

ORDINANCE NO. 498

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE #420)
OF THE CITY OF STAYTON.

THE CITY OF STAYTON ORDAINS AS FOLLOWS:

Ordinance No. 420 entitled "AN ORDINANCE DIVIDING THE CITY INTO
ZONES: REGULATING THE SIZE AND USE OF STRUCTURES AND PARCELS OF
LAND WITHIN SAID ZONES: PRESCRIBING PENALTIES FOR THE VIOLATION
OF THIS ORDINANCE: AND REPEALING CONFLICTING ORDINANCES." and
adopted this 5th day of June, 1972 is amended by deleting
Section 13 thereof and writing a new Section 13 as follows:

AN APPLICATION FOR ANY DISCRETIONARY PERMIT AS PROVIDED IN ORS
CHAPTER 227 AS AMENDED INCLUDING ZONE CHANGES, VARIANCES, CONDI-
TIONAL USES, MINOR AND MAJOR PARTITIONINGS OR ANNEXATIONS SHALL
BE SUBJECT TO THE FOLLOWING CONDITIONS:

13.1 Application. An application for any discretionary permit
shall be filed in the following manner:

- a. The application shall be complete and in writing on
forms provided by the City Administrator.
- b. The application shall be filed with the City Administrator
not less than thirty (30) days prior to the next scheduled
meeting of the Planning Commission at which the appli-
cation is to be considered.
- c. The application shall be accompanied with a filing
fee of \$35.00.

13.2 Staff Actions

- a. Staff of the City of Stayton will review the application

within ten (10) working days after its initial submission by the applicant. If the information contained in the application is not sufficient for a complete Staff review or if there are any technical problems associated with the proposed action, the Staff will return the application to the applicant or attempt to resolve problems in a meeting with the applicant. If applicable, a written agreement between the applicant and the City regarding how a technical problem will be resolved will be prepared.

- b. Staff will prepare a written report on the proposed action within fifteen (15) working days after the final, complete application is received.
- c. Staff will schedule a public hearing before the Planning Commission.
- d. Staff will give notice in writing by Certified "Return Receipt Requested" mail to all affected property owners not later than ten (10) days prior to the public hearing as to the time and place of the public hearing, the nature of the proposal and a brief description of the property and inviting them to attend. Failure to receive such notice shall not affect the validity of the proceedings.
- e. The complete application including any maps, drawings,

models, agreements, legal documents, etc. submitted by the applicant, together with the Staff report will be submitted by the Staff to the Planning Commission not less than one week prior to the next scheduled meeting.

13.3 Planning Commission Considerations and Actions

- a. In judging whether or not a proposed use shall be approved or denied, the Planning Commission shall weigh the proposal's appropriateness and desirability, the public convenience and the necessity to be served against any adverse conditions that would result from authorizing the particular action at the location proposed. In order to grant a proposed action, the applicant shall provide evidence which allows the City to make findings that the following specific criteria have been satisfied:

1. Conditional Use

- a. The proposed use is compatible with other uses in the surrounding area. The compatibility of activity may be resolved by placing special conditions on its operation or by modifying the intended use.
- b. There will be no adverse affects on the normal flow and movement of traffic in the immediate area.

- c. There are adequate urban services to the property.
- d. There is a need for the proposed action.

2. Zone Change

- a. The proposed zone change and intended use is compatible with the surrounding area.
- b. Other properly zoned land is not available in sufficient quantity within the City to satisfy current and projected needs.
- c. There is a need for the intended use.
- d. Reasonable use cannot be made of the property as it is currently zoned.
- e. There are adequate urban services to serve the possible use under the zone proposed.

3. Variances

- a. There are hardships or difficulties which can be relieved only by modifying the requirements of the ordinance.
- b. There are circumstances or conditions applying to the land, buildings or use referred to in the application.
- c. Granting the application will not be detrimental to the public welfare or property values in the affected area.

4. Partitioning & Subdividing

- a. The proposed partition or subdivision is compatible with the surrounding area.
- b. There are adequate urban services available to the property.
- c. The proposed parcels, lots or roads are compatible with the existing pattern of development in the area and the City of Stayton subdivision ordinance.

5. Annexation

- a. A need exists in the community for the use proposed to be made of the site.
 - b. The site is or is capable of being served by adequate public services.
 - c. The proposed annexation is compatible with the surrounding area.
- b. The Planning Commission at the public hearing will first take testimony from all parties favoring the proposal. Then testimony pertaining to the facts will be taken from all who oppose the proposal. The Planning Commission shall thereafter make its findings and recommend either approval of the application as submitted, approval with certain stipulated conditions or denial to the City Council. If additional research is required, it shall be completed within one week,

if possible, and brought before a special meeting of the Planning Commission. Staff will prepare written findings based on the material contained in the application, the items set forth in Section 13.a.1, 2, 3, 4, 5 herein, any agreements between the applicant and the City and all pertinent discussions. These findings, together with all pertinent data, will be submitted to the City Council at its next regularly scheduled meeting, if such meeting is at least five (5) working days after the Planning Commission meeting.

- c. In addition to the testimony at the hearing, the Planning Commission will also consider:
 - 1. Consistency of the proposed action with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable ordinances and policies of the City.
 - 2. Personal knowledge the Commission and Council members may have on any facts relating to the proposal or of the area in question.
 - 3. Staff comments.
 - 4. All other factors established by State law and land use court cases. The applicant has the burden of proof as required by State and court law.

d. Following the decision of the Planning Commission, any person agrieved by the decision of the Planning Commission has the right to file, within ten (10) days of that decision, an appeal in writing stating the grounds for the appeal to the City Council appealing the decision of the Planning Commission. The Council will consider the appeal and either accept the appeal and set a date for a public hearing, or deny the appeal.

13.4 City Council Considerations and Actions

- a. The City Council will consider all recommendations of the Planning Commission and on its own motion or as described in Section 13.3.d. If no appeal is accepted, the Council will consider the matter based on the record provided by the Planning Commission. Actions of the Council can include:
1. Adopting the recommendation and findings of the Planning Commission indicating concurrence with the findings of the Planning Commission.
 2. Adopting of the Planning Commission recommendation and findings with modifications of the conditions. If any of the conditions imposed by the Planning Commission are eliminated, added to or modified in any way, factual reasons for the change or

changes must be given and stated in the written minutes of the meeting. The applicant may appeal the change and request a reconsideration by the Council.

3. Not accept the recommendation of the Planning Commission. In rejecting the recommendation, the Council must indicate errors or omissions in the written findings made by the Planning Commission and state what the actual facts are and how they affect the proposed use of the land. All new facts found by the Council shall be contained in the written minutes of the meeting. The applicant may appeal the decision of the Council within ten (10) working days in writing and request a public hearing at the next regular meeting of the Council. If a public hearing is called on its own motion, or by an aggrieved person, the Council will hold such meeting at its next regular scheduled meeting. At that meeting, the Council will have at its disposal the complete record of the Planning Commission. As in the Planning Commission hearing, the applicant and those favoring the proposal will give testimony first. Testimony need not be confined to the record. Those opposing the proposal will then be given the opportunity to testify.

At the conclusion of the public hearing, the Council may adopt the recommendation of the Planning Commission, adopt the recommendation of the Planning Commission with modifications or deny the recommendation of the Planning Commission. The Council must state the reasons for its action regardless of the decision. All facts stated and reasons given will be contained in the written minutes of the meeting. The decision of the Council following the public hearing is final.

13.5 Appeals

Appeal of any action taken by the City Council may be filed by any aggrieved person. Appeals may only be filed to the Council in those cases where the City Council has not already held a public hearing.

An appeal must be filed in writing with the City Administrator within ten (10) days from the date of Council action.

Section 7 of said Ordinance #420 entitled DEFINITIONS is amended by adding the following definition of terms:

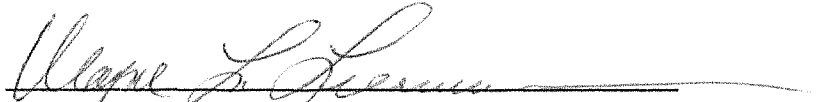
- 7.3a Affected Area. Unless otherwise specified, this shall include all properties within 250 feet of the proposed project location.
- 7.6a Applicant. The Owner of record or contract purchaser.
- 7.6b Applicant Representative. A person or persons written legal authorization to speak and act on behalf of the owner.


7.51a Staff. Appropriate department heads and those
other City employees they may deem necessary.

This ordinance being necessary for the immediate preservation
of the public health and convenience, an emergency is hereby
declared to exist and this ordinance shall be in full force
and effect from and after its date of passage.

PASSED BY THE COUNCIL this 17th day of April, 1978.

APPROVED BY THE MAYOR this 19th day of April, 1978.


Mayor


City Recorder