Notice of Decision

Historic Review of New Construction

New Mixed-Use Development in Monteith National Register Historic District

H1-04-20

Type of Application: Historic Review of New Construction of two three-story mixed-use buildings within the Monteith National Register Historic Overlay District.

Review Body: City Council (Type III review)

Property Owner/Applicant: Mark and Tina Siegner; 516 Kouns Drive NW, Albany, OR 97321

Architect/Representative: William Ryals; 935 Jones Avenue NW, Albany, OR 97321

Address/Location: 525 & 533 Fourth Avenue SW; 331 Calapooia Street SW

Map/Tax Lot: Linn County Assessor’s Map No.; 11S-04W-12AA; Tax Lot 700

Zoning: Downtown Mixed Use (DMU) Zone District; Monteith National Register Historic Overlay District

The Albany Landmarks Commission (LC) reviewed the subject proposal during duly advertised public hearings on May 6, and May 19, 2020, and voted to deny the application. On May 29, 2020, the applicant submitted a notice of appeal and requested a de novo review of the LC’s decision. On June 24, 2020, the Albany City Council held a de novo public hearing and, after deliberation decided to approve the application as proposed.

The attached findings and conclusions memorialize council’s approval. The attached findings incorporate the procedural details stated in the April 29 Staff Report. These findings also incorporate the findings in the April 29 Staff Report to the extent not inconsistent with the findings attached.

The supporting documentation relied upon by the City in making this decision is available for review at City Hall, 333 Broadalbin Street SW. For more information, please contact Project Planner Laura LaRoque at laura.laroque@cityofalbany.net or 541-917-7640, or Planning Manager David Martineau at 541-917-7561.

The City’s decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). Per ORS 197.830, a Notice of Intent to Appeal shall be filed with LUBA no later than 21 days after the Notice of Decision is mailed or otherwise submitted to parties entitled to notice.

Mail Date: July 9, 2020
Appeal Period Expiration: July 30, 2020
Approval Expiration Date (if not appealed): July 9, 2023

signature on file

City of Albany Mayor
Attachments:
  A. Findings of Fact dated July 1, 2020
  B. Location Map
  C. Site Plan (Sheet A0.1)
  D. Elevations (Sheets A3.0 & A3.1)

The issuance of this permit by the City of Albany does not eliminate the need for compliance with other federal, state, or local regulations. It is the applicant’s responsibility to contact other federal, state, or local agencies or departments to assure compliance with all applicable regulations.
Information for the Applicant

Please read the following requirements. This list is not meant to be all-inclusive; we have tried to compile requirements that relate to your specific type of development. These requirements are not conditions of the land use decision. They are Albany Municipal Code (AMC) or ADC regulations or administrative policies of the planning, public works, fire, or building departments that you must meet as part of the development process. You must comply with state, federal, and local law. The issuance of this permit by the City of Albany does not eliminate the need for compliance with other federal, state, or local regulations. It is the applicant’s responsibility to contact other federal, state, or local agencies or departments to ensure compliance with all applicable regulations.

Planning
Site Plan Review approval is required for the proposed use.

Building
Permits
Obtain building permits prior to any construction.

Plan Review for Permits
All plans submitted for review for building permits will need to be submitted electronically. Contact the building division front counter at ePlans@cityofalbany.net for details and instructions prior to submittal.
BEFORE THE ALBANY CITY COUNCIL

In the Matter of an Appeal of a
Landmarks Commission Denial
of an Application for
Historic Review of New Construction

FINAL DECISION AND
FINDINGS OF FACT AND
CONCLUSIONS OF LAW

File No. H1-04-20

APPLICANTS and PROPERTY OWNERS:
Mark and Tina Siegner
516 NW Kouns Drive
Albany, OR 97321

ARCHITECT:
William Ryals, AIA
935 Jones Ave. NW
Albany, OR 97321

PROPERTY:
331SW Calapooia Street, Albany, OR 97321
533 SW 4th Avenue, OR 97321
525 SW 4th Avenue, OR 97321

REQUEST:
Approval of new construction of two three-story mixed-use buildings on a lot within the Monteith National Register Historic District (file no. H1-04-20),
PROCEDURAL HISTORY:
On May 6 and 19 the Landmarks Commission considered a proposal for new construction of two, three-story mixed-use buildings at the location above within the Monteith National Register Historic District.

City staff recommended approval of the application with conditions. However, on May 20, 2020 the Commission denied the application for lack of conformance with the review criteria at ADC 7.270(1)(a) and (b).

On May 29, 2020, the Applicant requested a de novo review of the application, which is allowed in accordance with ADC 1.520(3). The basis of the applicant’s appeal is that minimally adequate findings supporting the LC’s decision failed to be adopted.

The City Council held a de novo public hearing on the appeal issues on June 24 and, after deliberation, tentatively decided to approve the application as submitted. These findings and conclusion memorialize the City Council approval.

These findings incorporate the procedural details stated in the April 29 Staff Report. These findings also incorporate the findings in the April 29 Staff Report to the extent not inconsistent with the findings made herein.

FINDINGS OF FACT AND CONCLUSIONS:
Background

Findings 1.1 and 1.2 in the Staff Report to the Commission describe the location of the subject property and the permitted uses in the zoning districts that apply – the Downtown Mixed-Use zone and the Historic District Overlay.

As reflected in the submitted plan sheets, the proposal is to construct two three-story mixed-use buildings on a lot within the Monteith National Register District. Two small accessory structures for tenant storage are proposed in addition to the two primary buildings.

Code standards at issue in the appeal

There are three standards in ADC 7.270(1).

“(1) Within the Monteith and Hackleman Districts:

(a) The development maintains any unifying development patterns such as sidewalk and street tree location, setbacks, building coverage, and orientation to the street.

(b) The structure is of similar size and scale of surrounding buildings, and as much as possible reflects the craftsmanship of those buildings.

(c) Building materials are reflective of and complimentary to existing buildings within the district.”

The Landmarks Commission found noncompliance with (a) and (b). However, it did not make detailed findings on any of these standards. These findings address the standards one at a time.

(1)(a) The development maintains any unifying development patterns such as sidewalk and street tree location, setbacks, building coverage, and orientation to the street.
The proposal for building orientation, building coverage, sidewalks and street trees comply with the “unifying theme” standard in (1)(a) for the reasons explained in Staff Report findings 1.5, 1.6, 1.7, 1.12, 1.13, 1.14, 1.15, 1.16.

With respect to building setback, the Staff Report correctly finds that Building One maintains the unifying development pattern with respect to setbacks on Fourth Avenue. However, the Staff Report recommends an increased setback for Building Two on the Calapooia Street frontage because there is one other building on that street frontage with a 15-foot setback. We find that an increased setback is not needed for Building Two. A single existing building does not establish a “unifying development pattern” that must be maintained.

In summary, the development proposal complies with the standard in (1)(a) without conditioning with respect to setbacks.

Accessory structures. The plans include two small accessory structures for storage units for project residences. The Staff suggests that not enough information is available about the specifications for these structures, and, therefore, a condition should require subsequent historic review of these structures. Staff Report Finding 1.4. Plans for the accessory structure were submitted with the original application, and supplemental materials were submitted by the Applicant’s architect on June 24 for the City Council hearing. The June 24 plans showed elevations and finishing details for both the primary and accessory buildings. The applicant has represented, and the June 24 plans confirm, that the accessory structures will be completed with the same building materials as the primary structures will be finished in the same detailing as the primary structures. This matter is not directly related to the “unifying development pattern” that is at issue here. Nevertheless, the proposal for the accessory structure details is approved as represented by the Applicant.

(1)(b) The structure is of similar size and scale of surrounding buildings, and as much as possible reflects the craftsmanship of those buildings.

There are three parts to this standard: size, scale, and craftsmanship.

Staff Report Findings 2.1 through 2.7 and the first paragraph of Finding 2.8 state basic information about size and scale, design, articulation and materials.

Wall Offsets: The Staff Report in Finding 2.8 recommends deeper offsets on the wall planes of the primary facades of the buildings to further break up the massing of the structures and make them more similar to adjacent residential buildings. Staff recommends 5 foot offsets instead of the 1.5 foot offsets as proposed. The applicant’s team testified that increasing the offsets would require redesign of the buildings.

Initially, “similarity” of “size and scale” is inherently a subjective issue of design. The record shows that the buildings are professionally designed and reflect a consideration of all buildings, including mixed use buildings, in the surrounding couple block area. Based on the information contained in the record and provided testimony, the Council concludes that deeper offsets are not needed to ensure that the size and scale of the buildings is sufficiently similar to the surrounding buildings. Council concludes that based on the evidence provided, redesigning the building is not necessary.

Building Height: Staff Report Findings 2.10 through 2.15 recites about nearby or abutting buildings. The Applicant has also submitted narrative and graphic evidence of buildings in the surrounding area. The range in height is great.

The Staff Report Finding 2.16 concludes that Building One must be reduced in height on its second and third floors in order to “maintain and respect the height of abutting residential dwellings, particularly to the east of
the subject site.” The applicant’s team testified that requiring this change would also require redesign of Building One.

The Council concludes that a reduction in height of Building One is not required. The rationale for staff’s recommendation relates to “abutting” residential building. Council finds that this is a too narrow of an interpretation of the standard. Under the standard the focus must be on the “surrounding area,” not just the abutting area. When the larger area is considered, provided testimony and information in the record demonstrate that the building is sufficiently close to what is existing to be considered similar.

In summary, the Council finds that that application complies with the standard in (1)(b).

(c) Building materials are reflective of and complimentary to existing buildings within the district.”

The Landmarks Commission did not specifically find that the development proposal was inconsistent with this standard. However, the Staff Report recommended a handful of conditions about what materials would be “reflective of and complimentary to the existing buildings.”

This standard relates to building materials. They must be “reflective of and complimentary” to the materials on the existing building within the district. This standard does not come with a limitation on the area within the district that is to be used for a comparison.

The narrative and photographic record supporting this application show that the building materials evident in the district are diverse. The narrative supports compliance with this standard in the following summary terms:

“These properties are representative of the district and zone. As you can see from the photos, the neighboring properties have different window types, siding types, and architectural details. All adding in some way to enhance the diversity of the district and zone. Some windows are vinyl, some are wood, some have grids and some do not, some siding is wood, some is HardiPlank, some is vinyl, shingles as well as stucco are also both represented.”

Based on all the evidence in the record, the materials proposed to be used will be “reflective of and complimentary” of the materials already present in the district. Council concludes that the standard in (1)(c) is met and additional conditions regarding materials are not necessary.

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Albany City Council hereby concludes and declares that the applicants have demonstrated compliance with the standards that apply to this application, and the application is approved.