hand, has its major peak traffic period later than those of the retailers and would not compete as strongly with the retail uses for parking stalls during the retailer's major peak periods. Although

a 3,600 square foot restaurant will ultimately place more automobiles on the parking lot than would 3,600 square feet of retail use, the majority of that parking will occur at times when the retailers do not need the parking stalls. The placing of a restaurant in the subject 3,600 square feet of shop area would be a more intense and more efficient land use, would better utilize the parking lot, and would not be detrimental to the retail uses which exist now or which may exist in the future in the center.

(b) Thorough studies conducted by the applicant showed that on one of the four highest grocery sales days of the year (the day before Thanksgiving) the shopping center parking lot was never more than 65 percent full. The parking lot has never been completely full as was suggested at the Planning Commission hearing.

(c) At the Council hearing, the owners of each of the three existing uses in the center testified in favor of the request, as did the adjacent property owner who voiced the strongest opposition at the Planning Commission meeting.

(d) Nothing was brought forth at the Council hearing which would suggest that the proposal is not in complete conformance with the McMinnville Comprehensive Plan and the LCDC goals. The Council finds that conformance to exist.

(e) It became apparent, after conferring with the City Attorney, that the variance procedure was not the proper procedure under which the request could be granted. The proper procedure is through an amendment to the planned development overlay which encumbers the property. By this reference, the findings of fact contained in Ordinance No. 4048 are hereby adopted.

Section 2. That Section 2 of Ordinance No. 4048 is amended by adding subsections (h) and (i) to read as follows:

(h) That 3,600 square feet of the 18,000 square foot retail shop area is approved for restaurant use.

(i) That the Council may require of the shopping center owners at anytime in the future, that off-street parking be provided which is reserved for and adequate for the employees who work in the center.

Passed by the Council this 26<sup>th</sup> day of JANUARY, 1982, by the following votes:

Ayes: Cooney, Macy, SPRINGER

Nays: Allen, Wilson

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 1982.

*Moved to Reconsider: Pass 5-0  
continued until Feb. 2, 1982: Pass 5-0*

Attest:

MAYOR