

ORDINANCE NO. 4573-A

An Ordinance rezoning certain property from a City R-2 (Single-Family Residential) zone to a City R-2 PD (Single-Family Residential Planned Development) zone on 6.6 acres of land located north of Orchard Avenue and west of Lafayette Avenue.

RECITALS:

The Planning Commission received an application from The Piculell Group for a zone change (ZC 4-94), dated September 8, 1994, for the property described as Tax Lot 200, Section 16AD, T. 4 S., R. 4 W., W.M.

A public hearing was held on October 13, 1994, at 7:30 p.m. before the Planning Commission after due notice had been given in the local newspaper on October 8, 1994, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, testimony was received, the application materials and a staff report were presented; and

The Planning Commission, being fully informed about said request, found that said change conformed to the review criteria listed in Chapter 17.72.035 of Ordinance No. 3380 based upon the material submitted by the applicant and findings of fact and the conclusionary findings for approval contained in the staff report, all of which are on file in the Planning Department, and that the zone change is consistent with the Comprehensive Plan; and

The Planning Commission approved said zone change and has recommended said change to Council; and

On October 28, 1994 an appeal of the decision referred to above was received from several area property owners, and the City Council set the hour of 8:15 p.m., December 13, 1994 to consider the appeal, and the matter came on for hearing as scheduled; and

New testimony was received as was the entire record of the previous Planning Commission hearing on the matter, and the Council found that based on the testimony received, the findings of fact, the conclusionary findings for approval, and the previous record received, the Planning Commission had made the correct decision and that that decision should be sustained and the appeal denied; now, therefore,

THE CITY OF McMinnville Ordains as follows:

Section 1. That the Council adopts the findings and conclusions of the Planning Commission, staff report on file in the Planning Department, and the application filed by The Piculell Group.

Section 2. That the property described in Exhibit "A," which is attached hereto and incorporated herein by this reference, is hereby rezoned from a City R-2 (Single-Family Residential) zone to a City R-2 PD (Single-family Residential Planned Development) zone, subject to the following conditions:

1. That existing trees greater than 9 inches DBH (diameter at breast height) shall not be removed without prior review and written approval of the Planning Director. In addition, all trees shall be protected during home construction. A plan for such protection must be submitted with the building permit application and must meet with the approval of the Planning Director. The Director may permit a reduction or require an increase in normally required setbacks to avoid the removal of existing trees. In no case shall the front opening of a garage be less than 20 feet from the curb face.
2. That prior to submittal of the final plat for Parkside subdivision the applicant shall install fencing along the entire east property line of the subject site (adjacent to Lafayette Avenue) and landscape the Lafayette Avenue street frontage where it abuts the subject site (east of the required fencing). Plans for the required fencing and landscaping shall be submitted to the Planning Director for review and approval. Maintenance requirements for the fencing and landscaping shall be incorporated into the covenants for the subdivision.
3. That this tentative subdivision plan, with streets of twenty-six feet and twenty feet in width, be placed on file with the Planning Department and that it become a part of the zone and binding on the property owner and developer.

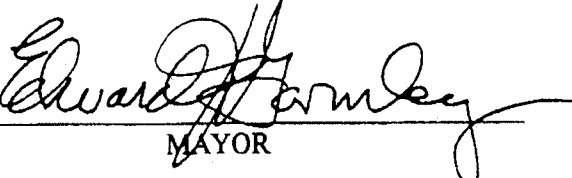
The developer is responsible for requesting permission of the Planning Commission for any major change of the details of the adopted plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by him may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.

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

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

Nays: _____

Approved this 13th day of December, 1994.


MAYOR

Attest:


RECORDER

LEGAL DESCRIPTION

---Part of the Madison Malone Donation Land Claim #49 in Section 16, Township 4 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon, more particularly described as follows:

BEGINNING at an iron pipe on the Westerly margin of Secondary State Highway at the Southeasterly corner of tract conveyed to Frank W. Fenton by Deed, recorded May 12, 1926 in Book 94, Page 201, Deed Records, said iron pipe being also 143.8 feet East and 751.7 feet South of the Southeast corner of the James T. Hembree Donation Land Claim #46 in said Township and Range; thence South $38^{\circ}23'$ West along the Westerly margin of said Highway, 498.4 feet to an iron pipe at the Northeasterly corner of Block 5 of Koch Addition to McMinnville; thence North $51^{\circ}37'$ West along the Northeasterly margin of said Block 5 of said Addition, 555.4 feet to an iron pipe on the Southeasterly margin of Koch Street and Northwesterly corner of said Block 5 of said Addition; thence North $22^{\circ}54'$ East along the Southeasterly margin of said Koch Street, 400.1 feet to an iron pipe; thence South $89^{\circ}29'$ East, 94.5 feet to an iron pin at the Southwest corner of said Fenton tract; thence South $56^{\circ}37'$ East along the Southwesterly line of said Fenton Street, 590 feet to the point of beginning.
