

ORDINANCE NO. 4527

An Ordinance rezoning certain property from a County EF-40 (Exclusive Farm Use--40-acre minimum) zone to a City C-3 PD (General Commercial Planned Development) zone on approximately 12.40 acres of land located on the northeast corner of Three Mile Lane (Salmon River Highway) and Norton Lane, and declaring an emergency.

RECITALS:

The Planning Commission received an application from Thomas Maloney and Juanita Maloney for a zone change (ZC 8-92) dated December 14, 1992 for property located on the northeast corner of Three Mile Lane (Salmon River Highway) and Norton Lane, further described as Tax Lots 3800 and 3900, Section 22, T. 4 S., R. 4 W., W.M.

A public hearing was held on January 14, 1993 at 7:30 p.m. before the Planning Commission of the City of McMinnville in the Council Chambers after due notice had been given in the local newspaper on January 2, 1993, and written notice had been mailed to property owners within 300 feet of the affected property. The hearing was continued in a special session on January 25, 1993 at 7:30 p.m. before the Planning Commission in the Council Chambers in the City of McMinnville.

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

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 3380 based upon the material submitted by the applicants 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.

The Planning Commission approved said zone change and has recommended said change to the Council; now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. The Council adopts the findings and conclusions of the Planning Commission, staff report on file in the Planning Department, and the application filed by Thomas Maloney and Juanita Maloney.

Section 2. That the property described in Exhibit "A," which is attached hereto and incorporated herein by this reference, is hereby rezoned from a County EF-40 (Exclusive Farm Use--40-acre minimum) zone to a City C-3 PD (General Commercial Planned Development) zone, subject to the following conditions:

- (a) That landscaping plans must be submitted to and approved by both the staff design review committee and by the Landscape Review Committee prior to the issuance of any building permits for the proposed mall. A minimum of 15 percent of the site must be in landscaping. Such plans must include lawn areas and street trees along the Highway 18 and Norton Lane frontage, landscaped islands dispersed throughout the parking lot, and a detailed plan of the measures to be implemented to protect and preserve the existing oak trees and riparian vegetation.

Care shall be given in the planting of said trees that they will not interfere now or in the future with highway signage.

- (b) That building plans and elevations must be submitted to and approved through a design review process to be conducted by City staff, as required by Section 10 (g) of McMinnville Ordinance No. 4506.
- (c) That final development plans as approved by staff under the process noted in condition no. 2, above, be placed on file with the Planning Department and that they become a part of the zone and binding on the owner and developer.

The developer is responsible for requesting permission of the Planning Commission for any major change of the details of the adopted plans. Minor changes to the details of the adopted plans 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.

- (d) That improvements to the existing Three Mile Lane/Norton Lane intersection, as required by ODOT, and including a deceleration lane adjacent to the existing highway improvement, and the upgrading at the traffic signal actuator and "brain" to provide for left turn and right turn/through phases on Norton Lane be done at the applicant's expense and be finalized prior to occupancy.
- (e) That the proposed Highway 18 ingress be relocated to align with the parking aisle immediately east of building "C". All costs associated with this improvement, including deceleration lane construction, shall be borne by the applicant. This condition is contingent upon gaining approval from the Oregon Department of Transportation for a Highway 18 access permit.
- (f) That the intersection of Norton Lane and Three Mile Lane frontage road be realigned to make the frontage road stop at Norton Lane. The design for the required realignment shall be submitted to the City Engineer and the Oregon Department of Transportation for review and approval prior to its construction. The costs associated with said realignment shall be borne by the applicant.
- (g) That only one free-standing sign, the height to be in scale with the project design, but in no case to be more than thirty feet in height, is allowed on the site. Monument type signs, and those mounted within twelve inches of the building face, shall be limited as prescribed by McMinnville Ordinance No. 4506.
- (h) That the applicant submit to the City Engineer for review and approval a design for Norton Lane, extending from its intersection with Highway 18 to the subject property's north property line. All costs associated with the reconstruction of Norton Lane, as may be required by the City Engineer, shall be borne by the applicant.

- (i) That the zone change ordinance not take effect until after Council approval of the annexation request.
- (j) That the existing oak trees, located toward the center of the site, shall be preserved and a plan for their preservation must be prepared by a licensed arborist, submitted to the City of McMinnville, and adhered to by the applicant. Grade changes within the drip line of these trees shall not be permitted. Similar practices shall be employed by the applicant during the construction of the factory outlet mall which will guarantee the protection and long term health of said trees.
- (k) That the McMinnville Downtown Association, in conjunction with the McMinnville Chamber of Commerce, be permitted a free-standing kiosk to be provided and maintained by the Tanger Factory Outlet to "promote" McMinnville's attractions. The kiosk design and location will be determined by the city staff.
- (l) That all outside lighting shall have hoods or "shoebox" type fixtures which will direct light beams both downward and away from residential areas.
- (m) That signage be posted around the exterior of the buildings which notifies operators of buses and trucks that diesel engines must be switched off when parked or unloading merchandise. Signage must further notify operators that failure to switch off engines constitutes a violation of this ordinance, the fine for which is a maximum of \$500 per occurrence.

Section 3. Inasmuch as this matter has been fully heard before the Planning Commission and the Council, it is desired that the provisions of this ordinance become immediately effective; therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect upon its passage by the Council and approval by the Mayor.

Passed by the Council this 23rd day of February, 1993 by the following votes:

Ayes: Aleman, Massey, Olson, Kirchner, Windle

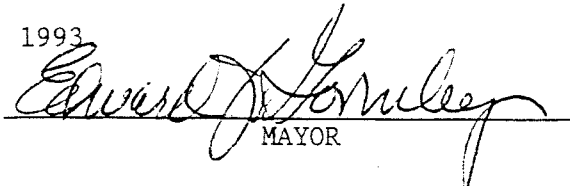
Nays: Payne

Emergency clause passed by the Council this 23rd day of February, 1993 by the following votes:

Ayes: Aleman, Massey, Olson, Kirchner, Windle

Nays: Payne

Approved this 23rd day of February, 1993


MAYOR

Attest: Carole M. Beckett
RECORDER

EXHIBIT "A"

A tract of land in the Nehemiah Martin Donation Land Claim No. 83 and the Isaiah M. Johns Donation Land Claim No. 81 in the Southwest 1/4 and the Southeast 1/4 of Section 22, Township 4 South, Range 4 West, Willamette Meridian, Yamhill County, Oregon and being more particularly described as follows:

Beginning at a point on the East line of Norton Lane, a 60.00 foot right of way, said point being 3.55 feet, North 00°10'14" East and 60.00 feet, South 89°56'34" East from the Southeast corner of Lot 18 of Bend-O-River Village 1st Addition, a subdivision of record in Cabinet A, Slide 173, Yamhill County Record of Town Plats; thence leaving said East right of way line, South 89°56'34" East, 1050.06 feet to 3/4-inch iron pipe marking the Northwest corner of that certain tract described and recorded in Film Volume 107, Page 1114, Yamhill County Deed Records; thence along the West line of said deed, South 10°54'45" West, 405.21 feet to a 3/4-inch iron pipe; thence North 89°53'02" West, 50.01 feet to a 3/4-inch iron pipe; thence South 04°32'51" West, 149.61 feet, more or less, along said West line to the intersection of Present City Limits; thence leaving said West line, North 89°59'51" West, along Present City Limits, 913.11 feet to the East line of Norton Lane; thence North 00°10'14" East, along the East line of Norton Lane, 551.54 feet to the point of beginning of this description and containing 12.40 acres, more or less.