



Approved: December 6, 2022

**PLANNING COMMISSION MINUTES**  
**4222 NE Old Salem Road**  
**Millersburg OR 97321**  
November 1, 2022  
6:00 pm

- A. CALL TO ORDER: Commission Vice-Chair Wil Canate called the meeting to order at 6:02 p.m.
- B. ROLL CALL:
  - Members Present: Vice-Chair Wil Canate, Commissioners Monte Ayers, Ryan Penning, Caryl Thomas and Jason Young
  - Members Absent: Chair Anne Peltier and vacant position
  - Staff Present: Matt Straite, Community Development Director; Sheena Dickerman, City Recorder; Forrest Reid, City Attorney; Kevin Kreitman, City Manager and Janelle Booth, Assistant City Manager.

Commission Vice-Chair Canate opened the meeting at 6:02 p.m.

- C. MEETING MINUTE APPROVAL  
Approval of October 4, 2022, Planning Commission Minutes  
**ACTION: Motion to approve the minutes as written by Commissioner Monte Ayers; seconded by Commissioner Caryl Thomas.**
  - Vice-Chair Canate: Aye
  - Commissioner Ayers: Aye
  - Commissioner Penning: Aye
  - Commissioner Thomas: Aye
  - Commissioner Young: Aye

**Motion Passed: 5/0**

- D. PUBLIC HEARING **6:02 p.m.**  
File No: SP 22-04 & CUP 22-01 Agricultural Chemical Fertilizer Storage and Distribution Facility

**Vice-Chair Canate opened the public hearing at 6:03 p.m.**

City Recorder Sheena Dickerman read the disclosure statement for the public hearing.

Declarations by the Commission

No commissioners had a conflict, ex parte contact, site visit or abstained from participating.

## Staff Report

Community Development Director Matt Straite presented the staff report\*. He described where the project is located within the City. Currently, there is no road to the project, but one is proposed with the application.

Straite stated that only half of the lot is proposed to be developed. The City owns the property, but it will be leased to the applicant long term. The property is zoned General Industrial. A portion of the proposed street is outside City limits, and the applicant has a concurrent application with Linn County.

Straite said the applicant is proposing a new fertilizer storage and distribution facility. No production will be conducted on site. Several structures are being proposed: a two-story office building, an operations warehouse, a dry fertilizer building with a covered truck and rail loading area, and a building that will serve three purposes; as a maintenance building, a lab and a covered wash pad. There is another building to serve as a liquid fertilizer tank farm, with a fabric structure over it. There is a future warehouse shown on the project but is not part of the current proposal.

Straite explained that the new street will connect to Conser Road NE. A portion of the road requires County action but will eventually become part of City limits upon future annexation. The applicant is proposing a new rail spur and a secondary access point south of the property for emergency use only. The access point will not be paved but will need to support emergency vehicles.

Straite said there is no water on the site, but improvements are planned to bring a looped water system to the site. This will serve the rest of the City's property on the site. The water will connect to the existing line on Conser Road and another on Arnold Road. It will cross the railroad tracks in two different locations. The City and applicant are working with the Railroad to gain access. The Railroad's consent is a condition of approval. There is a sewer connection.

Straite shared that the only landscaping required is for the office building and is being proposed. The applicant proposed 43 parking spaces. He pointed out the elevations of the buildings.

Straite reviewed the Conditional Use Permit (CUP) and Site Plan Review criteria required for the project. He highlighted that all areas surrounding the site, except the west, are zoned General Industrial. The proposed structures on the east side of the property, near the natural area, are the lab and the office building.

Straite said the applicant submitted a traffic impact analysis that found no improvements were required, except for the new road being constructed as part of the project. He added that the City is proposing to build a new road, not as a part of this project, south of NE Conser Road. Eventually, this project will use the new street, NE Transition Parkway, which will reduce truck traffic on NE Conser Road.

Straite explained the code allows flexibility for parking if the site has room for more parking. There is plenty of room for future parking.

Straite shared that the new proposed street would be built to rural standards, but an off-street trail would be built in the future. He commented that only half of the site will be

paved. The gravel area will drain into the basin and would meet the same requirements had it been paved.

Straite said the landscaping requirements were met, except the need for boulders where landscaping meets gravel. A condition of approval was added to include this and some architectural details.

Commissioner Monte Ayers asked for clarification that the City owns the property. Straite affirmed, the applicant has a long-term lease and are responsible for construction costs. City Manager Kevin Kreitman added the City wanted to lease City properties but found other industries prefer to purchase and the applicant may want to purchase the property in the future.

Commissioner Caryl Thomas asked about the length of the railroad spur. Straite pointed it out. Thomas asked if it was operational 24 hours a day. Straite referred the question to the applicant who explained it would not be.

#### Applicants

**6:25 p.m.**

Hayden Wooten, Reece & Associates, 321 1<sup>st</sup> Avenue NE, Suite 3, Albany, OR, 97321- stated that they would work with City staff to meet the Conditions of Approval. He affirmed Straite's location of the railroad spur. He added that the facility would not be operational 24 hours a day.

Ayers asked for clarification that it was not a manufacturing facility. Wooten replied that the intent is that all manufacturing is done off site.

Ayers asked if the fabric cover over the liquid facility for heat.

Marty Bergman, Wilbur-Ellis, 868 N Front Street, Woodburn, OR, 97071- explained that the fabric structure was for gathering rainfall.

Thomas asked if the fertilizer was all organic. Bergman replied that it was both organic and conventional. He added that Wilbur-Ellis is strict on conventional fertilizers and does not carry ammonium nitrate.

Kreitman added that the City does not allow ammonium nitrate in any facility within the City.

Thomas asked if there was a possibility of the organic fertilizer exploding. Bergman was unaware of any. The organic blends are all liquids.

#### Public Testimony in favor or opposed

None.

**Vice Chair Canate closed the public hearing at 6:29 p.m.**

## Discussion

Commissioner Jason Young said he read through and with his background in science didn't see a risk or a reaction with the different fertilizers. Canate said his concern was fire apparatus access but with the road coming in and Albany Fire Department letter.

Kreitman stated that a couple of times a year anhydrous ammonia would be brought in and converted into aqua ammonia and would meet federal requirements.

Young asked if that was done on site. Bergman explained that the anhydrous ammonia is brought in on rail, it is never stored on site. It comes in several times per year. It is converted to a liquid by adding phosphorus and water, combining to create a fertilizer called 10-340.

Young asked about the process. Bergman replied it is done on the railcar.

Thomas asked about the number of railroad cars involved. Bergman replied approximately four railcars per year. The storage on site is small and Wilbur-Ellis intentionally keeps it small.

Canate asked what the estimated volume was. Bergman was unsure. He said four railroad cars are brought in throughout the year and converted into several liquid tanks. It requires a significant amount of water.

Young asked if there was an exothermic reaction. Bergman said it was a phosphorus conversion. Young asked what precautions were in place. Bergman replied that the process was done by a third-party and a tremendous amount of water is used, there is only steam. He has never heard of an explosion or flames during the process.

Young reiterated his concern for the heat being generated. Bergman explained that the third-party is licensed to perform the process.

Canate asked if there would be fire hydrants. Staite affirmed. Canate asked if City water or tender would be used. Bergman replied they would be connected to City water.

Commissioner Ryan Penning asked if this was a new facility. Bergman replied it was a new facility to distribute fertilizer. 4588 NE Castillo Drive

Lyssette Young, 4588 NE Castillo Drive, Millersburg, OR 97321- (a member of the public requesting to ask questions during Commission discussion) asked if the third party was licensed and bonded for the work. Bergman affirmed. Lyssette Young asked if there was a previous risk impact analysis done. Bergman replied yes. Lysette Young asked if there was something to show that the third-party was complying with all rules and regulations. Bergman affirmed.

Kreitman explained that the City requires a CUP for any hazardous material, agricultural requirements are the same as other industries. The organization must meet all federal safety and training requirements. There are no agricultural exemptions.

Bergman explained that the concerns are why Wilbur-Ellis brings in third-party experts to do the process.

Young expressed his concern about location and process due to his previous experiences. Kreitman reiterated that they will be required to meet all safety requirements. Bergman said everything is done by a licensed and bonded third-party.

**ACTION: Motion to approve Site Development Review SP 22-04 and CUP 22-01 with the conditions of approval make was made by Monte Ayers; seconded by Commissioner Ryan Penning.**

Vice- Chair Canate	Aye
Commissioner Canate:	Aye
Commissioner Penning:	Aye
Commissioner Thomas:	Aye
Commissioner Young:	Aye

**Motion Passed: 5/0**

E. Climate Friendly and Equitable Communities (CFEC) Parking Workshop **6:43 p.m.**

Straite explained that the State passed the Climate Friendly and Equitable Communities. Governor Kate Brown made an executive order to make state agencies reduce greenhouse omissions. The Department of Land Conservation and Development (DLCD) are requiring cities to create climate friendly areas which are areas where mixed use is mandated, and people can walk to everything. He shared the handout that showed what cities must do\*. For small cities the State is requiring all parking mandates be eliminated from the Code.

Straite said staff put a draft of what it would look like in the Code. He believed that the changes would have minimal impact on the City, as larger developments would provide the parking that is needed for their development. The one place it does have impact is with multi-family developments.

Straite mentioned that several cities have filed a lawsuit against the State regarding the requirements. He explained that if the City made changes and the lawsuit won, the City would need to undo the changes. If the City did nothing the State's rules would go into effect January 1, 2023. The Code would still have requirements but the City would have to waive the requirements. He said staff recommends waiting to make Code changes until after the lawsuit and current elections take place.

Straite said the State has three different ways to handle parking requirements, but the other two paths are more convoluted and have a lot of drawbacks.

Ayers asked what was required for residential. Straite said the City requires two parking spaces, except for Amanda Street or Bain street, which requires no parking. He added that there was still a requirement for a two-car garage. Assistant City Manager Janelle Booth added that setbacks are also required.

Canate asked about the requirement for multi-use units, and when that will be required. Straite explained it was, once the City reaches over 5,000 in population. Once the City is over 5,000 there is a grace period for designation of a climate-friendly area and a grace

period for changing the Code. When that happens, the City's desire is to increase the UGB at that time and designate the denser areas at that time. He added that in the updated Housing Element for the Comprehensive Plan proposal there is a provision for keeping the current 10,000-square-foot lots north of NE Conser Road and west of NE Old Salem Road as a designated protected area.

Thomas mentioned a previous discussion on driveways width and parking spaces (Code update) and asked how the new regulations would impact that. Straite explained that the City chose the States Plan A because there wouldn't be a change but if the City choose plan B or C the State becomes very involved. He shared an example of the City would have to require businesses to give their staff funds, \$80, if they choose not to drive to work.

Booth added that staff saw this coming and changed the requirements for driveway to 40-foot frontage period. That way the code would require a width of frontage for each single-family home, and not a specific number of parking spaces in front of a house.

Straite added that this would be a requirement for number of spaces, the State would allow the City to regulate how the parking lot looks and functions.

Thomas asked if the City would control the size of parking spaces. Straite affirmed.

Young asked what the consequences were for doing nothing. Straite explained that the State provisions would take over on January 1, 2023. The table in the Code would cease to be enforceable.

Straite added that many of the State's new requirements, such as shade and tree requirements in parking areas, are already meet in the City's current code.

Penning asked about apartments. Straite said that two contractors have asked where they could build apartments. He showed them where the mixed-use zone is and showed it would require them to have commercial use too. None have pursued.

Straite shared that the State requires electric parking only spaces, which will be less parking for multi-families. The State will also require that a parking space is paid for separately in multifamily developments. The belief is that if it is complicated less people will want to drive.

Straite said housing has slowed down in the City but industrial is coming.

Straite restated that the consensus of the Commission was to wait on any code updates for parking lot updates.

Kreitman returned to the previous discussion, explaining the City's requirements for design standards in the code to meet International Building Code and International Fire Code requirements with regards to safety for industries using chemicals.

Young expressed his concern about the non-routine process. Kreitman said he talked with Wilbur-Ellis and the third-party that will do the process, this is all they do. He said that there may be specific things that the City wants on site for monitoring the area. He added that they must meet all the EPA, OSHA and Fire Code requirements.

Young asked if an alarm for the community would be required. Kreitman said it may be one of the requirements.

Kreitman shared that codes are immediately updated and revised to put safeguards in place.

Young shared where a previous jurisdiction built a daycare on the backside of chemical tank. He asked if the City has any safeguards to protect from these types of situations. Straite said the City has criteria that says they can't have detrimental impacts and would be used in those types of cases.

F. Planning Update  
None

**7:25 p.m.**

ADJOURNMENT: Meeting adjourned by Commission Vice-Chair Canate at 7:25 p.m.

Respectfully submitted:

Reviewed by:



Sheena Dickerman  
City Recorder

Matt Straite  
Community Development Director

\*Documents discussed or presented at the meeting that are not in the agenda packet are archived in the record. The documents are available by emailing [cityclerk@cityofmillersburg.org](mailto:cityclerk@cityofmillersburg.org)