

STAYTON PLANNING COMMISSION AGENDA

7:00 pm

Monday, March 28, 2022

HYBRID MEETING

The Stayton Planning Commission will be holding a hybrid meeting utilizing Zoom video conferencing software. The meeting will be in-person but can also either be "attended" virtually or watched on the live stream on the City of Stayton's YouTube account.

City officials request all citizens that are able, to join the meeting online from home. Social distancing is essential in reducing the spread of COVID-19. The City is using technology to make meetings available to the public without increasing the risk of exposure. If you would like to virtually participate in the meeting, please contact the Planning and Development Department at dfleishman@staytonoregon.gov to receive an invitation to the online meeting.

Watch the meeting live streamed on YouTube <https://youtu.be/OWEPYp7tcl0>

- 1. CALL TO ORDER** **Chair Lewis**
- 2. MEETING MINUTES – February 28, 2021**
- 3. LAND USE FILE #1-02/22 –Application for Variance, Ellen Nunez, 901 E Jefferson St**
 - a. Commission Deliberation**
 - b. Commission Decision**
- 4. LAND USE FILE #4-03/21 –Request for Extension of Approval for Site Plan Review, ORREO, LLC, 1425 E Santiam St**
- 5. LAND USE TRAINING**
- 6. ADJOURN**

DATE OF NEXT MEETING: Monday, April 25, 2022

**STAYTON PLANNING COMMISSION
MEETING MINUTES**

Monday, February 28, 2022

COMMISSIONERS: Ralph Lewis, Chair
Heidi Hazel, Vice-Chair
Dixie Ellard
Richard Lewis
Larry McKinley

STAFF MEMBERS: Dan Fleishman, Planning & Development Director
Windy Cudd, Office Specialist, Minutes

OTHERS PRESENT: Ellen Nunez, Applicant

1. **CALL TO ORDER:** Chair Lewis called the meeting to order at 7:00 pm.
2. **APPROVAL OF MINUTES:** Hazel moved, and Richard Lewis seconded to approve the minutes from January 31, as presented. The motion was approved 5:0.
3. **LAND USE FILE #1-02/22 PUBLIC HEARING- Application for a variance.**
 - a. **Commencement of Public Hearing-** Chair Lewis read the opening statement and opened the hearing at 7:04 pm. No objections were made from the audience to the notice on this case or the jurisdiction of this body to hear the case. There were no declarations of conflict of interest, *ex parte* contact, or bias by members of the Planning Commission.
 - b. **Staff Introduction-** Fleishman explained the application for Variance in medium Density zone. Minimum set back 5 feet. Applicant asking for 4ft 7inches.
 - c. **Applicant Presentation-** Ellen Nunez, 901 E Jefferson St, asking City to grant the variance to the set back, asked to forgive the 5 inches it's short.
 - d. **Staff Report-** Fleishman recommended to deny the application request as presented.
 - e. **Questions from Commission-** Commission asked applicant what she would do to comply if denied variance. Question was answered.
 - f. **Commission Decision-** Hazel motioned and Ellard second the approval of the applicant's variance for finding adequate information regarding the right to protect her personal property from weather and the need for a variance due to the actions of her contractor. Commission moved to have draft order modified to reflect their decision.
 - g. **Close of Hearing-** Chair Lewis closed the hearing at 7:40 pm
4. **OTHER BUSINESS-** The Commission discussed having a Land Use training session at the March 28 meeting, as there is not expected to be a public hearing.

ADJOURN: Chair Lewis adjourned the meeting at 7:40 pm.



City of Stayton

Department of Planning and Development

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MEMORANDUM

TO: Chairperson Ralph Lewis and Planning Commission Members

FROM: Dan Fleishman, Director of Planning and Development

DATE: March 28, 2022

SUBJECT: Variance Application of Ellen Nunez, 901 E Jefferson St

120 DAYS ENDS: June 3, 2022

ISSUE

The issue before the Planning Commission is adoption of the Order of Approval for the application for a side yard setback variance, based on the Planning Commission deliberations and decision at the February meeting.

BACKGROUND

At the Planning Commission's February 28 public hearing the Planning Commission approved the application and requested that staff modify the draft order to reflect the decision and testimony provided at the public hearing.

A draft Order of Approval is enclosed for consideration by the Planning Commission.

OPTIONS AND SUGGESTED MOTIONS

Staff has provided the Planning Commission with a number of options, each with an appropriate motion. The Planning Department recommends the first option.

1. Approve the revised draft order, as presented.

I move the Stayton Planning Commission adopt the revised draft order as presented.

2. Approve the revised draft order, with modifications.

I move the Stayton Planning Commission adopt the revised draft order with the following modifications...

BEFORE THE STAYTON PLANNING COMMISSION

In the matter of
The application of
Ellen Nunez

)
) Variance
) File # 1-02/22
)

ORDER OF APPROVAL

I. NATURE OF APPLICATION

The applicant is requesting a variance to the minimum side yard setback to allow construction of a RV storage carport.

II. PUBLIC HEARING

A public hearing was held on the application before the Stayton Planning Commission on February 28, 2022. At that hearing the Planning Commission reviewed Land Use File #1-02/22, application for variance, and it was made part of the record.

III. FINDINGS OF FACT

A. GENERAL FACTS

1. The owner of the property and the applicant is the Ellen Nunez.
2. The property can be described as tax lot 700, Township 9, Range 1 West of the Willamette Meridian, Section 10DA.
3. The property is zoned Medium Density Residential (MD).
4. The property is located at 901 E Jefferson St.
5. The neighboring properties to the west, north and east are zoned MD and are developed with a single family detached dwellings. The properties to the south, across E Jefferson St, are zoned Low Density Residential and are developed with a single family detached dwellings.

B. EXISTING CONDITIONS

1. The property is approximately 13,560 square feet in area with 110 feet of frontage on E Jefferson St.
2. The property is developed with a single family detached dwelling, constructed in 2018. The owner subsequently constructed an RV storage carport on the west side of the house.
3. The carport is supported by five 4X4 posts. The rear post is 4 feet 7 inches from the side lot line.

C. CODE REQUIREMENTS

Section 17.16.070.3.a of the Land Use and Development Code requires a structure to be setback at least 5 feet from a side property line.

D. AGENCY COMMENTS

The following agencies were notified of the proposal: City of Stayton Public Works, Santiam Water Control District, Willamette Broadband, Stayton Cooperative, Pacific Power & Light, NW Natural Gas, Stayton Fire District, Stayton Police Department, Marion County Public Works and Marion County Planning Division. Stayton Police Department replied with no comments. Pacific Power responded that the proposal does not appear to affect the existing underground service or meter base location and that the customer must maintain required working space clearances around the meter base & maintain 24/7 unimpeded access to the meter base (no gates/fences).

E. PUBLIC COMMENTS

The application materials included letters of support from two neighboring residents. The surrounding property owners were notified of a pending variance. No additional written comments were received prior to the public hearing.

F. ANALYSIS

Variance applications are required to satisfy approval criteria contained within Stayton Municipal Code (SMC) Chapter 17, Section 17.12.200.6.

G. APPROVAL CRITERIA

SMC 17.12.070.2 and 17.12.070.3 establish the responsibility of the applicant to provide evidence that each of the approval criteria have been or will be met. Pursuant to SMC 17.12.200.6 the following criteria must be demonstrated as being satisfied by an application for a variance:

a. General Criteria Applicable to All Requests.

- 1) *The granting of the variance would not be materially detrimental to the public health, safety, or welfare or the overall public interest of the citizens of the City as expressed within this title and the adopted Comprehensive Plan.*

Finding: The requested variance is for a support post to be five inches closer to the property line than permitted by the Code. The variance allows the carport to be square and perpendicular with the street. The variance is minimal enough to not be visually noticeable.

- 2) *The granting of the application complies with the applicable specific approval criteria as follows:*

b. Specific Variance Criteria

1) Variance to Land Use Regulations

- a. The property is subject to exceptional or extraordinary circumstances such as lot size, shape, topography, or other similar circumstances over which the property owner has no control and which do not generally apply to other properties in the same zoning district and/or vicinity.*

Finding: The property is not rectangular in shape. The angle of the side property line results in the front of the carport far exceeding the minimum setback, while the rear impinges on the setback requirement.

b. The variance is necessary for the reasonable preservation of a property right of the applicant which is the same as that enjoyed by other landowners in the zoning district.

Finding: The applicant has the right to protect her property from the weather with a RV cover, as many of the neighboring properties are able to do.

c. The variance would conform to the purposes of the applicable zoning regulations and would not generate a significant adverse impact on the other property in the same zoning district or vicinity.

Finding: The RV cover meets the other requirements of the Code and exceeds the minimum setback requirement for most of its length. Four of the five support posts meet the setback, with the front post being 12 feet 6 inches from the side property line. However, the rear post extends into the setback by 5 inches.

d. Approval of the variance would not create an identifiable conflict with the provisions of the Comprehensive Plan or achieve the same conditions and a comprehensive plan amendment or zone change for the property.

Finding: There are no policies in the comprehensive plan that address the situation. The RV cover will conform to all other requirements, except for its proximity to the side property line at the rear post.

e. The variance being requested is the minimum relief available to alleviate the difficulty giving rise to the application.

Finding: The requested variance is only 5 inches. This would maintain the structural integrity of the carport and allow it to be square with the house.

f. The variance would not have the effect of granting a special privilege not generally shared by other property in the same zoning district.

Finding: Most properties in the zoning district have lots with side lines close to perpendicular to the front and rear lines. This lot is a parallelogram that allows the front of the RV cover to greatly exceed the setback but the rear is too close to the side lot line.

g. The request for the variance is not the result of an action taken by the applicant or a prior owner.

Finding: The applicant has stated that the siting of the RV cover was laid out meeting the setback requirements, but that their contractor placed the posts incorrectly while the applicant was not home to watch the construction.

IV. CONCLUSION

Based on the facts above, the Planning Commission concludes that the application meets the requirements established in SMC 17.12.200.6.

V. ORDER

Based on the conclusion above, the Planning Commission approves the application.

VI. EFFECTIVE DATE

This decision regarding this application is final but shall not become effective until the 15th day after the mailing of the Notice of Decision in this case, and then only if no appeal to the Stayton City Council is timely filed. In the event of a timely appeal to the City Council, this decision shall not become effective until the appeal is finally resolved, including any appeals from the decision of the City Council to the Oregon Land Use Board of Appeals.

VII. APPEAL DATES

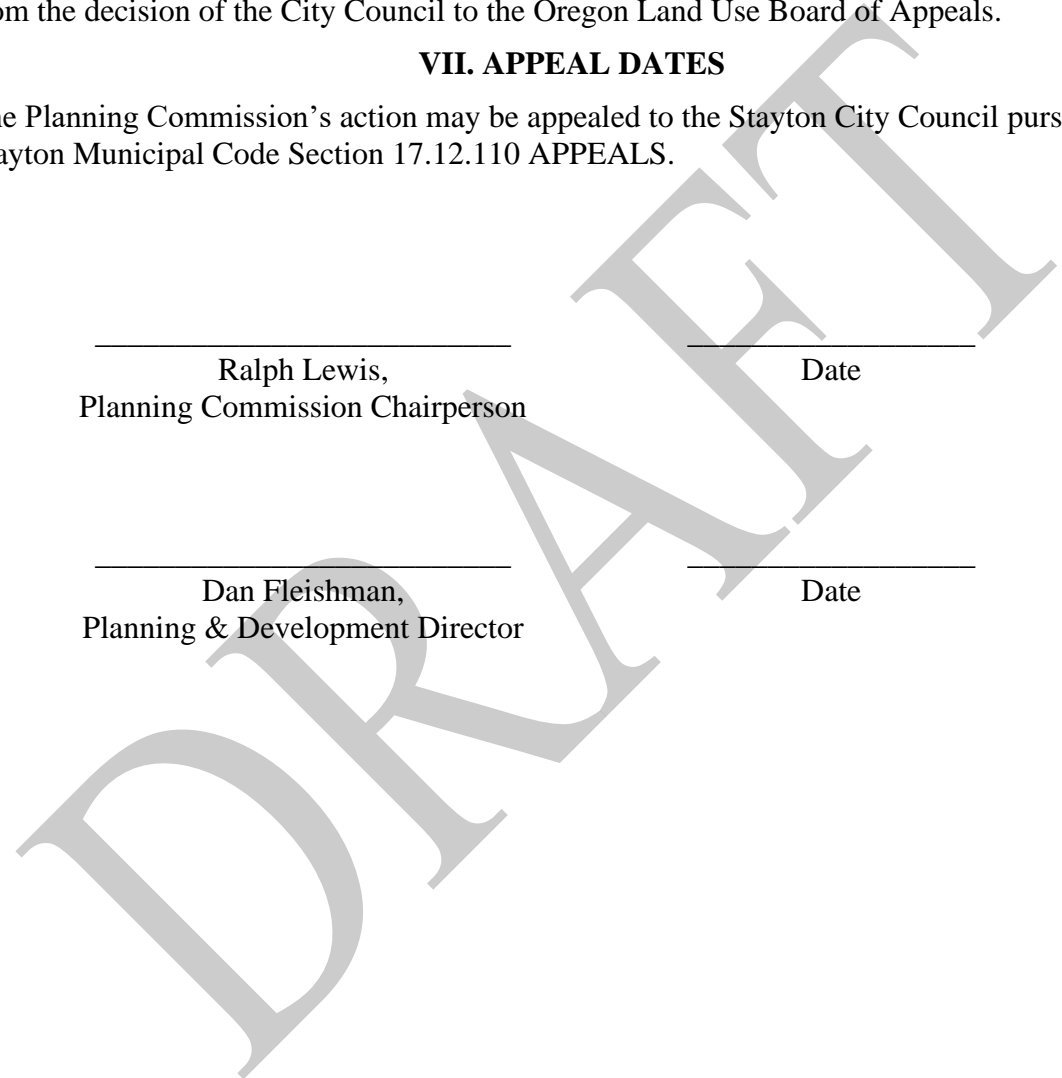
The Planning Commission’s action may be appealed to the Stayton City Council pursuant to Stayton Municipal Code Section 17.12.110 APPEALS.

Ralph Lewis,
Planning Commission Chairperson

Date

Dan Fleishman,
Planning & Development Director

Date





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MEMORANDUM

TO: Chairperson Ralph Lewis and Planning Commission Members
FROM: Dan Fleishman, Director of Planning and Development
DATE: March 28, 2022
SUBJECT: 1425 E Santiam St, Site Plan Review, Extension of Approval

ISSUE

The issue before the Planning Commission is a request to extend the deadline for commencing construction after receiving site plan approval.

BACKGROUND

On April 26, 2021, the Stayton Planning Commission granted conditional approval to the site plan for development of an 18-unit duplex development at 1425 E Santiam St by ORREO, LLC. The Notice of Decision was sent on April 28, 2021. Therefore the effective date of the decision was May 14. Under the provisions of Section 17.12.120.7, the Planning Commission's approval expires if construction is not commenced within one year of the effective date of approval.

Section 17.12.120.8 of the Code allows for an extension of the approval period. The Code says,

A written request for an extension of time filed with the City Planner at least 30 days prior to the expiration date of the approval shall extend the duration of the one-year period until the decision authority has taken action on the request if the following criteria are met:

- a. Progress has been made on final engineering.
- b. Applications to other regulatory agencies for necessary approvals have been filed.

The decision authority shall, within 31 days of the filing of a request for extension consider whether to grant an extension. An extension shall be granted upon a finding that the criteria above are satisfied and that no changes in this Title have been enacted that would affect the application. Only one extension may be granted.

The applicant has filed such a request in a timely manner. A copy of the letter is enclosed.

One of the reasons that the Code has an expiration requirement is to assure that development activities meet current land use standards. Under state law, an application must be reviewed under the standards that are in place at the time a complete application has been submitted. The City may not "change the rules once the game has started." However, should an approved development proposal not be developed within a reasonable period of time, the community's plans and regulations could change and the old development could be built contrary to the current plans and standards for development. Therefore, municipalities limit the length of time after approval by which the developer must take action to proceed.

In the present case, there have not been any changes to the City's regulations that would impact the development.

City of Stayton

RECOMMENDATION

Staff recommends that the Planning Commission grant a one year extension to the approval.

OPTIONS AND SUGGESTED MOTIONS

Staff has provided the Planning Commission with a number of options, each with an appropriate motion. The Planning Department recommends the first option.

1. Approve the request for an extension.

I move the Stayton Planning Commission approve the request of ORREO, LLC for a one year extension of the approval granted in Land Use File #4-03/21.

2. Deny the request for an extension.

I move the Stayton Planning Commission deny the request of ORREO, LLC for a one year extension of the approval granted in Land Use File #4-03/21.

Stayton Planning Commission
c/o Dan Fleishman, Planning and Development Director

March 2, 2022

RE: Request for Extension of Approval for Land Use Decision File #4-03/21

Dear Commissioners,

Pursuant to the City of Stayton's Land Use and Development Code section 17.12.120 part 8, I would like to formally request that you grant a one-year extension to the land use decision referenced above, concerning the development of duplexes on 1425 E. Santiam St.

The reason for this request is very much COVID-related, sadly. The construction industry has faced many headwinds regarding labor shortages, 3rd party turntimes and unprecedented supply chain challenges. And yet the demand for new housing has only increased, further stretching the already thin resources. This perfect storm of too-much demand and too-few supplies (labor and otherwise) has created too-long of a wait in many projects, including this one.

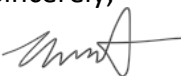
However, we have trudged onward! As the applicant and developer, I can attest that we have made substantial progress on final engineering – so much so that a full application has been submitted to planning and public works. It is in review as of this writing. (17.12.120.8a)

Additionally, applications to other regulatory agencies for necessary approvals are prepped and ready, pending final comments on the site plan and civil engineering reports before the City. It's a bit of a domino effect in that we only want to submit to Marion County and the DEQ once Stayton has substantially approved our plans, so as to avoid further back-and-forth delays with those agencies. (17.12.120.8b)

We are working very hard to complete these steps and have every intention on constructing and taking this project to completion. Looking at the calendar and judging by the pace thus far, we wanted to be proactive and request an extension to the Land Use Decision now.

Your time and consideration of this matter are greatly appreciated.

Sincerely,



Charles Weathers
ORREO, LLC