



City of Sutherlin
Planning Commission Meeting
Tuesday, May 2, 2017
7:00 p.m. – Sutherlin Civic Auditorium

Agenda

Pledge of Allegiance

Introduction of Media

Approval of Minutes

March 21, 2017 - Regular Meeting

Quasi-Judicial Public Hearing(s)

1. DELMAR TOWLER, on behalf of the SEVENTH DAY ADVENTIST CHURCH, request for a Variance to R-2 Sign Standards to allow for two new replacement signs: one 9' x 6' internally illuminate church sign with reader board approx. 10', high, and one 3' x 6' electronic reader board sign, approx. 5' 6" high for the school; along with a Variance to the setbacks. The subject 4.46 acre property is located on the north side of W. Central Avenue, east of its intersection with Taylor Street, in the City of Sutherlin. The subject property is described as Tax Lot 400 in Section 17CC, T25S, R5W, W.M.; Property I.D. No. R51088; and is addressed as 841 W. Central Ave. The property is designated both High and Medium Density Residential by the Sutherlin Comprehensive Plan and zoned (R-3) High Density Residential and (R-2) Medium Density Residential by the Sutherlin Development Code. **PLANNING DEPARTMENT FILE NO. 17-S005.**

2. RAY CORVINUS, request for a Variance to Fence Height Standards to authorize installation of a 6'11" fence (6' decorative metal fence with 11" lighting units) on the north side of W. Central Ave, immediately east of its intersection with Sherman Street in the City of Sutherlin. The subject property is described as Tax Lot 4300 in Section 17CC, T25S, R5W, W.M.; Property I.D. No. R51039; and is addressed as 667 W. Central Ave. The property is designated Commercial Community by the Sutherlin Comprehensive Plan and zoned (C-3) Community Commercial by the Sutherlin Development Code. **PLANNING DEPARTMENT FILE NO. 17-S006.**

Monthly Activity Report(s)

Public Comment

Commission Comments

Adjournment

**CITY OF SUTHERLIN
PLANNING COMMISSION MEETING
CIVIC AUDITORIUM – 7PM
TUESDAY, MARCH 21, 2017**

COMMISSION MEMBERS PRESENT: Mandi Jacobs, Patricia Klassen, William Lee, John Lusby, Richard Price, Michelle Sumner

COMMISSION MEMBERS EXCUSED: Sam Robinson

COMMISSION MEMBERS ABSENT: None

CITY STAFF: Brian Elliott, Community Development Director and Kristi Gilbert, Community Development Specialist and Lisa Hawley, City Planner

AUDIENCE: Larry Bangs and John Klassen

Meeting called to order at 7:00 pm by Chair Lusby.

FLAG SALUTE

INTRODUCTION OF MEDIA: None

APPROVAL OF MINUTES

Commissioner Lee stated that the minutes needed to be amended to reflect that he was not present at the January 17, 2017 Planning Commission Meeting.

A motion made by Commissioner Price to approve the minutes of the January 17, 2017 Planning Commission meeting as amended; second made by Commissioner Sumner.

In favor: Commissioners Jacobs, Klassen, Lee, Price, Sumner and Chair Lusby

Opposed: None

Motion carried unanimously with Commissioner Lee abstaining (he was not at the meeting).

QUASI-JUDICIAL PUBLIC HEARING

1. **TIMBER TOWN LAND LLC**, request for a Variance to Height Standards to increase the fence height along the boundaries of the subject properties, from 6 ft to 8 ft along the rear and side (south, west and southeast) property lines, and from 4 ft to 6 ft along the front (north) property line on W. Central Ave, in order to provide increased security for the subject properties. The properties are located on the south side of W. Central Avenue between S. Comstock Rd and S. Taylor St in the City of Sutherlin. The subject properties are described as Tax Lots 4800 and 4900 in Section 19AA, T25S, R5W, W.M.; Property I.D. Nos. R50437 and R40395; and are addressed as 1116 and 1128 W. Central Ave. The properties are designated Commercial Community and High Density Residential by the Sutherlin Comprehensive Plan and zoned (C-3) Community Commercial and (R-3) Residential High Density by the Sutherlin Development Code. **PLANNING DEPARTMENT FILE NO. 17-S001.**

Chair Lusby opened the hearing, with the disclosure statement; all persons testifying shall be deemed parties to appeal the application and must provide full name and mailing address if they wish to be notified of the decision, continuances, appeals, or procedural actions required by the Code. The Sutherlin Development Code specifies applicable materials to be relied upon in making a decision.

Lusby asked the Commission if there were any conflicts of interest or personal bias; Commissioner Lee disclosed that he drove by the subject property. Lusby then asked the audience if there were any challenges of impartiality of any person(s) on the Commission. Hearing none, Lusby asked for the Staff Report.

Lisa Hawley, City Planner, entered Staff Exhibits 1-10, including the Staff Report into the record. She then identified the parties in the matter and summarized the Staff Report into the record.

APPLICANT'S TESTIMONY

Larry Bangs, 1116 W. Central Ave, Sutherlin, stepped forward and stated that his variance request is for the protection of his residents. He noted that he has had residents escape over a six foot fence, realizing they needed an increase in fence height.

Discussion ensued regarding the height of the fence. Mr. Bangs clarified the fence height along the sides and rear of the property would enclose the area where the residents are allowed to roam. The front fence was for aesthetics to match the existing front fence.

Chair Lusby closed the public portion of the hearing.

A motion made by Commissioner Price to approve the requested Variance on the subject 1.60 acre properties; second made by Commissioner Jacobs.

In favor: Commissioners Jacobs, Klassen, Lee, Price, Sumner and Chair Lusby

Opposed: None

Motion carried unanimously.

MONTHLY ACTIVITY REPORT

Brian Elliott, Community Development Director, provided the Planning Commission an update on 2017 City Projects.

- North Comstock - meeting with Douglas County the following week for the 100% completion review of plans for N. Comstock. The project will go out to bid in April, with a potential start date in May.
- Central Avenue Pavement project has become a larger project; therefore, staff is working with the engineer at potential time frame options.
- Mr. Elliott provided the Commission with an update on the Wastewater Treatment Plant SBR Phase II, noting that it was complete and waiting for it to settle.
- The Water Master Plan is on track.
- The 14" Force Main was awarded to Emery & Sons and the project is currently in construction. They have 90 days for completion and are on track.

- The Ford's Pond Masterplan contract was awarded to Cameron McCarthy in the amount of \$49,600. The Masterplan has a completion date of November, 2017. There will be an update provided at the April 14th City Council Meeting.

Lisa Hawley thanked Commissioners Jacobs and Sumner for attending the Planning Commission Workshop put on by DLCD.

PUBLIC COMMENT - None

COMMISSION COMMENTS – None

ADJOURNMENT - With no further business the meeting was adjourned at 7:25 pm.

Respectfully submitted,

Kristi Gilbert

APPROVED BY COMMISSION ON THE _____ DAY OF _____, 2017.

John Lusby, Commission Chair



Community Development
126 E. Central Avenue
Sutherlin, OR 97479
(541) 459-2856
Fax (541) 459-9363
www.ci.sutherlin.or.us

City of Sutherlin

April 25, 2017

STAFF REPORT

TO: Sutherlin Planning Commission

FROM: Lisa Hawley, Community Services Planner

RE: **DELMAR TOWLER, on behalf of the SEVENTH DAY ADVENTIST CHURCH,** request for a Variance to R-2 Sign Standards to allow for two new replacement signs: one 9' x 6' internally illuminate church sign with reader board approx. 10', high, and one 3' x 6' electronic reader board sign, approx. 5' 6" high for the school; along with a Variance to the setbacks. The subject 4.46 acre property is located on the north side of W. Central Avenue, east of its intersection with Taylor Street, in the City of Sutherlin. The subject property is described as Tax Lot 400 in Section 17CC, T25S, R5W, W.M.; Property I.D. No. R51088; and is addressed as 841 W. Central Ave. The property is designated both High and Medium Density Residential by the Sutherlin Comprehensive Plan and zoned (R-3) High Density Residential and (R-2) Medium Density Residential by the Sutherlin Development Code. **PLANNING DEPARTMENT FILE NO. 17-S005.**

STAFF EXHIBITS

1. Notice of Public Hearing with affidavit of mailing
2. Copy of Legal Notice posted in the News Review
3. Property Owners within 100 Feet
4. Staff Report with Responses Attached
5. Variance application and attachments
6. Vicinity Map
7. Assessor Maps
8. City Zoning Map
9. Aerial Photograph
10. Situs Map

INTRODUCTION

The applicant, Delmar Towler, on behalf of the Seventh Day Adventist Church, is requesting a request for a Variance to R-2 Sign Standards to allow for two new replacement signs: one 9' x 6' internally illuminate church sign with reader board approx. 10' high, and one 3' x 6' electronic reader board sign, approx. 5' 6" high for the school; along with a Variance to the front setback requirements. The subject 4.46 acre property is located on the north side of W. Central Avenue, east of the intersection with Taylor Street in the City of Sutherlin.

The subject property is described as Tax Lot 400 in Section 17CC, T25S, R5W, W.M.; Property I.D. No. R51088; and addressed as 841 W. Central Ave. The existing development on the property is the Seventh Day Adventist Church and Elementary School. The property is designated both High and Medium Density Residential by the Sutherlin Comprehensive Plan and zoned (R-3) High Density Residential and (R-2) Medium Density Residential by the Sutherlin Development Code.

The applicant proposes two new replacement signs: one 9' x 6' internally illuminated church sign with reader board, approximately 10' high, and one 3' x 6' electronic reader board sign, approximately 5'6" high for the school, together with a Variance to the front setback requirements of the R-2 zone from 15' to 1' along the south property line bordering on W. Central Ave. This would allow the sign to not be obstructed by the existing power pole near the front property line.

During the public hearing on May 2, 2017, the Planning Commission will accept public testimony and make a decision on the application after the public hearing. This application is being processed as a Type III procedure for a Class C Variance, subject to the applicable criteria of Sections 2.2 [R-2 zone to vary front setback], 3.7 [Sign Standards to vary sign size, height and illumination], 4.2.140 [Type III actions], and 5.2.130 [Class C Variances] of the Sutherlin Development Code. As part of the hearing, the Planning Commission will review the applicant's request for compliance with the applicable criteria and render a decision on the matter.

PROCEDURAL FINDINGS OF FACT

1. The Variance application was filed with the City on March 15, 2017, and was deemed complete on March 17, 2017.
2. Notice of a Public Hearing on the Variance application before the Planning Commission was given in accordance with Section 4.2.140.C as a Type III procedure. Notice was sent to affected property owners of record within 100 feet of the subject property, service providers, and governmental agencies on April 11, 2017.
 - a. John McDonald, ODOT Development Review Planner, commented that ODOT reviewed the variance and had no comments.
 - b. An adjoining neighbor, Gary & Lauren Campbell, expressed concern about the size of the signs. They stated, in part, "*Our primary concern is ensuring that the larger signs do not interfere with the safe ingress/egress from our property. A sign of that size, in that location, would obstruct a clear line of sight for traffic, particularly when turning left (east) from our driveway.*" A copy of the Campbell's letter is included with the staff report.

- c. At the time of the mailing of this staff report, no other written comments or remonstrance have been received.
3. Present Situation: The southern portion of the subject property is currently developed with a Church, Elementary School and its accessory buildings.
4. Plan Designation: Residential High Density (RH) and Residential Medium Density (RM).
5. Zone Designation: (R-3) High Density Residential and (R-2) Medium Density Residential.
6. Public Water: The subject property has access to public water from the City of Sutherlin.
7. Sanitary Sewer: The subject property has access to sanitary sewer from the City of Sutherlin.
8. Transportation System: The subject 4.46 acre property is located on the north side of W. Central Avenue, an existing arterial roadway under the City's Transportation System Plan, which has recently transferred from ODOT to City jurisdiction.
9. Transportation Connectivity: The subject property abuts W. Central Avenue; surrounding existing development prohibits additional connectivity to nearby adjoining streets.
10. Pedestrian & Bicycle Access: W. Central Avenue is a designated pedestrian path and bicycle way under the Transportation System Plan.
11. Overlay: The subject property is not located within the 100 year flood plain or subject to any other overlays.

FINDING: The procedural findings noted above are adequate to support the Planning Commission's decision on the request Variance.

APPLICABLE CRITERIA & FINDINGS

The proposed Variance is considered a Type III procedure for a Class C Variance, subject to the applicable criteria of Sutherlin Development Code, including Sections 2.2 [R-2 zone to vary front setback], 3.7 [Sign Standards to vary sign size, height and illumination], 4.2.140 [Type III actions], and 5.2.130 [Class C Variances].

Based upon the application materials and information submitted by the applicant and other evidence provided, staff presents the following findings to address the applicable criteria:

SIGN STANDARDS (SECTION 3.7)

1. Section 3.7 of the Sutherlin Development Code establishes standards for signs in the City, including standards for permitting signs in the different zoning districts.
 - a. The applicant proposes to replace the ground sign in the R-2 zone, which is used in conjunction with the church facility. They also propose to add a new school sign to replace the portable sign that was previously used to announce school

activities. For this new signs, the applicant is proposing to vary the size, height, illumination and setback requirements of the R-2 zone.

- b. The proposed signs are subject to the standards of Section 3.7.230 for Signs in the R-2 and R-3 zoning districts. Section 3.7.230 states for Public/Institutional Use Signs: Public uses, schools, churches and similar public/institutional uses are allowed a maximum of twenty (20) square feet of sign area, per street frontage. The maximum area shall be combination of wall and ground signs. If a ground sign, the sign shall not be located within fifteen (15) feet of any property line and shall not be internally illuminated. Signs within public parks, schools, or stadiums, which are generally placed and located, so as not to be viewed from a street, shall be exempted from this provision.

FINDING: The subject property is zoned R-2 and R-3 by the Sutherlin Development Code. The applicant is requesting a Variance to allow for the replacement of the church sign (9' x 6' internally illuminated church sign with reader board, approximately 10' high) that has been located on the property for approximately forty (40) years. The applicant is also requesting to add a 3' x 6' electronic reader board sign, approximately 5'6" high for the school, with a Variance to the sign setback requirements from 15 feet to 1 foot to allow both signs to be located within the front setback.

VARIANCE CRITERIA (CLASS C VARIANCE)

2. The requested variance is subject to the applicable criteria of Section 5.2.130 of the Sutherlin Development Code for a Class C Variance. The purpose of Section 5.2 (Variances) is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.
3. Class C Variances (Section 5.2.130) may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create hardship to development which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which is not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to "permitted uses" shall be granted.
4. Pursuant to Section 5.2.130.1, the applicant has provided the following narrative as part of their request for the two signs, which states, in part:

...The existing sign has stood for some 40 yrs and is virtually the same size overall [as] our proposed new sign. We considered just updating the sign within the existing structure, but due to its deteriorating condition and not sitting level, this would not be a suitable solution. Due to the nature of our operation as a church a programmable LED sign would facilitate changing schedules and keeping messages on a current basis. Our existing sign is quite dim and almost non-readable at night.

As to the setback requirement for R-2 zoned property of 15 ft from the [front] property line, if we were to meet this requirements our sign would be severely restricted as to visibility, due to the big beautiful Magnolia tree in front of the church which we don't want to remove due to its aesthetic natural beauty both to the church members and the entire community.

Commercial properties in close proximity to the Church on both sides of Central Ave enjoy the privilege of having larger and higher signs and are located almost right on their respective property lines. This puts the Church at a distinct disadvantage in [not] having its sign [as] visible and readable if we were restricted to the requirements of R-2 property....

We are also requesting to install a new permanent electronic reader board sign for the school. It would be a 3' x 6' sign with overall height of 5'6". It would be located 70 feet east of the western property line and 92 feet west of the existing church sign. Also 1 foot north of the southern property line 89-+which runs parallel to Central Ave. This would replace a portable changeable letter sign which has been used intermittently to announce various school functions such as registrations fundraisers, etc. The old portable sign was destroyed either by wind or vandalism recently... We would like it to be installed perpendicular to an existing power pole so that the pole would not interfere with visibility.

5. Pursuant to Section 5.2.130.2, the City shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:
 - a. *The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;*
 - i. To address this criterion, the applicant states:

The existing sign and structure will not be significantly changed as to size and location. The height would be increased from 7' to 10'. Also a smaller 3' x 6' school sign would simply replace a portable sign used occasionally for school registration and event announcements. We want to locate the school sign closer to the existing power pole so the pole will not obstruct visibility of the sign. Both areas for the two signs have been historically used on-site.

FINDING: As proposed, the size of the new signs will not be vastly different from the existing signs. The dimensions of the existing church sign are somewhat similar to that being proposed, in that the size of the lighted sign with its surrounding brick work gives it an overall dimension of approximately 56 sq.ft. The new sign will be in the same site as the existing sign, with the same general encroachment into the 15-foot front setback of the R-2 zone as what currently exists. The adjacent properties on the east and west side of the subject property are zoned C-3. With the exception of the new reader board portion of the sign, it will not be materially detrimental to the purposes of the development code or to other properties in the same zone or vicinity.

In addition, the new school sign will be similar in size and function to the portable sign the school has used previously to announce school-related functions and activities. At its proposed location, the proximity of the new sign within the 15-foot front setback will enable it to be more

visible from the road. There is an existing hedge of bushes along the west property line of the subject property that limits visibility of the existing sign, particularly when driving east along W. Central Ave. The new sign, as proposed, will not be materially detrimental to the purposes of the development code or to other properties in the same zone or vicinity.

b. *A hardship to development exists which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);*

i. To address this criterion, the applicant states:

The adjacent properties are zoned C-3 and have a sign within 2' of the respective property lines and are twice the size of the requirements for the R-2 zoned signs. Considering that factor and the setback requirements of 15' for the R-2 zoned signs, and the maximum 20 sq ft size requirement would substantially restrict the church's ability to have its sign noticed and read by passing motorists. Also the setback requirements of 15' would almost certainly necessitate severe trimming or even removal of the two trees in front of the church, one of which is a large rare Magnolia. Both signs would be located 1 foot north of the church property line which is in accordance with existing commercial signs up and down Central Ave on properties on both sides of the church property.

FINDING: The current R-2 zoning of the property, where the two signs are located, limits the size of the replacement signs, as well as their proximity to the right-of-way of W. Central Ave. The applicant has requested the variances to the sign standards (size, height and internal illumination), as well as the front setback, in order for the new signs to be more visible from the roadway. The new signs will be similar to the overall dimensions of the existing signs. The location of the existing church building limits the ability to place the church sign further back from the road. The church sign will be replaced in the same general location as the existing sign. The new school sign will be similarly placed close to W. Central Ave, but further east than the existing sign, which will help make it more visible to motorists. These circumstances create a general hardship related to the property over which the applicant has no control.

c. *The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent possible while permitting reasonable economic use of the land;*

i. To address this criterion, the applicant states:

The use proposed will be the same as present usage which has been in existence for close to a hundred years i.e. a church and elementary school. We want to make the signs more readable and visible.

FINDING: The applicant is requesting a variance to replace two existing signs on the property, both of which will be larger in size and height than the existing signs, and will each have an electronic reader board. The church sign will also be internally illuminated. As proposed, both signs will encroach into the 15-foot front setback. The existing church and its associated school have been on the property for many years and is pre-existing to the current development code.

The applicant is not asking for a use which is not already permitted in the R-2 & R-3 zones. No variance to the permitted uses in the R-2 or R-3 zones is requested. City standards with the proposed signs will be maintained to the greatest extent possible while permitting the applicant to make reasonable economic use of the land.

d. *Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;*

i. To address this criterion, the applicant states:

Since no material change as indicated in a. above would occur no adverse effect would be imposed on the surrounding area. The new signs will be visible to traffic but will not create a driving hazard.

FINDING: The variance to the sign standard requirements will not adversely affect traffic along W. Central Ave., nor adversely impact drainage, natural resources or parks any more than would occur if the proposed signs were installed as specified in the development code.

e. The hardship is not self-imposed; and

i. To address this criterion, the applicant states:

These conditions have existed for many years simply because the church property is zoned R-2, and completely surrounded by property zoned C-3. Some 40 or 50 years ago there existed a dwelling in which the church elementary school teacher lived. We do not anticipate having another caretaker dwelling in the future. The signs have existed for many years – we want to be allowed to make them more visible without materially changing our existing configuration.

FINDINGS: The applicant is requesting variances to the sign standards and front setback in the R-2 zone to allow the replacement of two existing signs, which will be in the same general location as the existing signs. The applicant desires to make the signs more visible to passing traffic, similar to the existing commercial signs located on the adjacent commercially-zoned properties. Staff finds that the need for the proposed variance is not the result of a practical difficulty created by the actions of the applicant and is not the result of a self-imposed hardship.

f. The variance requested is the minimum variance, which would alleviate the hardship.

i. To address this criterion, the applicant states:

The overall height for the church sign would only be increased from 7" to 10". The school sign would be about the same size as one which we have used in the past. The dimensions of the actual church sign would stay the same (appx 6'x9'). We ask for a variance to the illumination requirements due to the frequency of program change requirements and also readability. Setback requirements need to be changed also due to readability issues and the preservation of the Magnolia tree in front of the church.

FINDING: The new signs will be designed to look aesthetically pleasing on the property, yet provide additional visibility for the church and school, and their associated activities. The applicant's request to increase the overall size, height and illumination of the two signs, as well as their placement into the front setback will be the minimum variance needed to alleviate the hardship and allow the applicant to make reasonable economic use of the property.

ACTION ALTERNATIVES

Based on the applicant's findings, the city staff report and the testimony and evidence provided during the public hearing, the Planning Commission can close the public hearing and move to either:

1. **Approve** the requested Variances to the Sign standards (size, height and illumination) and Front Setback to one foot on the subject 4.46-acre property; or
2. **Approve with conditions** the requested Variances to the Sign standards (size, height and illumination) and Front Setback to one foot on the subject 4.46-acre property; or
3. **Continue the public hearing** to a specified date and time, or to close the public hearing and to leave the record open to a specified date and time for submittal of additional evidence and rebuttal; or
4. **Deny** the requested Variances to the Sign standards (size, height and illumination) and Front Setback to one foot on the subject 4.46 acre property on the grounds that the proposal does not satisfy the applicable approval criteria.

STAFF RECOMMENDATION

City Staff recommends that the Planning Commission select Action Alternative #1 and **APPROVE** the requested variances, as outlined in the application, on the subject 4.46-acre property.

Dancing Crane, LLC
Members: Gary & Lauren Campbell
354 Champagne Creek Drive
Roseburg, OR 97471
(541) 733-1618

April 17, 2017

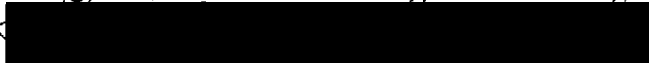
City of Sutherlin
Community Development Department
126 E. Central Ave
Sutherlin, OR 97479

Good Morning,

This letter is in response to the Notice of Public Hearing for Variance to Sign Standards at 841 W. Central Ave. We own the building at 783 W. Central Ave. Our primary concern is ensuring that the larger signs do not interfere with the safe ingress/egress from our property. A sign of that size, in that location, would obstruct a clear line of sight for traffic, particularly when turning left (east) from our driveway. Turning eastbound onto Central is a challenge today.

We are unable to attend the meeting on May 2, 2017, but would like this concern to be evaluated and addressed.

Regards,



Gary & Lauren Campbell



Community Development
126 E. Central Avenue
Sutherlin, OR 97479
(541) 459-2856
Fax (541) 459-9363
www.ci.sutherlin.or.us

City of Sutherlin

April 25, 2017

STAFF REPORT

TO: Sutherlin Planning Commission

FROM: Lisa Hawley, Community Services Planner

RE: **RAY CORVINUS**, request for a Variance to Fence Height Standards to authorize installation of a 6'11" fence (6' decorative metal fence with 11" lighting units) on the north side of W. Central Ave, immediately east of its intersection with Sherman Street in the City of Sutherlin. The subject property is described as Tax Lot 4300 in Section 17CC, T25S, R5W, W.M.; Property I.D. No. R51039; and is addressed as 667 W. Central Ave. The property is designated Commercial Community by the Sutherlin Comprehensive Plan and zoned (C-3) Community Commercial by the Sutherlin Development Code. **PLANNING DEPARTMENT FILE NO. 17-S006.**

STAFF EXHIBITS

1. Notice of Public Hearing with affidavit of mailing
2. Copy of Legal Notice posted in the News Review
3. Property Owners within 100 Feet
4. Staff Report with Responses Attached
5. Variance application and attachments
6. Vicinity Map
7. Assessor Maps
8. City Zoning Map
9. Aerial Photograph
10. Situs Map

INTRODUCTION

The applicant, Ray Corvinus, is requesting a Class C Variance to Height Standards to increase the fence height along the southern boundary of the subject property located on the north side of W. Central Avenue to provide increased on-site security. The property is located on the north side of W. Central Avenue between Sherman Street and Ash Street in the City of Sutherlin.

The subject property is described as Tax Lot 4300 in Section 17CC, T25S, R5W, W.M.; Property I.D. No. R51039; and is addressed as 667 W. Central Ave. The property is currently vacant. The property is designated Commercial Community by the Sutherlin Comprehensive Plan and zoned (C-3) Community Commercial by the Sutherlin Development Code.

The applicant proposes to increase the maximum fence height along the south boundary of the subject property line on W. Central Ave from 4' to 6'11", in order to provide increased security for a future business.

During the public hearing on May 2, 2017, the Planning Commission will accept public testimony and make a decision on the application after the public hearing. This application is being processed as a Type III procedure for a Class C Variance, subject to the applicable criteria of Sections 3.3.140 [Fences and Walls], 4.2.140 [Type III actions], and 5.2.130 [Class C Variances] of the Sutherlin Development Code. As part of the hearing, the Planning Commission will review the applicant's request for compliance with the applicable criteria and render a decision on the matter.

PROCEDURAL FINDINGS OF FACT

1. The Variance application was filed with the City on March 20, 2017, and was deemed complete on March 22, 2017.
2. Notice of a Public Hearing on the Variance application before the Planning Commission was given in accordance with Section 4.2.140.C as a Type III procedure. Notice was sent to affected property owners of record within 100 feet of the subject property, service providers, and governmental agencies on April 11, 2017.
 - a. John McDonald, ODOT Development Review Planner, commented that ODOT reviewed the variance and had no comments.
 - b. At the time of the mailing of this staff report, no other written comments or remonstrance have been received.
3. Present Situation: The subject property is currently vacant. The applicant is anticipating opening an Auto Sale and Repair business on the property. The applicant is requesting the variance to increase the height of the south side perimeter fencing on the property, where it fronts onto W. Central Ave.
4. Plan Designation: Community Commercial (CC).
5. Zone Designation: Community Commercial (C-3).
6. Public Water: The subject property has access to public water from the City of Sutherlin.

7. Sanitary Sewer: The subject property has access to sanitary sewer from the City of Sutherlin.
8. Transportation System: The subject 0.29 acre property is located on the north side of W. Central Avenue, an existing arterial roadway under the City's Transportation System Plan, which has recently transferred from ODOT to City jurisdiction.
9. Transportation Connectivity: The subject property abuts W. Central Avenue; surrounding existing development prohibits additional connectivity to nearby adjoining streets.
10. Pedestrian & Bicycle Access: W. Central Avenue is a designated pedestrian path and bicycle way under the Transportation System Plan.
11. Overlay: The subject property is not located within the 100 year flood plain or subject to any other overlays.

FINDING: The procedural findings noted above are adequate to support the Planning Commission's decision on the request Variance.

APPLICABLE CRITERIA & FINDINGS

The proposed Variance is considered a Type III procedure for a Class C Variance, subject to the applicable criteria of Sutherlin Development Code, including Sections 3.3.140 [Fences and Walls] and 5.2.130 [Class C Variances].

Based upon the application materials and information submitted by the applicant and other evidence provided, staff presents the following findings to address the applicable criteria:

FENCE STANDARDS (SECTION 3.3.140)

1. Section 3.3.140 of the Sutherlin Development Code establishes standards for all fences and walls, except for fences in industrially designated lands:
 - A. General Requirements. All fences and walls shall comply with the standards of this section. The city may require installation of walls and/or fences as a condition of development approval, in accordance with section 4.5, Conditional Use Permits or section 4.3, Development Review and Site Plan Review. Walls built for required landscape buffers shall comply with section 3.3.120.
 - B. Dimensions.
 1. The maximum allowable height of fences and walls is six (6) feet as measured from the lowest grade at the base of the wall or fence, except that retaining walls and terraced walls may exceed six (6) feet when permitted as part of a site development approval, or as necessary to construct streets and sidewalks. A building permit is required for walls exceeding six (6) feet in height, in conformance with the uniform building code.

2. The **height of fences and walls along or within a front yard setback shall not exceed four (4) feet** (except decorative arbors, gates, etc.), as measured from the grade closest to the street right-of-way. [**Emphasis added**]
 3. Fences and walls shall comply with the vision clearance standards of section 3.2.110.O.
- C. Prohibited Materials. Barbed wire, razor wire, and similar armor-type fences are prohibited, except when specifically required as a condition of approval through site plan review or conditional use permit approval.
- D. Maintenance. For safety and for compliance with the purpose of this chapter, walls and fences required as a condition of development approval shall be maintained in good condition, or otherwise replaced by the owner.

FINDING: The subject property is zoned C-3 by the development code. The applicant is requesting a variance to increase the maximum fence height on the subject property from 4' to 6'11" along the front (south) property line on W. Central Ave, in order to provide increased security for the business customers on the property. As proposed, it will be a 6' decorative metal fence with 11" lighting units, and approximately 125' in length along the front property line. No use of prohibited materials is proposed.

VARIANCE CRITERIA (CLASS C VARIANCE)

2. The requested variance is subject to the applicable criteria of Section 5.2.130 of the Sutherlin Development Code for a Class C Variance. The purpose of Section 5.2 (Variances) is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.
3. Class C Variances (Section 5.2.130) may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create hardship to development which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which is not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to "permitted uses" shall be granted.
4. Pursuant to Section 5.2.130.1, the applicant has provided the following narrative as part of their request:

125 feet of custom metal fencing along W. Central Ave with lighting 6'11" top rail at 6'1" to provide security for customer and companies property and to match surrounding businesses.
5. Pursuant to Section 5.2.130.2, the City shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:

- a. *The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;*

- i. To address this criterion, the applicant states:

Increasing [our] top rail to 6'1" and [our] light to 6'11" will not [be] detrimental to the adjoining members. The open fence design will not block vision of oncoming traffic it will not be constructed with barbed wire, razor wire and similar other types.

FINDING: As proposed, the new 6'11" custom metal fence with lighting along the front (southern) property line will be approximately 125' in length. The maximum fence height permitted along the front property line is 4 feet. The applicants are requesting the variance increase the fence height 2-3 feet in order to provide more security for the property and their proposed auto sales and repair business. The new custom metal fence will be a decorative, but open design with light fixtures along the top. Visibility will still be provided through the fence. Increasing the fence height 2-3 feet will not be materially detrimental to the purposes of the development code or to other properties in the same zone or vicinity.

- b. *A hardship to development exists which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);*

- i. To address this criterion, the applicant states:

No typical hardship exists, however to make our business more viable and secure we need a high fence in front.

FINDING: Currently the subject property is vacant; however the property owner has anticipated constructing an Auto Sales and Repair business. The applicant's need for the variance is to provide additional security for the business and its customers. The additional 2-3 feet (including portion with the light fixtures) to increase the fence height will allow the applicant have adequate fence height along with lighting of the property. This circumstance creates a general hardship related to the property over which the applicant has no control.

- c. *The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent possible while permitting reasonable economic use of the land;*

- i. To address this criterion, the applicant states:

Adding the height to [our] fence and lighting will be aesthetically pleasing and allow the city standards to be maintained to the greatest extent that is reasonably possible while permitting us to make reasonable economic use of the land.

FINDING: The applicant is requesting a variance to increase the fence height 2-3 feet in order to provide additional security for their property and their customers on the subject property. No variances to the permitted uses in the C-3 zones are requested. City standards with the

proposed fences will be maintained to the greatest extent possible while permitting the applicant to make reasonable economic use of the land.

- d. *Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;*

- i. To address this criterion, the applicant states:

This [fence variance] does not affect traffic, drainage, natural resources and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard.

FINDING: The variance to the fence height requirements will not adversely affect traffic or visibility along W. Central Ave., nor adversely impact drainage, natural resources or parks any more than would occur if the proposed fences were installed as specified in the development code.

- e. The hardship is not self-imposed; and

- i. To address this criterion, the applicant :

To provide security for customers property, to provide security for companies property and to match surrounding businesses.

FINDINGS: The applicant is requesting a variance to increase the fence height in order to provide additional security for the future business and its customers. Staff finds that the need for the proposed variance is not the result of a practical difficulty created by the actions of the applicant and is not the result of a self-imposed hardship.

- f. The variance requested is the minimum variance, which would alleviate the hardship.

- i. To address this criterion, the applicant states:

Increase our top rail to 6'1" and are lighting on post to 6'11" along the front of W. Central Ave (667).

FINDING: The new fence will be designed to look aesthetically pleasing on the property, yet provide the additional security for the future business (auto sales and repair) and its clients. The existing 4-foot fence height limitation along the front property line limits the ability of the applicant to provide the additional security for the site. The applicant's request to increase the fence height by 2-3 feet (including the light fixtures) will be minimal to alleviate the hardship and allow the applicant to make reasonable economic use of the property.

ACTION ALTERNATIVES

Based on the applicant's findings, the city staff report and the testimony and evidence provided during the public hearing, the Planning Commission can close the public hearing and move to either:

1. **Approve** the requested Variance to Fence Height Standards on the subject 0.29 acre property; or
2. **Approve with conditions** the requested Variance to Fence Height Standards on the subject 0.29 acre property; or
3. **Continue the public hearing** to a specified date and time, or to close the public hearing and to leave the record open to a specified date and time for submittal of additional evidence and rebuttal; or
4. **Deny** the requested Variance to Fence Height Standards on the subject 0.29 acre property on the grounds that the proposal does not satisfy the applicable approval criteria.

STAFF RECOMMENDATION

City Staff recommends that the Planning Commission select Action Alternative #1 and **APPROVE** the requested variance to fence height standards, as outlined in the application, on the subject 0.29 acre property.

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