

**NOTICE OF PUBLIC MEETING
LAFAYETTE PLANNING COMMISSION**

DATE & TIME: Thursday, February 15, 2024 – 6:30 p.m.

PLACE: Council Chambers, 486 Third Street, Lafayette, OR 97127

AGENDA

1. CALL TO ORDER
2. FLAG SALUTE
3. ROLL CALL
4. ELECTION OF PLANNING COMMISSIONER CHAIR FOR TWO-YEAR TERM OF 2024 & 2025
5. CITIZEN INPUT ON NON-AGENDA ITEMS:
6. APPROVAL OF MINUTES
 - a. November 16, 2023 Planning Commission Meeting Minutes
7. PUBLIC HEARINGS
 - a. Extend approval period for 2022-01, 395 N Adams. Lafayette Auto Body
8. ADJOURNMENT

The Council Chambers is accessible. If you need an accommodation to attend or participate in a meeting or wish to participate remotely, please notify the City at (503) 864-2451 at least 24 hours prior to the meeting.

City of Lafayette
Planning Commission Meeting Minutes
Thursday, November 16, 2023 at 6:30 p.m.

1. **CALL TO ORDER:** Chair Kerr called the meeting to order at 6:33 p.m.

2. **FLAG SALUTE:** Chair Kerr led the flag salute.

3. **ROLL CALL:** Chair Kerr called the Roll:

Present: Chair Ron Kerr, Michael Karl, Stephen Belding, Jon Meola (via zoom)

City Staff Present: Branden Dross, City Administrator; Jim Jacks, City Planner; Jasmine Garcia, Community Development Clerk

Others: Russ Burrows

Not Present: Doreen VanTyne (excused)

4. **CITIZEN INPUT ON NON-AGENDA ITEMS:**

None.

5. **APPROVAL OF MINUTES:**

a. October 19, 2023, Planning Commission Meeting Minutes

Commissioner Belding moved to approve the October 19, 2023, Planning Commission Meeting Minutes. Commissioner Karl seconded the motion, which passed unanimously.

6. **PUBLIC HEARING:**

a. LA2023-01- Amending LZOD regarding Marijuana Regulations

City Planner Jim Jacks summarized Ballot Measure 91 which was passed in November of 2014, allowing the recreational use of marijuana in the state of Oregon. He stated the current buffers put in place by the City Council and how it limits retail marijuana to a few properties in the Commercial-Core Districts (C-1 and C-2). He stated the recommendation is to remove the two sections from chapter seven of the City's Municipal Code, retailing is proposed to go into C1 and C2 zones and the production, processing, and wholesaling are proposed to go into the industrial zone; both are proposed to be moved into the Lafayette Zoning and Development Ordinance (LZDO). He stated the only change would be the removal of the 1,000-foot buffer from private schools, daycare facilities, and all public-owned property. Jacks proceeded to explain what each of the mark-ups in his staff report meant and went over each page of his staff report.

City Administrator Dross stated he saw an issue on page eight section KK subsection three; it should state "C-2 District of the City" not C-1. Jacks stated he will correct the issue in his next version.

Chair Kerr opened the discussion to the audience.

Russ Burrows asked the Planning Commission what the positive impact of marijuana sales, production, and industry in our community was. Chair Kerr stated that the way it stands now, we could not have medical or recreational marijuana in Lafayette and residents would have to go elsewhere to obtain it. Chair Kerr stated we want to open the opportunity so that if someone is interested, they can come to Lafayette versus other cities. Burrows stated if residents had a prescription for medical marijuana, they may have prescriptions for other things and they would still have to travel outside of Lafayette for that, and yet Lafayette isn't opening a pharmacy. Chair Kerr stated we aren't opening a marijuana shop; we are simply opening the possibility. City Administrator Dross went over the background on inquiries for retail marijuana since January and what started this discussion. Burrows asked if it was a good idea to remove something that was put in place for good reason in the past. Chair Kerr stated he can understand why it was placed in the past ten years ago when marijuana was still illegal but now times have changed and it is now legal, and the City should be able to grow. Chair Kerr stated this is only a recommendation to the City Council and he explained the process and told Burrows to attend the City Council meeting when this discussion takes place. Commissioner Belding stated he sees the industry shows positive growth and positive economic development; he compared them to the bars located on 99W and there are time limits in place that would apply to retail marijuana. Commissioner Karl stated he's lived here for thirteen and a half years and he's been disappointed with how 99W looked he stated there have been improvements since then that have helped, and he stated if we can have more businesses come to town it would help the City with revenue and help the community.

City Planner Jacks informed Burrows about the appeal process in the event he does not agree with the City Council's decision.

Kerr closed the public hearing at 7:22pm.

Commissioner Belding motioned the Planning Commission to adopt the staff report and recommend to the City Council to approve the proposed amendments. Commissioner Meola seconded; the motion passed unanimously.

City Administrator Dross asked that Chair Kerr attend the City Council meeting when this is to be discussed. Commissioner Belding asked if other commissioners could join as well. City Administrator Dross stated that was fine.

7. ACTION ITEMS:

a. Appointment of Vice-Chair

City Administrator Dross stated he wanted to discuss since there isn't a Vice-Chair. Chair Kerr asked the Planning Commission if any of the Commissioners were interested in becoming the Vice-Chair. Commissioner Belding stated he would be interested. Commissioner Meola stated he thinks Commissioner Belding would be a good fit. Chair Kerr moved to appoint Commissioner Belding as Vice-Chair; Commissioner Karl seconded; the motion passed unanimously. (3-0; Belding abstained)

Chair Kerr asked if there was any other business. City Administrator Dross stated next year there will be discussions regarding the comprehensive plan, variances, park planning

8. ADJOURNMENT:

Commissioner Belding moved to adjourn the meeting. Commissioner Karl seconded the motion. There was no discussion, and the motion passed unanimously.

Minutes approved on the 15th day of February 2024.

CERTIFIED:

ATTESTED:

Ron Kerr, Chair

Jasmine Garcia, Community Development Clerk

City of Lafayette

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TO: LAFAYETTE PLANNING COMMISSION

FROM: JIM JACKS, CITY PLANNER

SUBJ: EXTENSION OF THE 1-YEAR APPROVAL PERIOD FOR THE APPROVED
NONCONFORMING USE CASE NCU 2022-01

DATE: FEBRUARY 15, 2024

I. APPLICATION SUMMARY

The applicant requests a 1-year extension of the Planning Commission Order which previously approved Nonconforming Use application (NCU 2022-01). The Planning Commission Order's approval is effective for 1-year and when an applicant cannot exercise the rights granted by the approval within the 1-year period, a 1-year extension can be requested.

The only issue to consider during the February 15 public hearing is the 1-year extension request.

II. BACKGROUND

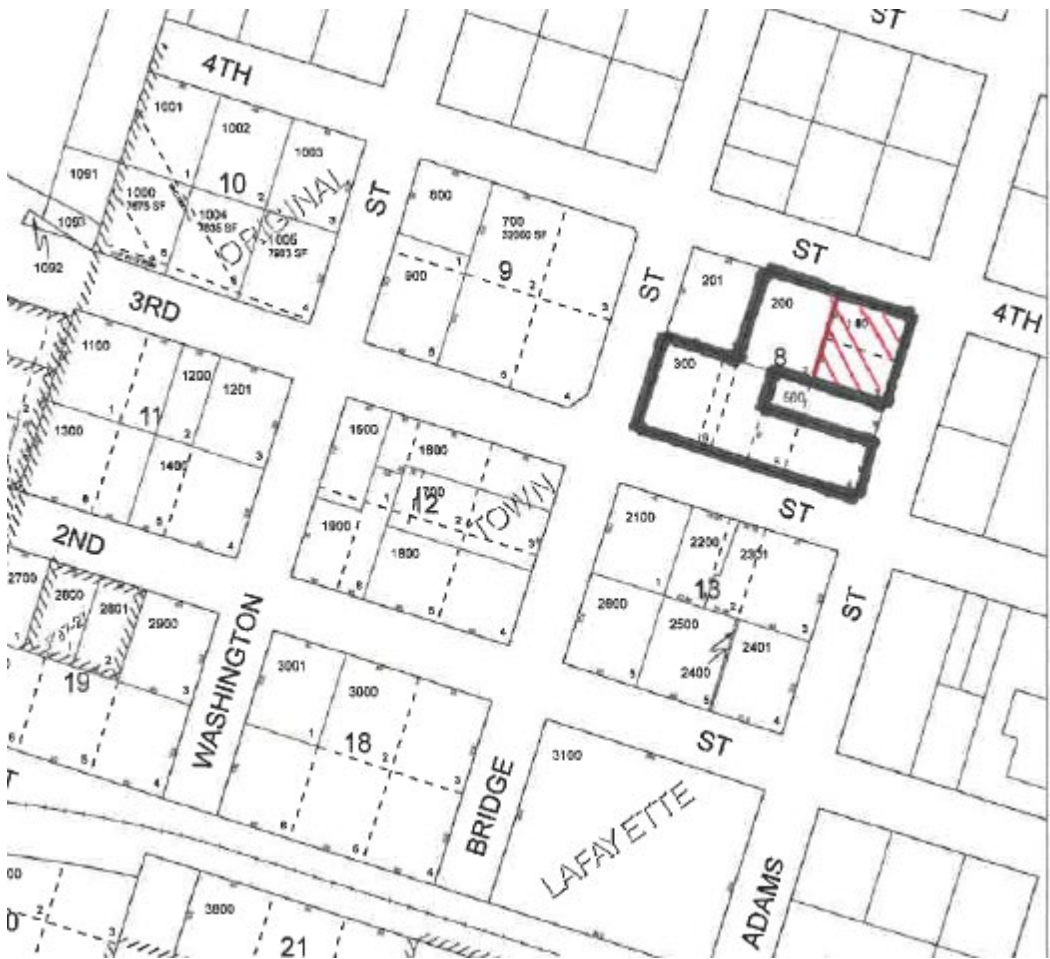
The Planning Commission Order approving the nonconforming use application (NCU 2022-01) was signed on February 7, 2023 following a duly noticed Planning Commission public hearing. The Lafayette Zoning and Development Ordinance (LZDO), Section 3.109.09, A, states the decision is effective for 1-year (through February 6, 2024) and Section 3.109.09, B allows a 1-year extension (through February 6, 2025). The Planning Commission Order allowed the expansion of the nonconforming vehicle repair use from 720 square feet (in an old garage which has been demolished) up to a maximum of 4,200 square feet (in a new building which has yet to be constructed).

The Planning Commission Order is effective through February 6, 2024, and would be void on February 7, 2024 unless the 1-year approval period is extended. The applicant submitted an extension request on November 10, 2023 to extend the Planning Commission Order approving NCU 22-01 from February 6, 2024 to February 6, 2025. Because the extension request was submitted, it stayed (stopped) the expiration date of the Planning Commission Order while the extension request is considered by the Planning Commission.

III. FINDING - GENERAL

- A. APPLICANT: Steve Grittman, Lafayette Auto Body, 204 E. 3rd Street, Lafayette.
Jackie Hayes, Office Manager, Lafayette Auto Body.
- B. PROPERTY OWNER: Grittman Property Management, LLC, PO Box 146, Lafayette.

C. PROPERTY LOCATION: 395 N. Adams Street at the southwest corner of N. Adams and E. 4th Street. The County Assessors map is T4S, R4W, Section 12AA, Tax Lot 100. See page 2. Vicinity Map.



The total ownership of Gritman Property Management Company (Lafayette Auto Body) is within the heavy black border. The subject property for the extension request of NCU 2022-01 (Tax Lot 100) is shown in red diagonal lines.

D. REQUEST: The applicant requests a 1-year extension of the Planning Commission Order which approved Nonconforming Use application (NCU 2022-01). The Order allowed the 720 square foot area for the nonconforming vehicle repair to be expanded up to a maximum of 4,200 square feet.

The Planning Commission Order is effective through February 6, 2024, and would be void on February 7, 2024 unless the 1-year approval period is extended. The applicant submitted a request on November 10, 2023 to extend the Planning Commission Order for NCU 22-01 from February 6, 2024 to February 6, 2025. Because the extension request was submitted, it stayed (stopped) the expiration date of the Planning Commission Order while the extension request is considered by the Planning Commission.

E. PARCEL SIZE: The subject property is 8,000 sq. ft. (80' x 100') (0.18 ac) at the southwest corner of N. Adams and 4th Street (Assessor's Map 4, 4, 01DD, Tax Lot 100).

The subject property for the 1994 Conditional Use Permit that initially allowed the prior 720 square foot garage to be used for vehicle repair was the 8,000 square foot Tax Lot 100, therefore, the subject property for NCU 2022-01 and this extension request is the 8,000 square foot Tax Lot 100. See Item J, below, for prior land use actions.

- F. ZONING: The subject property is in the Commercial – Core District (C-1) as is the entire block bounded by 3rd, N. Adams, 4th and N. Bridge Streets.
- G. EXISTING DEVELOPMENT: The subject property is currently vacant. During the last approximately 1-year, the subject property has been used for the parking and storage of recreational vehicles. A few years ago it was developed with a smaller older dwelling at the corner and a 720 square foot older garage near the south property line. The dwelling was demolished in approximately 2022, but the garage was retained because it was the location of the grandfathered-in 720 square feet of the nonconforming use (vehicle repair). Since the NCU 2022-01 approval, the garage has been demolished. See Item J for prior land use actions.
- H. ADJACENT ZONING AND LAND USES: The property across 4th Street to the north is in the Medium Density Residential (R-2) District and is developed with a detached single family dwelling.

The property across N. Adams to the east is in the C-1 District and is developed with a parking lot related to a retail store that fronts on 3rd Street.

The property abutting to the south is in the C-1 District and is developed with a smaller, older detached single family dwelling (345 N. Adams). The residential use is nonconforming and is grandfathered-in because detached single family dwellings are not a permitted use in the C-1 District.

The property abutting to the west is also owned by Grittmann Property Management. It is in the C-1 District and is developed with a smaller older mobile home (255 E. 4th).

- I. DECISION CRITERIA: Lafayette Zoning and Development Ordinance (LZDO) Section 3.109.09, B, addresses time extensions, but it does not include any decision criteria.
- J. PRIOR LAND USE DECISIONS:

The purpose of this section is to describe the land use actions for the subject property that have preceded the current request for an extension and explain the term “nonconforming use.” The only issue for the February 15 Planning Commission hearing is the requested extension. The PC Order was decided a year ago and cannot be re-opened at this time. Because the only issue is the extension, if desired the reader can skip over this historical summary and go to Section IV, Findings, Approval Criteria, on p. 4.

1994 Conditional Use Permit. In 1994 the subject property was in the Residential-Commercial (RC) District. The property was developed with an older smaller detached single family dwelling at the corner of N. Adams and 4th and an older garage near the south property line.

The RC District allowed vehicle repair as a conditional use permit. The then owner (not Grittmann Property Management) applied for, and the Planning Commission approved, a conditional use permit application for a vehicle repair use in the then existing 720 square foot garage (24' x 30'). The maximum area allowed for vehicle repair was 720 square feet.

Re-Zoning – Creating the Nonconforming Use.

A few years later the property was part of a large area along 3rd Street (99W) that the City rezoned from Residential-Commercial (RC) to Commercial Core (C-1) to encourage downtown development along 3rd Street.

The C-1 District does not allow vehicle repair, therefore, the 720 square feet of vehicle repair area approved in 1994 became a nonconforming use which could continue in operation – the term “grandfathered-in” is often used to describe a nonconforming use.

2022 Property Line Adjustment. In mid-2022 Steve Gritman representing Gritman Property Management applied for a property line adjustment. On August 17, 2022 the City issued an Administrative Decision granting the property line adjustment which allowed the elimination of the common property line between Tax Lots 100 (the subject property for the 1994 conditional use permit and Tax Lot 200 abutting to the west). The applicant’s purpose was to consolidate the 8,000 square foot Tax Lot 100 and the 8,000 square foot Tax Lot 200 into one deeded property of 16,000 square feet in the C-1 District. The Gritman plan was, once consolidated, a new commercial building would be built on the eastern portion of the lot (the former Tax Lot 100) and the existing mobile home on the western portion of the lot (the former Tax Lot 200) would be used for a care-taker residence.

Even though the two properties were consolidated, the 1994 conditional use permit’s subject property remains the 80’ x 100’ area at the southwest corner of N. Adams and 4th Street. Only in the 8,000 square foot area can the nonconforming auto repair be located. The auto repair cannot be in the area of the former Tax Lot 200.

2022 Nonconforming Use Application (NCU 2022-01). Consistent with the above plan, the purpose of NCU 22-01 was to expand the 720 square foot nonconforming use area to allow Lafayette Auto Body to expand. The February 7, 2023 Planning Commission Order approved an expansion of the 720 square foot nonconforming use area up to a maximum of 4,200 square feet for vehicle repair. The expansion allowed by the Planning Commission Order has not occurred within the 1-year approval period, therefore, an extension of the 1-year period is requested and is the subject of the February 15 hearing.

IV. FINDINGS – APPROVAL CRITERIA

1. The Lafayette Zoning and Development Ordinance (LZDO), Section 3.109.09, **A**, addresses the expiration of the approval period for a nonconforming use approval. It states:

3.109.09 Expiration of Approval

A. Unless otherwise provided by the decision authority in the decision granting approval of the application, the approval shall automatically lapse one year after the effective date upon which it was granted unless one of the following events occur:

- 1. The applicant or his successor in interest has secured a building permit within said one year period, if a building permit is required, and has commenced construction of the structure authorized by the building permit within said one year period.*
- 2. The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the approval within said one year period.*

FINDINGS: To date, the applicant has not secured a building permit nor commenced construction of the new building, thus the 1-year approval period will expire on February 7, 2024, if an extension application is not granted. The application was submitted which stayed (stopped) the expiration date of the Planning Commission Order while the extension request is considered by the Planning Commission. If the extension request is approved, the applicant will have another year through February 6, 2025 to secure a building permit and commence construction. If the request is denied, the Planning Commission Order will immediately expire and will no longer be in effect.

2. The Lafayette Zoning and Development Ordinance (LZDO), Section 3.109.09, **B**, addresses time extensions, but does not include any decision criteria, therefore, there are no criteria by which to judge the request. It states:

B. The applicant may submit a request for an extension of time of the approval to avoid the approval lapsing. The request for extension and the required fee shall be filed with the City Administrator or designee at least 45-days prior to the expiration of the time established by Subsection A, above. Submittal of the request for extension to the City Administrator or designee shall stay the expiration of the one year approval period until a decision, and all appeals of the extension decision, are final. The decision authority may grant one 1-year extension.

FINDINGS: The 45-day period has been met because the applicant submitted a time extension request on November 10, 2023 which was 103-days prior to the approval being void on February 7, 2024. The submittal of the request stayed (stopped) the tolling of the 1-year approval period while the extension request process proceeds to a Planning Commission decision.

Jackie Hayes, Office Manager, Lafayette Auto Body & RV Repair, submitted the extension request via email on November 10, 2023. It states:

RE: Extension request

The rights granted us by the non-conforming use approval have not yet, and likely will not be exercised within the one-year approval period. We absolutely do have intent to exercise those rights to begin construction of the new building during the period of an approved one-year extension. According to the LZDO, Section 3.109.09, B, one 1-year extension would be allowed, upon approval, extending the approval to February 7, 2025.

We have made efforts to make this happen within the one-year time period. We have been working with Haworth Construction for roughly 9 months to be able to get the plans together for the building. We put down a deposit on the building on July 19, 2023. We are still awaiting building plans, which are necessary to submit for site planning as well as building plan approval prior to beginning the construction process. Haworth Construction has been informed that we now need to request an extension of the approval in order to continue the project.

We appreciate your consideration in this matter and look forward to hearing from you.

Regards,

*Steve Grittmann
(and)
Jackie Hayes*

The applicant's request shows they have been working toward starting construction of the project and have stated a commitment to exercise the rights granted by the Planning Commission Order for NCU 22-01 before February 7, 2025.

V. NEXT STEPS

Assuming the 1-year approval period is extended, the next step for the applicant would be to submit to the City a Site Development Review application showing the existing 720 square foot garage demolished and a new building with no more than 4,200 square feet of nonconforming use (vehicle repair) on the 80' x 100' area. The parking, landscaping and other items required by the Lafayette Zoning and Development Ordinance and the Public Works Design Standards would also be shown. The permitted uses in the C-1 District (for example, offices and auto parts retailing) would not be limited by the 4,200 square foot maximum area.

Following the City's approval of the Site Development Review application, the next step would be to apply for a building permit.

VI. STAFF RECOMMENDATION

Staff recommends the Commission approve the requested 1-year extension of the Planning Commission Order, which is effective through February 6, 2024, and extend the approval period through February 6, 2025.

VII. PLANNING COMMISSION ACTION

A. The Planning Commission has the following options:

1. Adopt the February 15 staff report and approve the application to extend the expiration date of the Planning Commission Order through February 6, 2025.
2. Adopt the February 15 staff report with changes and approve the application to extend the expiration date of the Planning Commission Order through February 6, 2025.
3. Deny the application and adopt findings (state the findings) to support the denial.
4. Continue the hearing to a date time certain to allow additional information to be entered into the record of the hearing.

B. Sample motions are:

1. I move the Planning Commission adopt the February 15 staff report and approve the application to extend the expiration date of the Planning Commission Order through February 6, 2025.
2. I move the Planning Commission adopt the February 15 staff report as changed (state the changes) and approve the application to extend the expiration date of the Planning Commission Order through February 6, 2025.
3. I move the Planning Commission deny the application and adopt findings (state the findings) to support the denial.
4. I move the Planning Commission continue the hearing to a date time certain to allow additional information to be entered into the record of the hearing.