



# City of Stayton

*Department of Planning and Development*

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## MEMORANDUM

**TO:** Chairperson Ralph Lewis and Planning Commission Members  
**FROM:** Dan Fleishman, Director of Planning and Development  
**DATE:** June 1, 2021  
**SUBJECT:** Appeal of Conditions of Approval, Site Plan Approval, Santiam Heritage Foundation, 425 N First Ave  
**120 DAYS ENDS:** July 1, 2021

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### ISSUE

The issue before the Planning Commission is a public hearing on an appeal of a conditional approval of an application from the Santiam Heritage Foundation for site plan approval to convert the Brown House at 425 N First Ave into an events center and four small offices. Whereas the application met the definition of a minor modification, the original application was reviewed and approved by staff. The application was approved with a number of conditions. The Foundation has appealed that decision to the Planning Commission.

Prior to proceeding on any appeal, the appeals body should make sure that it has jurisdiction, that the applicant has standing to appeal, and that the appeal has been filed in a timely manner. If any of the three have not been satisfied, the appeals body should not entertain the appeal. Staff suggests that prior to commencing the public hearing the Commission affirm that all three have been met.

**Jurisdiction:** Section 17.12.110 controls appeals. The appeals procedure of Section 17.12.110.1 indicates that appeals of a staff administrative decision come to the Planning Commission.

**Standing:** Typically, in order to have standing an appellant must be able to show that there is the potential for them suffer a particularized injury by the decision. In this case, the appellant is the property owner and was the applicant in the prior decision.

**Timeliness:** The Code requires that an appeal be filed within 14 days of the mailing of the notice of the decision. The notice of decision was sent to the applicant and other participants in the original decision on April 1, 2021 and the appeal was filed on April 14, 2021.

Should the Planning Commission agree with the assessment above, a motion indicating that the Commission has jurisdiction, the appellant has standing, and that appeal was filed in a timely manner should be offered after the staff introduction and prior to the presentation by the applicant.

### BACKGROUND

The property is located at 425 N First Ave, at the northwest corner of the High St intersection. The history of the property is probably fairly well known, but is briefly summarized here. The house on the property was constructed in the early 1900s and was used variously as both a residence and the

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community's hospital. In the 1990s, the house was vacant, falling into disrepair, and threatened with demolition. Members of the community came together to raise funds to purchase the property, rehabilitate the home, and put it to a public use.

As early as 2006, I mentioned to representatives of the Foundation that while the Foundation had received building permits for the rehabilitation of the house, that no authorization had been issued to convert the use from a single family dwelling to any other use. A January 2015 email repeated that, as follows,

My wanting to write was prompted by the article in the *Stayton Mail* a bit ago about the installation of the kitchen in the Brown House. That reminded me of a conversation you and I had had shortly after my arrival back in 2006. At that time I had noted that from my review of the Planning Department's files, it appears that while the Santiam Heritage Foundation had received building permits for the general renovation of the Brown House, there does not appear to ever have been any authorization for changing the use from single family residence (or whatever the most recent use of the property was) to a function hall/meeting space that I understand the Foundation envisions for it.

Conversion of the Brown House to just about any other use will require some type of land use approval. Let's talk about that process. Stop in when you can.

This request was repeated to the Foundation in January 2018 when another *Stayton Mail* article announced the opening of the Brown House Events Center. Staff has been working with the Foundation since that time, to get the application before you submitted and reviewed.

A March, 2020 aerial photo of the property is below:



This is the first appeal of a staff decision to reach the Planning Commission during my tenure with the City. My review of the appropriate Code provisions regarding appeals led me to request advice from the City Attorney regarding the proper procedures. His advice is that the Planning

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Commission's hearing be held *de novo*, as opposed to "on the record," meaning it will be treated by you as if it was a new application and you are not limited to reviewing the staff decision and determining that it was correct or in error. Though the packet includes the staff decision, it also includes, as usual, a draft order for consideration by the Planning Commission, and if there is information presented at your hearing that was not presented to staff, you are free to consider it and reach your own conclusions as to whether the application meets the Code requirements or not.

## ANALYSIS

This report presents the Planning Staff's summary and analysis concerning this application. It was developed with the input of other City departments and agencies.

Attached is an application for site plan approval from the Santiam Heritage Foundation. The application consists of the application form and narrative, a site plan, and numerous letters of support. The Public Works Director waived submission of a traffic assessment letter and a preliminary stormwater management report. Included in your packet are the application materials, a review memo from the City Engineer, review comments from Marion Co Public Works, and correspondence from the public received during the staff review process.

Staff has a number of concerns about the application, most of which revolve around the public improvements that are typically required when a development is proposed on a partially improved street and around parking for the proposed commercial uses.

The staff decision addressed these issues through conditions of approval. The appeal before the Planning Commission has identified three concerns with the conditions of approval imposed by staff. The appeal narrative states,

1. Since the category "Events Center" is not listed in table 17.20.060.7.b "Commercial and Industrial Parking Requirements," under Section 17.20.060.7.c the City Planner shall prescribe the number of off-street parking spaces. The City Planner cited, "Auditorium, Theater, Stadium, Churches, Club or Lodge and Funeral Home" as comparable uses. We believe that any of these uses is not comparable to our definition and capacity as an "Event Center."
2. Pursuant to SMC 17.12.220.5 the decision authority may approve a site plan for a property on the National Register of Historic Places that does not meet all of the development and improvement standards of Chapter 17.20 and the access spacing standards of Chapter 17.26, provided the decision authority finds that improvements proposed are in conformance with Secretary of the Interior's Standards for Treatment of Historic Properties, the site will provide safe ingress and egress to the public street system, and that adequate stormwater management will be provided. We do not believe that High Street must be paved, curbed, guttered and have a sidewalk to be used as an on-street parking site as prescribed by the Planner's decision.
3. Section 17.12.220.5c does not require dedicating additional right-of-way on First Avenue PLUS requiring a half-street improvement in W. High St. as roughly proportional to the impact of the change of use.

Staff's response to each of these three points is presented below.

1. Section 17.20.060.7 contains minimum off-street parking requirements for a variety of uses. The application proposes an "events center" and four offices. "Events center" is not a use listed in Table 17.20.060.7.b. Therefore, Section 17.20.060.7.c give staff the authority to "prescribe a number of vehicle parking spaces or loading berths based on a determination of

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the traffic generation of the activity (as determined through a Traffic Impact Analysis), the amount or frequency of loading operations thereof, the time of operation of the activity, their location, and such other factors as effect the need for off street parking or loading.” With the exception of the Downtown zones, the Land Use and Development Code requires all uses to provide some off-street parking. Table 17.20.060.7.b prescribes minimum parking requirements for non-residential uses, most either on the basis of the square footage of the use or the use’s seating capacity. The analysis by staff looked at various uses in each category, in an attempt to calculate the required parking for an event center. An event center is a place of assembly, similar to uses such as an auditorium, theater, stadium, clubs, lodges, and funeral homes, all of which require one parking space per 3 seats. Churches are required to provide one parking space per 4 seats, assuming that the average vehicle is likely to have more passengers than the other uses. Of these uses, theaters and stadiums are likely to have fixed seating. The other uses are likely to have variable or moveable seating.

Other uses looked at for comparison were museum or library, which require 3.5 spaces per 1,000 square feet of floor space. Both of those uses are likely to have a substantial portion of their floor space used for storage and display, as opposed to occupancy by people.

The application proposed that no off-street parking be provided and requested that on-street parking spaces be utilized along W High St. The application estimated that parallel parking along the frontage of the property would allow for seven vehicles to be parked on-street.

The application indicates that the Fire District has determined the maximum seating capacity of the events center is 150 occupants. The application also indicates that there will be 783 square feet of office space and 680 square feet of office space. Staff assumes that this is a “net” floor area of the rooms that would be used for offices and meetings/events, without looking at the remainder of the building. The parking requirements of Table 17.20.060.7.b are based on gross floor area, which would include hallways, storage, utility rooms, etc. Marion County’s Assessor’s records indicate that the building has a total floor area of 2,607 square feet, with 1,610 square feet on the first floor (meeting rooms) and 997 square feet on the second floor (offices).

The analysis by staff, which is reflected in the Commission’s draft findings, showed that if parking for the meeting space/events center is based on seating capacity, 50 parking spaces would be required. In addition, the office space (3.5 spaces per 1,000) would require an additional 4 parking spaces. If a parking rate of 3.5 spaces per 1,000 square feet of floor area was utilized for the entire building, only 10 spaces are necessary.

The staff order, and the staff recommendation to the Commission, requires the applicant to provide a minimum of 10 parking spaces for the combined uses of event center and offices.

The appeal statement suggests that instead of the Fire District’s maximum occupancy of 150, a more reasonable expectation for occupancy of the first floor would be 60. The appeal statement also suggest that offices would limit occupancy to 3-4 people each. With four offices proposed, that would be between 12 and 16 individuals in the offices, who are not likely to be sharing vehicles. Even looking at a seating capacity of 60, one space per three seats would require 20 parking spaces.

The appeal statement suggests that parking be required based on 3.5 spaces per 1,000 square feet. As stated above, the appellant’s calculation of the number of needed spaces appears to be based on actual office space and meeting room area, while the Code’s requirements are based on the area of the building. Staff’s requirement for 10 spaces is based on 3.5 spaces

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per 1,000 for the entire area of building at 2,607 square feet of floor space, rounded up to the nearest whole number.

2. Section 17.12.220.5.o recognizes that properties on the National Register of Historic Places, such as the Brown House, may have a difficult time meeting all of the development and improvement standards of Chapter 17.20 without jeopardizing their historic integrity. This section allows the decision authority to approve a development proposal for a property on the Register that does not meet all of the standards of Chapter 17.20, if the applicant can demonstrate that doing so would mean that the property would no longer meet the federal requirements.

Neither the application nor the appeal statement directly address the Secretary of the Interior's Standards for Treatment of Historic Properties and why conforming to the requirements of Chapter 17.20 would not conform to those standards, as required by Section 17.12.220.5.o. Regardless, the staff decision and the draft Commission Order, allowed the change of use without conformance to the standards of Section 17.20.060 regarding off-street parking. The various provisions of Section 17.20.060 could have required as many as 50 paved off-street parking spaces, with paved driveways. Instead, the Order required only 10 parking spaces, allowing some to be on-street, allowed those off-street parking spaces to be gravel-surfaced and allowed a gravel-surfaced driveway. Any improvements required within the right of way W High St are located off the site of the subject property and should not impact the historic integrity of the property.

The recommendation from the Public Works Department was for a minimum of construction of a sidewalk along the W High St frontage. The current condition of W High St does not allow for year-round mud-free parking. Use of the "shoulder" for parking on a regular basis will likely result in further deterioration.

Finally, it should be noted that the staff Order does not intend to require the improvement of W High St. The Order required that the use provide 10 parking spaces for patrons of the events center and the tenants of the offices in the building in a combination of on-street and off-street spaces. The draft Commission Order clarifies the intent of the staff Order by specifying that W High St improvements are required only to the extent necessary to provide for on-street parking. The Appellant would only be required to provide the half street improvement if they choose to have on-street parking instead of off-street parking.

3. Over the course of the past 40 years or so, the courts have limited local governments' ability to require applicants to provide public improvements to those which are related to the impacts of the development on the public systems and only in "rough proportionality" to the impact of the development on that system. Stayton's Code (Section 12.04.030) requires fully improved streets with the construction of any building, structure or parking lot improvement or the division of land. Within the Land Use and Development Code, the site plan review standards (Section 17.12.220.5.c) requires provision be made for all necessary improvements to local streets to accommodate the additional traffic generated by a proposed development.

Neither N First Ave nor W High St currently meet the City's design standards for their street classifications. The appellant has agreed to the street and easement dedications as required by the staff Order. The appellant has argued that the requirement for a half-street improvement is not roughly proportional to the impact of the proposed use. The draft Commission Order has been modified to clarify that the only improvement to W High St required is the construction of a sidewalk, unless the applicant chooses to utilize on-street

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parking. The rough proportionality is provided by the trade-off presented to the applicant of providing off-street parking at their expense or improving the street to accommodate on-street parking.

4. Though not included in the introduction of the appeal statement, the body of the appeal statement includes a fourth argument, regarding the provision of an ADA-compliant parking space. The staff order had required that one off-street ADA-compliant parking space be provided. The appeal statement claims that that an ADA parking space will not apply if the other requests in the appeal are granted by the Planning Commission. Section 17.20.060.8.a requires a minimum of one ADA parking space in any off-street parking area. The condition of approval to provide an ADA-compliant parking space was based on the assumption that no all of the required parking spaces could be provided on-street. Therefore, if some off-street parking is provided, at least one space needs to be ADA compliant.

If the Commission reduces the required number of parking spaces to a number that can be provided on-street, then there would be no need for an ADA space.

## **RECOMMENDATION**

The staff recommendation for conditional approval is reflected in the draft order that is attached to the staff report. This recommendation contains a number of conditions of approval to bring the plans into compliance with the requirements of the Code. The condition of approval relative to improvements to W High St has been modified from the staff Order that was issued March 31.

There may be testimony at the public hearing that requires the draft order be modified to reflect that testimony.

## **OPTIONS AND SUGGESTED MOTIONS**

Staff has provided the Planning Commission with a number of options, each with an appropriate motion. The Planning Department recommends the first option.

### **1. Approve the application, adopting the draft order as presented.**

I move the Stayton Planning Commission approve the application of the Santiam Heritage Foundation (Land Use File #3-02/21) and adopt the draft order presented by Staff.

### **2. Approve the application with conditions, adopting modifications to the draft order.**

I move the Stayton Planning Commission approve the application of the Santiam Heritage Foundation (Land Use File #3-02/21) and adopt the draft order with the following changes...

### **3. Approve the application with conditions, directing staff to modify the draft order.**

I move the Stayton Planning Commission approve the application of the Santiam Heritage Foundation (Land Use File #3-02/21) and direct staff to modify the draft order to reflect the Planning Commission's discussion and bring a revised draft order for Planning Commission approval at the June 28, 2021 meeting.

### **4. Deny the application, adopting the findings and conclusions in the draft order.**

I move that the Stayton Planning Commission deny the application of the Santiam Heritage Foundation (Land Use File #3-02/21) and direct staff to modify the draft order to reflect the Planning Commission's discussion and bring a revised draft order for Planning Commission approval at the June 28, 2021 meeting.

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**5. Continue the hearing until June 28, 2021.**

I move the Stayton Planning Commission continue the public hearing on the application of the Santiam Heritage Foundation (Land Use File #3-02/21) until June 28, 2021.

**6. Close the hearing but keep the record open for submission of written testimony.**

I move the Stayton Planning Commission close the hearing on the application of the Santiam Heritage Foundation (Land Use File #3-02/21) but maintain the record open to submissions by the applicant until June 15, allowing 7 days for review and rebuttal and then an additional 7 days for the applicant to reply, with final closure of the record on June 29, 2021.

**7. Close the hearing and record, and continue the deliberation to the next meeting.**

I move the Stayton Planning Commission continue the deliberation on the application of the Santiam Heritage Foundation (Land Use File #3-02/21) until June 28, 2021.