

A G E N D A 9 – 16
(Amended)

1. **Approval of Minutes:** August 18, 2016

2. **Public Hearing (Quasi Judicial)**

♦ **S 2-16 (Continued from August 18, 2016 Planning Commission Meeting)**

Request: Approval of a tentative subdivision plan that, if approved, would provide for the platting of 49 single-family lots on a 7.29 acre parcel of land.

Location: North of NE Payton Lane and east of NE Hembree Street, and is more specifically described as a portion of Tax Lot 2100, Section 9, T. 4 S., R. 4 W., W.M.

Applicant: Alan Ruden

3. **Work Session (no public testimony taken)**

- ♦ Reviewing the Marijuana Related Activities ordinance, specific to the definition of a school facility and measurement of the 1000 foot buffer.
- ♦ Work Session Discussion - Potential Sign Ordinance Amendments
- ♦ Work Discussion – Goal 1: Citizen Involvement

4. **Old/New Business**

5. **Adjournment**

MINUTES

Members Present: Chair Wendy Stassens, Vice Chair John Tiedge, Commissioners Martin Chroust-Masin, Zack Geary, Charles Hillestad, Jack Morgan, Nanette Pirisky, and Erica Thomas

Members Absent: Commissioner Roger Hall

Staff Present: Mike Bisset – Community Development Director, Ron Pomeroy – Principal Planner, Heather Richards – Planning Director, and Sarah Sullivan – Permit Technician.

1. Approval of Minutes: July 21, 2016

Chair Stassens called the meeting to order at 6:31 p.m., and called for action on the Planning Commission minutes from the July 21, 2016 meeting. Commissioner Hillestad MOVED to APPROVE the minutes as presented; SECONDED by Commissioner Thomas. Motion PASSED unanimously.

2. Public Hearing (Quasi Judicial)

♦ **S 2-16**

Request: Approval of a tentative subdivision plan that, if approved, would provide for the platting of 49 single-family lots on a 7.29 acre parcel of land.

Location: North of NE Payton Lane and east of NE Hembree Street, and is more specifically described as a portion of Tax Lot 2100, Section 9, T. 4 S., R. 4 W., W.M.

Applicant: Alan Ruden, Inc.

Chair Stassens opened the public hearing at 6:35 p.m. and called for abstentions, objection to jurisdiction, and disclosures. There were none. She also asked how many commissioners had visited the site. Five of the eight commissioners present said they did.

Commissioner Chroust-Mason noted that all of the commissioners knew Mr. Ruden from his previous position on the Planning Commission and current City Council position.

Chair Stassens called for the staff report.

Principal Planner Ron Pomeroy gave a brief explanation of the application, stating that this would be Phase 3 of Bungalows at Chegwyn Village, with 49 proposed lots. He indicated the subdivision design would be consistent with the other two phases, including the private alleyways. Mr. Pomeroy recommended that the Planning Commission approve the proposal subject to the twenty-seven (27) conditions listed in the staff report.

Chair Stassens asked if the applicant would like to present the application request.

Mr. Ruden thanked the commission for their service and explained his request to develop the approximately 7.29 acres into 49 residential lots, continuing the Bungalows at Chegwyn Village development. He stated that the development would mimic what has already been constructed in Phases 1 and 2.

Commissioner Tiege asked Mr. Ruden if he accepted the conditions of approval.

Mr. Ruden said he accepted the conditions presented in the staff report.

Commissioner Geary asked Mr. Ruden about the sanitary sewer report from CH2M Hill, and how the houses will be served by the existing sewer system without the construction of a new pump station as was originally proposed.

City Engineer Mike Bisset explained that Condition No. 9 addresses the questions and stated that the development can drain into the existing Autumn Ridge development. It will need to be designed in such a way that the system could be able to be rerouted to the north for a future pump station if necessitated by future development.

Chair Stassens clarified that there would not be a designated lot for a temporary pump station within this development.

Mr. Bisset confirmed, stating that if the property to the north of Mr. Ruden's development is ever developed a permanent pump station would be required, allowing Phase 3 of Chegwyn Village to be rerouted through that pump station.

Chair Stassens asked if there were any members of the audience that wished to pose questions to Mr. Ruden.

Joel Buzzard, 3551 NE Joel Street, asked if there would be any further development north of Phase 3. He stated he was under the impression that property was in a trust and that nothing could be built there. Mr. Buzzard said he had concerns about the proposed development and asked if Mr. Ruden would consider meeting with the neighbors.

Mr. Ruden explained that the area in question, a conservation district, is property east of McDonald Lane. He also said he would be open to meeting with the neighborhood.

Ingrid van de Grift, 3511 NE Joel Street, explained that her primary concern pertained to the narrow alleyways and the construction vehicles using those alleyways. Her question to Mr. Ruden was to clarify the plan to protect the alleys that are the homeowners responsibility to maintain and adjacent personal property from damage caused by construction vehicles.

Chair Stassens clarified the question, asking what relief Mr. Ruden would provide to alleviate any damage done to the alleyways.

Mr. Ruden explained that the alleyways were built to public street standards to be able to withstand the continual of use over the years. He noted that the alleys were in good shape and that he's had past discussion about posting signs to redirect construction vehicles from using the alleyways.

Mike Burr, 956 NE Samson Street, asked Mr. Ruden if there were any plans to create a Home Owners Association (HOA), to allow the residents to collect dues and operate as an active entity.

Mr. Ruden explained that there are CCR's recorded with the subdivision phases, but no provisions for the creation of an HOA. He said that one could be established if there was enough interest from the residents. Mr. Ruden indicated that discussions would need to occur between all parties involved before determining if an HOA should be established.

Mr. Burr asked how long it would take to complete construction of Phase 3 of the Bungalows at Chegwyn Village which are a separate phase.

Mr. Ruden stated that construction would last two to three years, including the development of the multi-family units.

Chair Stassens asked if anyone in the audience would like to speak in opposition of the application.

Patrick Evans, 3587 NE Joel Street, thanked the commission for their time and submitted additional documents for the Commission to review. He noted that the majority of the homeowners in Phases 1 & 2 don't have any essential objections to the proposal, but would like to have additional requirements established as part of the conditions of approval per his written testimony. Mr. Evans stated that he's made several attempts to contact the developer and has on occasion spoken with Brian Ruden. The concerns noted referred to the berm on the north of the property which has been partially removed with no mitigation to control dust, the use of the alleys for construction vehicles, and the use of barricades to prevent construction vehicles from using current streets, requiring them to use newly created streets for Phase 3.

Chair Stassens asked if there were any questions for Mr. Evans.

Commissioner Geary asked Mr. Evans to elaborate on his communications with the developer.

Mr. Evans stated he spoke with Brian Ruden this afternoon, mostly about the berm, the removal of which is underway. He said they discussed dust mitigation and the request to leave the temporary alley and street barriers in place until completion of Phase 3. Mr. Evans stated the Mr. Ruden indicated the City did not want the barricades to remain. Mr. Evans also said that Mr. Ruden indicated they would install signs to direct traffic to use the newly constructed Autumn Ridge Drive off Hembree Street.

Chair Stassens asked if there were any other questions for Mr. Evans. There were none.

Chair Stassens asked if anyone else would like to speak in opposition of the application.

Ingrid van de Grift asked if the developer or city had any concerns with the amount of traffic and traffic speed through the development. She asked if 25 mph speed limit signs could be installed. She asked that the safety of the homeowners also be considered, stating damage to personal property and theft.

Chair Stassens asked if there were any question for Ms. van de Grift. There were none.

Joe Della Valle, 3539 NE Jacob Street, stated he would like 10 mph speed signs posted along Jacob, saying it has become the unofficial drag strip of McMinnville. He also noted accessibility concerns with vehicles parked along the streets and alleyways and with the construction vehicles blocking access to individual properties.

Chair Stassens asked if there were any question for Mr. Della Valle. There were none.

Sean Rauch, 3596 NE Joel Street, stated that he lives at the very north end of Joel and he was aware of the additional development. Mr. Rauch wanted to express his concern with the continued property damage occurring during construction. He also asked that signage rerouting construction traffic be installed and that the barricades remain until completion of Phase 3.

Commissioner Geary asked if parking in the alleyways was prohibited.

Mr. Rauch said there are no posted "no parking" signs, but the neighbors act in good faith and do not park in the alleyways.

Commissioner Pirisky noted that with construction vehicles using the alleyways it would be difficult for emergency response vehicles to navigate through them.

Chair Stassens asked if there were any other questions for Mr. Rauch. There were none.

Bill Whiteman, 3480 NE Hembree Street, stated that the CC&R's say there is no parking allowed in the alleyways, just along the city streets. He explained that he considers the alleyways private, since the homeowners will be responsible for maintaining them, and asks that barricades remain in place at the end of the alleyways. Mr. Whiteman also expressed his concern with the lack of curb and gutters along the alleyways and the durability of asphalt being used for the alleyways.

Chair Stassens asked if there were any questions for Mr. Whiteman. There were none.

Jared Miller, 946 SE Ford Street, explained that he does not reside within the development, but has been to the park in the area. He stated he understands the concern the neighbors have with the additional construction and use of the alleyways by construction vehicles.

Mr. Miller asked the Commission if a decision on the request would be made at this meeting or if the hearing would be continued.

Chair Stassens explained the process for continuing the hearing or holding the record open for additional written testimony.

Chair Stassens asked if any others wished to speak in opposition of the proposal. There were none.

Chair Stassens asked if any representative from a public agency would like to provide comments. There were none.

Mr. Pomeroy stated that staff had no other comments beyond that represented in the staff report.

Chair Stassens asked the application if he wished to respond to any testimony received.

Mr. Ruden stated he understood the concerns of the community regarding the construction and the vehicles using the alleyways. He said that they would be willing to discuss the use of barricades to help with the redirection of construction traffic, if that would be permitted. Mr. Ruden explained that they would install signage redirecting construction traffic and also notify their suppliers to use Autumn Ridge Drive when construction begins.

Mr. Ruden said he understood the safety concern, but stated he has no control over people who break the speed limit, with or without speed signs posted. He again stated he would be willing to examine the idea of using the barricades temporarily while construction of Phase 3 was being completed, but also said that the main access would be off Hembree Street onto the extended Autumn Ridge Drive.

Commissioner Morgan asked Mr. Ruden to clarify if the alleyways were public or private.

Mr. Ruden said they are private, but there is a stipulation that the developer is responsible to maintain them for a year.

Commissioner Geary asked Mr. Ruden if they have previously installed signs when construction occurred.

Mr. Ruden said no, but stated that they would install signs redirecting traffic for this phase.

Commissioner Hillestad asked Mr. Ruden to explain what the protected covenants were.

Mr. Ruden briefly explained the nature of the CC&R's and that the alleyways, which include curbs are protected.

Chair Stassens asked Mr. Bisset what the rules were for the use of barricades and if they would be allowed.

Mr. Bisset explained that the barricades are used when a through street is not yet completed, but once the subdivision is platted the streets become public and can be used by any member of the public. He stated that closure of a public street would be problematic

and that staff would not support the continued use of the barricades once the street improvements were complete.

Mr. Bisset also stated that the recorded plats for Phases 1 and 2 allow the developer to use the alleyways for future development, therefore the City cannot restrict Mr. Ruden from using the alleyways.

Chair Stassens clarified with Mr. Bisset that if the developer chose to, they could install temporary barricades on the alleyways, but not the public streets.

Mr. Bisset said that was correct. He mentioned that, as with the other developments, all of the barricades say "street extended with future development."

Chair Stassens asked Mr. Ruden what he typically does to protect the residences during construction.

Mr. Ruden stated that communication is number one, and that issues need to be conveyed without emotion in order for all parties to come to an understanding. He said that they would be willing to meet with the neighborhood to discuss options for limiting the use of the alleyways during construction.

Chair Stassens asked if there were any other questions for Mr. Ruden. There were none.

Chair Stassens asked if anyone would like to hold the record open for additional written evidence.

Mr. Evans said he would like to hold the record open.

Chair Stassens explained that the record would remain open for seven (7) days, which would close at 5:00 p.m., August 25, 2016 for additional written testimony only. She then stated that Mr. Ruden would have seven days, from August 26, 2016 through 5:00 p.m., September 1, 2016, to submit any written testimony in response.

At 7:50 p.m. Chair Stassens continued the public hearing to 6:30 p.m. September 15, 2016.

3. Public Hearing (Quasi Judicial)

♦ CU 7-16

Request: Approval of a conditional use permit to allow establishment of a maintenance facility to accommodate a grounds garage, equipment storage building, warehouse and office space.

Location: 1150 NE Lafayette Avenue, and is more specifically described as Tax Lot 202, Section 21, T. 4 S., R. 4 W., W.M.

Applicant: McMinnville School District #40

Chair Stassens opened the public hearing at 7:52 p.m. and called for abstentions, objection to jurisdiction, and disclosures. There were none. She also asked how many commissioners had visited the site. Six of the eight commissioners present said they had.

Chair Stassens called for the staff report.

Mr. Pomeroy gave a summary of the application, location, and clarification that this property, even though it is zoned C-3 (General Commercial) lies within the Northeast Gateway District, which requires the application be reviewed as a conditional use permit. He said that staff recommends approval subject to the five (5) conditions listed in the staff report.

Chair Stassens asked if there were any questions for staff. There were none.

Chair Stassens asked the applicant to present their request.

Pete Keenan, Facilities Manager with McMinnville School District, explained the request to locate the McMinnville School Districts Operational Facilities and ground maintenance operations to this site. Mr. Keenan explained that between the facilities operations and ground maintenance, the district currently uses five buildings at different locations. He stated that this site would allow for all the staff and storage needs to operate out of one location. Mr. Keenan explained that the School District would construct two additional buildings that would house the maintenance shop, wood shop, welding, cleaning supplies, and excess furniture.

Mr. Keenan describe that the current facility sits between commercial and residential uses and that they are good neighbors to those uses. He explained the works hours are generally between 6:30 a.m to 3:30 or 4:00 p.m., Monday through Friday. He also said that noise would be at a minimum, with the occasional truck deliveries.

Chair Stassens asked if there were any questions for the applicant.

Commissioner Morgan asked what would happen with the current maintenance facility property on NE 19th Street.

Mr. Keenan said the District will sell the property.

Chair Stassens asked if there were any other questions for the applicant. There were none.

Chair Stassens asked if anyone would like to speak in favor of the proposal. There were none.

Chair Stassens asked if anyone would like to speak in opposition of the proposal. There were none.

Chair Stassens asked if there were any additional comments from public agencies. There were none.

Chair Stassens asked if the application could like to waive the seven (7) day period.

Mr. Keenan said yes they would waive the seven (7) days.

Chair Stassens closed the public hearing at 8:06 p.m.

Discussion occurred between the commissioners about the proposal and they were all in support of the application.

Commissioner Chroust-Masin MOVED, based on the findings of fact, the conclusionary findings for approval, and the materials submitted by the applicant to APPROVE CU 7-16 (School District Grounds and Maintenance Facility), subject to the conditions as noted in the staff report.

SECONDED by Commissioner Hillestad. The motion passed unanimously.

4. Public Hearing (Legislative)

◆ G 2-16

Request: The City of McMinnville is proposing an amendment to the McMinnville Zoning Ordinance that, if adopted, would amend McMinnville Zoning Ordinance (Ord. No. 3380) Section 17.64 (Marijuana Related Activities) to remove the phrase "state licensed preschool."

Applicant City of McMinnville

Chair Stassens opened the public hearing at 8:09 p.m.

Chair Stassens called for the staff report.

Mr. Pomeroy gave a brief history on the adoption of the marijuana related activities ordinance, explaining that the restrictions on the buffer from a "state licensed preschool" are unenforceable because the state does not utilize the phrase "state licensed preschool." He explained that Council directed staff to propose removal of the phrase "state licensed preschool" from the ordinance, which requires a recommendation for approval from the Planning Commission to Council for adoption.

Mr. Pomeroy stated this concern was brought to the City's attention after a medical marijuana dispensary opened within 1,000 feet of a preschool. He explained the City's research into obtaining a list of state licensed preschools, which concluded that no such complete list exists at the state level.

Some discussion ensued about the ordinance, the removal of the phrase, and the procedures required when amending an ordinance.

Planning Director Heather Richards mentioned that Council has also directed staff to conduct a series of work sessions with the Planning Commission to establish some specific guidelines to determine the definition of a school and how to consistently measure the 1,000 foot buffer.

Commissioner Thomas MOVED to recommend that the City Council adopt the proposed amendment.

SECONDED by Commissioner Morgan. The motion passed with a 7-1 vote with Commissioner Tiedge voting nay.

5. Old / New Business

Planning Director Heather Richards introduced herself and gave a brief summary of her background. She then explained that in addition to the continued hearing, there would be a work session at the September Planning Commission meeting: 1) marijuana ordinance, including defining a school facility and the 1000 foot buffer; 2) discuss the role of Citizen's Advisory Committee; and 3) possible modifications to the sign ordinance.

6. Adjournment

Commissioner Morgan MOVED to adjourn the meeting; SECONDED by Commissioner Thomas. Motion PASSED unanimously and Chair Stassens adjourned the meeting at 8:35 p.m.



Heather Richards
Secretary



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311
www.mcminnvilleoregon.gov

MEMORANDUM

DATE: September 15, 2016
TO: McMinnville Planning Commission
FROM: Ron Pomeroy, Principal Planner
RE: S 2-16 Alan Ruden Construction- Continuance

Background:

On August 18, 2016, the McMinnville Planning Commission hosted a public hearing to consider a subdivision application request submitted by Alan Ruden Construction, Inc. for the purpose of developing a twenty-lot residential subdivision as the third phase of The Bungalows at Chegwyn Village Phases residential development. Several people testified at the public hearing. (Please see the Planning Commission meeting minutes, of August 18, 2016). The Commission then continued the public hearing to 6:30 pm, September 15, 2016, directing that the record would remain open until August 25, 2016 for written testimony and that the applicant would have until September 1, 2016 to provide a written response.

During the initial seven days the record was held open (until 5:00 p.m., August 25, 2016), the following proponent/opponent testimony was received:

- Letter from Bill Whiteman (received August 23, 2016)
- Letter from Patrick Evans (received August 23, 2016)
- Letter from Ingrid van de Grift (received August 25, 2016)

During the seven days that the record was held open for submittal of written testimony from the applicant (until 5:00 p.m., September 1, 2016), the following testimony was received:

- Letter from Alan Ruden (received August 26, 2016)

A copy of all written testimony received since the meeting on August 18, 2016, is included with this memo.

Discussion:

On Thursday, August 25, 2016, City Engineer Mike Bisset and Principal Planner Ron Pomeroy met with the applicant and a number of residents of Phases I and II of the Bungalows at Chegwyn Village at the residence of Pat Evans in the Phase II neighborhood to discuss issues related to the

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proposed development. At that meeting the applicant offered and agreed to actions that would help mitigate many of the concerns noted in the opponents' testimony. Those steps to be taken by the applicant are provided in the applicant's written testimony received by the Planning Department on August 26, 2016. Additionally, the proposed actions are found to be acceptable to the Engineering and Planning Departments and do not require amendment of any of the recommended conditions of approval originally provided in the S 2-16 staff report.

RECOMMENDATION:

It is recommended that, following deliberation, the Planning Commission approve S 2-16 subject to the conditions of approval as noted in the August 18, 2016 staff report (attached).

Request: Approval of a tentative subdivision plan that, if approved, would provide for the platting of 49 single-family lots on a 7.29 acre parcel of land.

Location: North of NE Payton Lane and east of NE Hembree Street, and is more specifically described as a portion of Tax Lot 2100, Section 9, T. 4 S., R. 4 W., W.M.

Applicant: Alan Ruden Inc.

EXHIBITS

1. Staff Report and Findings of Fact
2. S 2-16 Application and Fact Sheets
3. Additional materials submitted by the applicant:
 - a. Existing Conditions Plan
 - b. Revised Tentative Subdivision Plan (The Bungalows at Chegwyn Village Phase III)
 - c. Tentative Subdivision Plan (The Bungalows at Chegwyn Village Phase III)
 - d. Overall (future development) plan
 - e. Housing Plan
 - f. Warranty Deed
 - g. Preliminary Title Report
 - h. Autumn Ridge and Westside Pump Station Hydraulic Analysis for the Bungalows Phase III Development – Prepared by CH2M, dated July 20, 2016
4. Vicinity Sketch
5. Affidavit of Publication
6. List of property owners to whom notice was sent
7. Referrals
8. Planned Development Ordinance Nos. 4953, 4978, and 4990
9. Letter from Residents of the Bungalows at Chegwyn Village Phases I and II dated August 8, 2016

SUBJECT SITE

The subject site comprises approximately 7.29 acres, is nearly square in shape, and absent any built improvements. The site is located north of NE Payton Lane and borders the northern edge of the recently constructed “Bungalows at Chegwyn Village Phase II” residential subdivision. Hembree Street defines the site’s western edge, beyond which is a portion of the Autumn Ridge residential subdivision. To the east of the site is land currently maintained as a filbert orchard and planned for future multi-family residential housing as part of a future phase of this applicant’s development. The site’s northern edge is marked by an overhead, high voltage electric transmission line and towers, beyond which is active farmland.

Topographically, the subject site exhibits a gradual downward slope to the south within the southernmost portion of the site, and a similar grade slope to the north and northwest within the balance of the site. There is a large mound of dirt some 15 feet in height located within the site’s southern portion; this mound was created as a result of the construction of the adjacent Bungalows at Chegwyn Village Phase I and Phase II development. This will be removed as part of the platting of the subject site.

The site's history has been exclusively agricultural and most recently used for grass seed production. The property not impacted by the previously described mound of dirt remains in grass production. A small portion of the site east of the proposed Alley "Y" is covered by a portion of a larger filbert orchard that extends farther east to McDonald Lane.

The subject site is zoned R-4 PD (Multifamily Residential Planned Development) and abuts single-family residential uses to the south and west on property also zoned R-4 PD. Adjacent land to the east is also zoned R-4 PD and remains as a filbert orchard. Land to the north is zoned EF-80 (Exclusive Farm Use – 80-acre minimum) and is outside the McMinnville city limits and urban growth boundary.

OBSERVATIONS

- The Planning Commission's responsibility regarding this tentative subdivision application is to approve, approve with conditions, or deny the application.
- By way of brief history, in May, 2012, the City Council approved zone change ZC 2-12, rezoning this property from EF-80 to R-4 PD and adopting an "Overall Plan" (master plan) for the 22.26-acre site that includes the subject site of this current application. A copy of the adopted master plan is attached to this report and identified as Exhibit 3(d). In summary, the master plan envisions a residential development that, at full buildout, would provide approximately 101 single-family lots and 64 multi-family housing units. To date, nearly half of those single-family lots have been platted through subsequent land use and development approvals (S 1-12, ZC 1-14/S 1-14, and ZC 2-15).
- As part of the planned development overlay for this property, certain setback requirements were adopted that extend throughout the site in order to help implement the developer's concept for this development project. Specifically, building setbacks applicable to the overall site are 10 feet from the front yard property line, 20 feet from the rear yard property line, 15 feet from an exterior side yard property line, six (6) feet from an interior side yard property line, and zero feet for interior side yard setbacks adjacent to a detached garage.
- This is the fourth phase of a multi-phase development for the 22.26 acre property. Two of those phases were approved by the City in May 2012 and in May 2014 respectively. An additional phase proposing a four-lot tentative subdivision plan was reviewed and approved by City staff (S 2-15) and is not currently platted; subdivisions proposing a total of ten or fewer lots are reviewed administratively.
- The applicant has submitted a proposal seeking approval of a 49-lot residential tentative subdivision tentative plan on 7.29 acres of land. The submittal originally proposed the creation of 46 lots and provided land for the installation of a sanitary-sewer pump station in the northwest corner of the site. The applicant has since proposed alternate sanitary sewer designs to eliminate the need for the pump station and has slightly adjusted proposed lot lines yielding the 49-lot proposal currently before you. This modification resulted in updated lot numbers for land north of the proposed easterly extension of NE Autumn Ridge Drive; while not identified as such on the modified tentative plan, the lot proposed in the northwestern corner of the site should be referenced as Lot 100.

The proposed lots range in size from 3,780 square feet to 8,991 square feet in size. Proposed development would be exclusively single-family housing with vehicular access provided to each lot by a rear yard alley. The average residential density is calculated at 6.7 dwelling units per acre. The applicant estimates an August 2016 start and December 2016 completion date for the construction of all utilities to serve the subdivision, if approved. This tentative subdivision plan is referred to in the application, and this report, as "The Bungalows at Chegwyn Village Phase III."

The applicant proposes an average lot size of 4,999 square feet for the proposed subdivision. While the R-4 zone requires a minimum average lot size of 5,000 square feet, Section 2 (3) of Ord. No. 4953 that governs this site (Exhibit 8) provides that minor changes to the details of the adopted plan may be approved by the Planning Director and that it shall be the Planning Director's decision as to what constitutes a major or minor change. Staff suggests that the reduction in average lot size by one (1) square foot below the required 5,000 square feet average constitutes a minor modification and is allowed at the Planning Director's discretion.

- Prior to the submittal of this application, the applicant and his engineer met on several occasions with City staff to review and discuss options for providing sanitary sewer service to the subject site. Of most concern to City staff is the manner in which lots in the northwest portion of the site would be provided such service, given the direction that this area slopes (to the northwest) and lack of capacity in the downstream pump station to accommodate these additional properties. To address this, the applicant has provided a Pump Station Hydraulic Analysis (Exhibit 3(h)) that has been reviewed by the City Engineer; comments and suggested conditions of approvals are provided further below in this section.
- The master plan adopted in 2012 for the larger site proposed single-family housing within the western two-thirds of the property and multi-family housing to be located on the site's eastern portion fronting NE McDonald Lane, across from the existing Grandhaven Elementary school and future middle school site. Public streets were shown to extend through this larger property in a grid-like pattern. As noted previously, the first two phases of that master plan have been constructed consistent with the adopted plan. The tentative subdivision plan that is the subject of this review is also consistent with the master plan's overall concept, and furthers the design of the existing Bungalows at Chegwyn Village residential development. For further details of this master plan, please refer to the applicant's submitted "Overall Plan" (Exhibit 3(d)).
- The proposed subdivision is an additional phase of the Overall Plan for the 22.26-acre site and is a northerly extension of the prior two phases of this planned development. With this proposal, NE Jacob Street and NE Joel Street would be extended to the northern property line of the site, providing for future connection to properties that lay farther north. (Note: NE Joel Court, as noted on the applicant's submitted tentative subdivision plan, will need to be renamed NE Joel Street on the final plat to reflect this street being designed to serve future development north of the site.) The series of alleys that are part of this development's design would also extend to the north, paralleling the north-south alignment of the public street system. Autumn Ridge Drive would be constructed through the site's midsection aligning on its western end with the existing Hembree Street and Autumn Ridge Drive intersection and connecting eventually to the east to McDonald Lane. All streets within the proposed development would be constructed to the standards of a local residential street, with one exception as follows:

- NE Jacob Street would be constructed within a 39.5 foot wide right-of-way where it abuts the future proposed multi-family development to the east. The remaining 10.5 feet of which (to total the required 50 foot wide right-of-way) would be provided at the time the adjacent multi-family component to the east is constructed. The required public sidewalk and street tree planting on the eastern street edge of NE Jacob Street would also occur at that time.

Cross sections for each of the proposed streets are provided on the applicant's submitted tentative subdivision plan.

- The proposed private alleys would be constructed to a 20-foot width to match the prior alleys' dimensional standard. Alley "Z" would be slightly wider at 22-feet to accommodate a proposed evergreen hedge that would help provide some screening from the proposed electric substation to be located northeast of the subject site.
- That portion of Hembree Street directly adjacent to the west edge of the site was constructed in 2003 in conjunction with the Autumn Ridge subdivision (located west of the street). At that time, the west side of Hembree Street was fully constructed to the minor collector standard and the developer constructed 12 feet of traveled way east of centerline, for a total improvement width of 30 feet.

The preliminary plans for this current request indicate that the developer will complete the improvements to Hembree Street adjacent to the site, including the construction of six additional feet of pavement width, curb and gutter, and a curbside planter strip. Additionally the developer is proposing to construct a meandering sidewalk adjacent to the subject site to match the sidewalk design implemented as part of Phase I and Phase II of the Bungalows and Chegwyn Village development. Upon completion of the improvements, Hembree Street adjacent to the site will be fully constructed to the City's minor collector standard.

The existing right-of-way for Hembree Street adjacent to the site measures 60 feet, and the plans indicate that the developer will dedicate an eight-foot-wide public access easement adjacent to the Hembree Street right-of-way to accommodate the proposed meandering sidewalk.

- Phase III of this overall development plan will result in a residential density of approximately 6.7 dwelling units per acre; as compared with a residential density of 6.2 dwelling units per acre in Phases I and II. The dwelling units are proposed to be single-family bungalow-style homes with front porches placed a minimum of 10 (ten) feet from the front property line. Also, all garages are proposed to be rear-facing onto the mid-block alleys. The main focus of the design is to create a strong relationship between the residences and the street, hence the garages placed behind the residence and the deviation from the typical front-yard setback of fifteen (15) feet in the R-4 zone. As in the previous phases of the adjacent Bungalows at Chegwyn Village development, the applicant feels this will result in a safe, pedestrian-friendly development as opposed to one that is auto dominated.

- The standard side-yard setback in the R-4 zone is six (6) feet for an interior side yard and 15 (fifteen) feet for an exterior side yard. As proposed, garages would be constructed to the interior side property line resulting in zero lot line construction, allowing a larger and more usable backyard. Staff notes that with zero lot line development, a maintenance agreement shall be required for such lots to ensure that structures built to the property line can be maintained on the zero lot line side which, in some instances, will require the home owner to access the neighbor's property; this is the same as approved for previous phases of this development.

Garages facing the rear of the property and accessed through a shared alley continues the design approved for Phase I and Phase II of the approved master plan.

- The applicant has submitted a "Housing Plan" (Exhibit 3(e)) that provides a general idea of how the residences could be laid out in this subdivision. The conceptual layout of these residences and two-car garages is very similar and complementary to those in Phase I and Phase II of the Bungalows at Chegwyn Village development.
- As in prior phases of this development, covenants for this phase would need to be developed to include a prohibition of parking within both of the alleys. It is recommended that the applicant submit to the Planning Director for approval, covenants for the subdivision clearly illustrating the restrictions with regard to alley access and parking, and who will oversee the enforcement of such covenants. This was a requirement of Phase I and II and, for consistency and clarity, should be continued for this phase of the development.

In addition, the covenants for prior phases of the neighborhood require that placement of trash and recycling containers be allowed only on the adjacent lots and their driveways to the alleys. Such containers are not to be stored anywhere within the 20-foot-wide alleyway at any time. As the current proposal includes both extension of alleys and creation of new alleys in the manner of Phases I and II, those same covenant restrictions relative to trash and recycling containers shall be required of this proposed subdivision.

Finally, staff notes that the covenants should address the placement and design of rear-yard fencing to ensure that sight lines are maintained for the driveway approaches to the alley. At a minimum, fencing standards (placement and design) will need to be addressed as part of the private covenants for the subdivision, similar to what is in place for prior phases of this development. In addition, to mitigate any future vision clearance issues and safety concerns for pedestrians and motorists, staff is recommending that fencing be placed no closer to the access easement (alley) than the nearest building line of the garage. (Staff notes that the zoning ordinance allows the Planning Director to make such adjustments to fence setbacks, provided clear vision is maintained.)

- Copies of this application and requests for comment were forwarded to the City of McMinnville Fire Department, Engineering Department, Building Department, Parks Department, Police Department, City Manager, and City Attorney; McMinnville School District No. 40; McMinnville Water and Light; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast Cable; and Northwest Natural Gas. As of the writing of this report, comments were received from the City Engineering Department, and McMinnville Water and Light which are provided below.

McMinnville Engineering DepartmentTRANSPORTATION

- The proposed subdivision is located adjacent to and east of Hembree Street, just north of the recently completed Bungalows at Chegwyn Village Phase II subdivision. The preliminary plans for S 2-16 indicate that the developer will complete the improvements to Hembree Street adjacent to the site, including the construction of six (6) additional feet of pavement; curb and gutter; and a curbside planter strip. Additionally the developer is proposing to construct a meandering sidewalk adjacent to the subject site. Upon completion of the improvements, Hembree Street adjacent to the site will be fully constructed to the minor collector standard.
- The existing right-of-way for Hembree Street adjacent to the site measures 60-feet, with 30-feet of right-of-way on either side of centerline. Additionally, the developer will dedicate an 8-foot public access easement adjacent to the Hembree Street right-of-way to accommodate the proposed meandering sidewalk.
- As proposed, the interior streets (Jacob St, Joel St, Joel Ct, and Autumn Ridge Dr) in the subdivision will be constructed to the City's adopted Local Residential street standard.
- Suggested conditions of approval related to transportation include:
 1. The final plat shall reflect that access to Hembree Street for lots 76 – 82 and 95 – 100 is not allowed.
 2. Hembree Street adjacent to the development shall be improved with a total of 18-feet of pavement east of centerline, a curbside planting strip, and a five-foot-wide sidewalk. The saw-cut location for the proposed street widening shall be as directed by the City Engineer.
 3. If the applicant proceeds with the proposed meandering sidewalk along Hembree Street, the final plat shall reflect the dedication of an eight-foot-wide public access easement adjacent to the Hembree Street right-of-way on lots 76 – 82 and 95 – 100.
 4. The interior streets shall be improved with a 28-foot wide paved section, five-foot-wide curbside planting strips, and five-foot-wide sidewalks placed one (1) foot from the property line within a 50-foot right-of-way, as required by Chapter 17.53 (Land Division Standards) of the McMinnville Zoning Ordinance for local residential streets.
 5. The applicant shall install a barricade at the terminus of proposed NE Joel Court and at the terminus of proposed NE Autumn Ridge Drive, consistent with City standards. The barricades shall include signage with text stating: "This street is planned for extension to serve future development."
 6. On-street parking will not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb returns. Additionally, on-street parking will not be permitted adjacent to where the private alleys intersect NE Autumn Ridge Drive.

7. The City Public Works Department will install, at the applicant's expense, the necessary street signage (including stop signs, no parking signage, and street name signage), curb painting, and striping (including stop bars) associated with the development. The applicant shall reimburse the City for the signage and markings prior to the City's approval of the final plat.
8. That the final plat shall include the appropriate access easements for the lots served by the proposed alleys. The private alleys shall have private maintenance agreements which must be approved by the City prior to the City's approval of the final plat.

SANITARY SEWER

- The subdivision narrative indicates several different options to service the development with sanitary sewer. The City's adopted Sanitary Sewer Conveyance System Master Plan (CH2M Hill, October 2008) anticipated that the subject property would be served by a new pump station located to the north of the site.
- Option #3 included in the subdivision narrative proposed draining all, or a portion of, the subdivision lots to the west to the Autumn Ridge Subdivision, which is served by the Autumn Ridge pump station and the Westside pump station. Subsequent to the submittal of the subdivision application, CH2M Hill was engaged to review the capacity of the Autumn Ridge pump station and the Westside pump station to determine if option #3 was feasible.
- CH2M Hill prepared the attached Technical Memorandum outlining the results of the "*Autumn Ridge and Westside Pump Station Hydraulic Analysis for the Bungalow Phase III Development*." The report concluded that, based on the analysis, the flows from all the lots from the proposed development could be managed by the Autumn Ridge and Westside pump stations. The report further recommended that, given the potential that flows could increase over time as the system ages, the gravity system for the Bungalows Phase III development should be designed such that the flows could be diverted north to a new pump station in the future.
- Suggested conditions of approval related to sanitary sewer service include:
 1. That a detailed, engineered sanitary sewage collection plan, which incorporates the requirements of the City's adopted Conveyance System Master Plan, and the recommendations of the CH2M Hill Technical Memorandum entitled "*Autumn Ridge and Westside Pump Station Hydraulic Analysis for the Bungalow Phase III Development*" (CH2M Hill; July 20, 2016) must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved sanitary sewage plan must be reflected on the final plat. Any offsite public easements must be dedicated to and accepted by the City prior to the City's approval of the final plat.

STORM DRAINAGE

- As proposed, the storm drainage from the development will tie to the existing public storm drainage system in Hembree Street at Autumn Ridge Drive. The applicant will need to prepare and submit an engineering analysis and associated calculations that demonstrate that the existing storm drainage system has the capacity to carry the additional run-off from the proposed development.

- Suggested conditions of approval related to storm drainage include:
 1. That a detailed, engineered storm drainage plan, which satisfies the requirements of the City's Storm Drainage Master Plan, and that demonstrates that the existing downstream storm drainage system has adequate capacity, must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
 2. If the final storm drainage plan incorporates the use of backyard collection systems and easements, including those in the proposed alleys, such systems must be private rather than public, and private maintenance agreements for them must be approved by the City prior to the City's approval of the final plat.
 3. Prior to the construction of any private storm facilities, the applicant shall obtain the necessary permits from the City's Building Division.
 4. No additional storm drainage runoff shall be conveyed onto any adjacent property without the appropriate public and/or private storm drainage easements. Copies of recorded private easements must be provided to the City prior to the City's approval of the final plat. Any offsite public easements must be dedicated to and accepted by the City prior to the City's approval of the final plat.

MISCELLANEOUS

- Additional suggested conditions of approval include:
 1. The final plat shall include 10-foot public utility easements along both sides of all public rights-of-way for the placement and maintenance of required utilities.
 2. The final plat shall include use, ownership, and maintenance rights and responsibilities for all easements and tracts.
 3. The applicant shall secure from the Oregon Department of Environmental Quality (DEQ) any applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.
 4. That the applicant submit evidence that all fill placed in the areas where building sites are expected is engineered. Evidence shall meet with the approval of the City Building Division and the City Engineering Department.
 5. That the required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.
 6. That the applicant shall submit a draft copy of the subdivision plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two (2) copies of the final subdivision plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.

McMinnville Water and Light

- An Extension Agreement shall be required for water and electric services to the site which shall include development fees and engineered/approved drawings. The applicant shall contact McMinnville Water and Light for details.
- Notice of this request was mailed to property owners located within 300 feet of the subject site. As of the date this report was written, one letter has been received (Exhibit 9). The letter, dated August 1, 2016, and received by the Planning Department on August 8, 2016, and was signed by a number of residents of the Bungalows at Chegwyn Village Phases I and II.

While the full text of this letter is provided as an attachment to this report, their numbered points are generally summarized below in order to provide staff response:

1. Placement of temporary, *emergency access only*, barricades to be located at the current north end of NE Jacob and Joel Streets as well as at the current north end of Alley X and Alley Y until all homes in the proposed subdivision have been constructed.

Staff response:

NE Jacob and NE Joel Streets are streets dedicated as public rights-of-way. When new streets are constructed and the plat recorded, as occurred in The Bungalows at Chegwyn Village Phases I and II, use of those streets is provided to the general public (including construction traffic). The City does not limit the lawful purposes or members of the public that may use public streets. Alternatively, this may be achieved by private agreement between those making the request and the developer.

2. Construction and delivery traffic on alleys:

Staff response:

Alley X and Alley Y, the two north-south mid-block alleys in the Bungalows at Chegwyn Village Phases I and II (and proposed to be extended through Phase III) are private alleys. The recorded plats for these two subdivision phases grant legal access for the use those alleys for the balance of the site (which includes land to be developed as Phase III). Neither staff nor the Planning Commission has the authority to deny or restrict such access. However, this restriction may alternatively be achieved by private agreement between those making the request and the developer.

3. Construction days and hours be limited.

Staff response:

Construction days and hours are set by existing City ordinance (Section 9.32.050(D)) of the McMinnville Municipal Code) which states:

“The construction, including excavation, demolition, alteration or repair of a building or other thing other than between the hours of seven a.m. and eight p.m., except upon special permit granted by appropriate authority;”

This Section of the McMinnville Municipal Code allows lawful construction activity to occur between the hours of 7:00 a.m. and 8:00 p.m. and does not limit the days of the week that such construction may occur. Neither staff nor the Planning Commission has the authority to reduce that which is permitted by the Municipal Code. Alternatively, this may be achieved by private agreement between those making the request and the developer.

4. Vehicles related to the removal of the dirt berm located on the southwest portion of the site should not travel across any portion of the Bungalows at Chegwyn Village Phase I or Phase II subdivisions.

Staff response:

Similar to the staff responses in items 1 and 2 above, the City does not limit the lawful purposes or members of the public that may use public streets, and cannot limit such use on private alleys where, in this specific instance, their use is provided for as recorded on the respective subdivision plats. Alternatively, this may be achieved by private agreement between those making the request and the developer.

- The findings of fact and conclusionary findings are attached to this report as Exhibit "A" and are, by this reference, incorporated herein.

RECOMMENDATION (DECISION AND CONDITIONS OF APPROVAL)

Based upon staff's review of the materials provided in the record as of the date this report went to print, and after considering carefully the policies and plans contained in the applicable McMinnville comprehensive plan policies, it is our conclusion that the applicant has satisfied the requirements for approval of this tentative subdivision request.

Therefore, based on the materials submitted by the applicant, the findings of fact, and the conclusionary findings for approval, staff recommends that S 2-16 be approved subject to the following conditions:

TRANSPORTATION

1. The final plat shall reflect that access to Hembree Street for lots 76 – 82 and 95 – 100 is not allowed.
2. Hembree Street adjacent to the development shall be improved with a total of 18-feet of pavement east of centerline, a curbside planting strip, and a five-foot wide sidewalk. The saw-cut location for the proposed street widening shall be as directed by the City Engineer.
3. If the applicant proceeds with the proposed meandering sidewalk along Hembree Street, the final plat shall reflect the dedication of an eight-foot wide public access easement adjacent to the Hembree Street right-of-way on lots 76 – 82 and 95 – 100.
4. The interior streets shall be improved with a 28-foot wide paved section, five-foot wide curbside planting strips, and five-foot wide sidewalks placed one (1) foot from the property line within a 50-foot wide right-of-way, as required by Chapter 17.53 (Land Division Standards) of the McMinnville Zoning Ordinance for local residential streets.

5. The applicant shall install a barricade at the northern terminus of proposed NE Joel Court (to be identified as Joel Street on the subdivision plat) and at the eastern terminus of proposed NE Autumn Ridge Drive, consistent with City standards. The barricades shall include signage with text stating: "This street is planned for extension to serve future development."
6. On-street parking will not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb returns. Additionally, on-street parking will not be permitted adjacent to where the private alleys intersect NE Autumn Ridge Drive.
7. The City Public Works Department will install, at the applicant's expense, the necessary street signage (including stop signs, no parking signage, and street name signage), curb painting, and striping (including stop bars) associated with the development. The applicant shall reimburse the City for the signage and markings prior to the City's approval of the final plat.
8. That the final plat shall include the appropriate access easements for the lots served by the proposed alleys. The private alleys shall have private maintenance agreements which must be approved by the City prior to the City's approval of the final plat.

SANITARY SEWER

9. That a detailed, engineered sanitary sewage collection plan, which incorporates the requirements of the City's adopted Conveyance System Master Plan, and the recommendations of the CH2M Hill Technical Memorandum entitled "*Autumn Ridge and Westside Pump Station Hydraulic Analysis for the Bungalow Phase III Development*" (CH2M Hill; July 20, 2016) must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved sanitary sewage plan must be reflected on the final plat. Any offsite public easements must be dedicated to and accepted by the City prior to the City's approval of the final plat.

STORM DRAINAGE

10. That a detailed, engineered storm drainage plan, which satisfies the requirements of the City's Storm Drainage Master Plan, and that demonstrates that the existing downstream storm drainage system has adequate capacity, must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
11. If the final storm drainage plan incorporates the use of backyard collection systems and easements, including those in the proposed alleys, such systems must be private rather than public, and private maintenance agreements for them must be approved by the City prior to the City's approval of the final plat.
12. Prior to the construction of any private storm facilities, the applicant shall obtain the necessary permits from the City's Building Division.
13. No additional storm drainage runoff shall be conveyed onto any adjacent property without the appropriate public and/or private storm drainage easements. Copies of recorded private easements must be provided to the City prior to the City's approval of the final plat. Any offsite public easements must be dedicated to and accepted by the City prior to the City's approval of the final plat.

MISCELLANEOUS

14. That the proposed Joel Court shall be identified as Joel Street on the final plat.
15. That the final plat shall include 10-foot public utility easements along both sides of all public rights-of-way for the placement and maintenance of required utilities.
16. That the final plat shall include use, ownership, and maintenance rights and responsibilities for all easements and tracts.
17. That the applicant shall secure from the Oregon Department of Environmental Quality (DEQ) any applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.
18. That the applicant submit evidence that all fill placed in the areas where building sites are expected is engineered. Evidence shall meet with the approval of the City Building Division and the City Engineering Department.
19. That the required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.
20. That the applicant shall submit a draft copy of the subdivision plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two (2) copies of the final subdivision plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.
21. That the applicant shall provide for a landscape design and irrigation plan for the planter strip on Hembree Street that, to the extent practicable, is consistent with the landscaping provided for the Hembree Street planter strip within The Bungalows at Chegwyn Village Phase I and Phase II. Plans shall be submitted to the Landscape Review Committee for review and approval. All required plantings and irrigation along Hembree Street shall be installed prior to recording of the final subdivision plat.
22. That the applicant shall submit a street tree plan for the park strips along the interior public streets, and the section of Hembree Street adjacent to this proposal. The plans shall identify species, caliper size, and spacing for all proposed trees. Plans will be forwarded for review and approval by the Landscape Review Committee and by McMinnville Water & Light. All street trees shall have a two-inch minimum caliper measured at six (6) inches above ground surface, shall exhibit size and growing characteristics appropriate for the particular planting strip, and shall be spaced as appropriate for the selected species and as may be required for the location of above-ground utility vaults, transformers, light poles, and hydrants. In addition, street trees shall not be planted within 30 feet of street intersections.

All street trees shall be of good quality and shall conform to American Standard for Nursery Stock (ANSI Z60.1). The Planning Director reserves the right to reject any plant material that does not meet this standard.

Street trees shall be planted in accordance with the approved street tree plan. All required trees shall be installed by the applicant prior to final platting, or security equal to 120 percent of the cost of installing the required street trees shall be posted with the City. The amount and form of such security shall be as required by the Planning Director.

For trees not installed prior to final platting, each year the applicant/owner shall install street trees, from November 1 to March 1, adjacent to those properties on which a structure has been constructed and has received final occupancy, or adjacent to any non-buildable tracts for which street trees are required. This planting schedule shall continue until all platted lots have been planted with street trees. It shall be the applicant's responsibility to relocate trees as may be necessary to accommodate individual building plans. The applicant shall also be responsible for the maintenance of the street trees, and for the replacement of any trees that may die due to neglect or vandalism, for two years from the date of planting.

23. That restrictive covenants (CC & R's) shall be prepared for the development and must meet with the approval of the Planning Director. The submitted CC & R's shall indicate any necessary maintenance agreements between each lot approved for zero lot line construction for the garages and each neighboring property in addition to developed "no-parking" standards and enforcement within the alley and individual aprons, and maintenance agreements for common areas. The CC & R's shall also require that placement of trash and recycling containers be allowed only on the adjacent lots and their driveways to the alleys. Such containers are not to be stored anywhere within the 20-foot-wide alleyway at any time.
24. That park fees shall be paid for each housing unit at the time of building permit application as required by McMinnville Ordinance 4282, as amended.
25. That fencing in the rear of all lots shall be no closer than ten (10) feet from each building lot's rear property line.
26. That nothing in these conditions may be construed to require lesser standards than those required by Chapter 17.53 (Land Division Standards) of the McMinnville Zoning Ordinance and all requirements of that ordinance shall be met, unless otherwise permitted by the planned development overlay for the subject development.
27. That approval of this tentative subdivision plat will expire 12 (twelve) months after the date of mailing of said approval. Upon written request, the Planning Director may approve a one-year extension of the decision pursuant to Section 17.53.075 of Chapter 17.53 (Land Division Standards) of the McMinnville Zoning Ordinance.

NOTE: An application approved by the Planning Commission may be appealed to the City Council within 15 (fifteen) days of the date of mailing said approval. If no appeal is filed with the Planning Department on or before the 15-day period ends, the decision of the Planning Commission will be final.

MOTION

The Planning Department recommends the Commission make the following motion for approval:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION APPROVES S 2-16 (THE BUNGALOWS AT CHEGWYN VILLAGE, PHASE III), SUBJECT TO THE CONDITIONS AS NOTED IN THE STAFF REPORT.

RP:sjs

EXHIBIT "A"
DOCKET S 2-16
FINDINGS OF FACT AND CONCLUSIONARY FINDINGS

FINDINGS OF FACT

1. Alan Ruden Inc. is requesting approval of a tentative subdivision plan that, if approved, would provide for the platting of 49 single-family lots on a 7.29 acre parcel of land. The property is located north of NE Payton Lane and east of NE Hembree Street, and is more specifically described as a portion of Tax Lot 2100, Section 9, T. 4 S., R. 4 W., W.M.
2. The subject property is designated Residential on the McMinnville Comprehensive Plan Map and is currently zoned R-4 PD (Multiple Family Residential Planned Development) on the McMinnville Zoning Map.
3. Sanitary sewer and municipal water and power are all available to the site, or can be extended to the site by the applicant, as a requirement of this proposed development. The municipal Water Reclamation Facility has sufficient capacity to accommodate expected waste flows resulting from residential development of the property.
4. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Engineering Department, Building Department, Parks Department, Police Department, City Manager, and City Attorney; McMinnville School District No. 40; McMinnville Water and Light; Yamhill County Public Works; Yamhill County Planning Department; Oregon Department of Environmental Quality (DEQ); Frontier Communications; ComCast Cable; and Northwest Natural Gas. As of the date of this report, concerns or comments have been received from those agencies noted in the staff report.
5. Goals and policies from Volume II of the McMinnville Comprehensive plan of 1981 applicable to this request are as listed below.

Chapter V Housing and Residential Development

GOAL V 1: TO PROMOTE DEVELOPMENT OF AFFORDABLE, QUALITY HOUSING FOR ALL CITY RESIDENTS.

GOAL V 2: TO PROMOTE A RESIDENTIAL DEVELOPMENT PATTERN THAT IS LAND INTENSIVE AND ENERGY EFFICIENT, THAT PROVIDES FOR AN URBAN LEVEL OF PUBLIC AND PRIVATE SERVICES, AND THAT ALLOWS UNIQUE AND INNOVATIVE DEVELOPMENT TECHNIQUES TO BE EMPLOYED IN RESIDENTIAL DESIGN.

Policies:

- 68.00 The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the City center and to those areas where urban services are already available before committing alternate areas to residential use.

- 71.00 The City shall designate specific lands inside the urban growth boundary as residential to meet future projected housing needs. Lands so designated may be developed for a variety of housing types. All residential zoning classifications shall be allowed in areas designed as residential on the Comprehensive Plan Map.
- 73.00 Planned residential developments which offer a variety and mix of housing types and prices shall be encouraged.
- 82.00 The layout of streets in residential areas shall be designed in a manner that preserves the development potential of adjacent properties if such properties are recognized for development on the McMinnville Comprehensive Plan Map.
- 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development. Services shall include, but not be limited to:
1. Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.
 2. Storm sewer and drainage facilities (as required).
 3. Streets within the development and providing access to the development, improved to city standards (as required).
 4. Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light).
 5. Energy distribution facilities and adequate energy resource supplies.

Chapter VI Transportation System

GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.

- 117.00 The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.
- 118.00 The City of McMinnville shall encourage development of roads that include the following design factors:
1. Minimal adverse effects on, and advantageous utilization of, natural features of the land.
 2. Reduction in the amount of land necessary for streets with continuance of safety, maintenance, and convenience standards.

3. Emphasis placed on existing and future needs of the area to be serviced. The function of the street and expected traffic volumes are important factors.
4. Consideration given to incorporating other modes of transportation (public transit, bike and foot paths).
5. Connectivity of local residential streets shall be encouraged. Residential cul-de-sac streets shall be discouraged where opportunities for through streets exist.

126.00 The City of McMinnville shall continue to require adequate off-street parking and loading facilities for future developments and land use changes.

Chapter VII Community Facilities and Services

GOAL VII 1: TO PROVIDE NECESSARY PUBLIC AND PRIVATE FACILITIES AND UTILITIES AT LEVELS COMMENSURATE WITH URBAN DEVELOPMENT, EXTENDED IN A PHASED MANNER, AND PLANNED AND PROVIDED IN ADVANCE OF OR CONCURRENT WITH DEVELOPMENT, IN ORDER TO PROMOTE THE ORDERLY CONVERSION OF URBANIZABLE AND FUTURE URBANIZABLE LANDS TO URBAN LANDS WITHIN THE McMINNVILLE URBAN GROWTH BOUNDARY.

Sanitary Sewer System:

- 136.00 The City of McMinnville shall insure that urban developments are connected to the municipal sewage system pursuant to applicable city, state, and federal regulations.
- 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

Water System:

- 144.00 The City of McMinnville, through the City Water and Light Department, shall provide water services for development at urban densities within the McMinnville Urban Growth Boundary.
- 147.00 The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and the City Water and Light Department to insure the coordinated provision of utilities to developing areas. The City shall also continue to coordinate with the City Water and Light Department in making land use decisions.

Water and Sewer - Land Development Criteria:

- 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:
1. Sufficient municipal water system supply, storage and distribution facilities, as determined by the City Water and Light Department, are available or can be made available, to fulfill peak demands and insure fire flow requirements and to meet emergency situation needs.
 2. Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluent.
 3. Sufficient water and sewer system personnel and resources, as determined by the Water and Light Department and City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.
 4. Federal, state, and local water and wastewater quality standards can be adhered to.
 5. Applicable policies of the Water and Light Department and the City relating to water and sewer systems, respectively, are adhered to.
- 155.00 The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexation, subdivision proposals, and other major land use decisions.

Parks and Recreation:

- 163.00 The City of McMinnville shall continue to require land, or money in lieu of land, from new residential developments for the acquisition and/or development of parklands, natural areas, and open spaces.

Chapter VIII ENERGY

GOAL VIII 2: TO CONSERVE ALL FORMS OF ENERGY THROUGH UTILIZATION OF LAND USE PLANNING TOOLS.

- 178.00 The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.

6. Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) applicable to this request include:

General Provisions:

"17.03.020 Purpose. The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare."

R-4 Multi-Family Residential Zone:

"17.21.010 Permitted Uses. In an R-4 zone, the following uses and their accessory uses are permitted:

A. Single-family dwelling."

CONCLUSIONARY FINDINGS FOR APPROVAL:

1. The subject request complies with applicable goals and policies of the McMinnville Comprehensive Plan, 1981 (Finding of Fact No. 5) as follows:
 - (a) Goal V-1 and V-2 and Policy 68.00 are satisfied by the request as additional housing stock will be added to the City (49 single-family homes for this phase of the development); the application of the Uniform Building Code guarantees the quality of the housing; and an urban level of services is available to the development. The single-family development pattern will be land intensive and energy efficient given the location and unique development proposal.
 - (b) Policy 71.00 is satisfied in that the subject site is planned for residential use, as designated on the Comprehensive Plan Map, and the proposal before the Commission would allow for the sale and construction of 49 single-family homes in a manner that complements adjacent development. This development plan is also part of a larger mixed-housing type development plan.
 - (c) Policy 73.00 is satisfied by the request as the proposed development will help to provide for a variety and mix of housing types and prices within the city.
 - (d) Policy 82.00 is satisfied in that the layout of public streets as part of this development preserves the development potential of adjacent properties.
 - (e) Goal VI-1 and Policies 117.00, 118.00, and 126.00 are satisfied as the proposed development will develop to city standards as regard off-street parking, street construction, and sidewalk improvements as required by the existing planned development and the McMinnville Zoning Ordinance. As noted previously, the proposed street system will be designed to provide safe and easy access to every lot, and will provide connection to adjacent properties. Streets within and adjacent to the subject site have adequate capacity to accommodate the expected trips from this project. As noted on the submitted plans, the minimum number of off-street parking spaces has been met.

- (f) Goal VII-1 and Policies 99.00, 136.00, 144.00, and 151.00 are satisfied by the request as adequate levels of sanitary sewer collection, storm sewer facilities and energy distribution facilities are all available to the site. This site can be served by NE Hembree Street and the proposed interior streets. In addition, the sewage treatment plant has capacity to serve and accommodate the project, and all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards.
 - (g) Policies 142.00 and 147.00 will be satisfied by the request in that the subject site will be converted in an orderly manner to urbanizable standards through the coordinated extension of utilities, and as required by this tentative subdivision approval. In addition, adequate storm water facilities will be designed and constructed to the satisfaction of the City Engineer when the property is developed.
 - (h) Policy 155.00 is satisfied in that emergency services departments do not foresee complications with providing police and fire protection to the subject area.
 - (i) Policy 163.00 is satisfied in that payment of parkland system development charges (SDC's) will be required for each new residence constructed within this proposed subdivision. This revenue will be dedicated to the City for parkland purposes.
 - (j) Goal VIII-2 and Policy 178.00 are satisfied by the request as the development proposes a compact urban development, thereby increasing density and conserving energy. Utilities presently abut the property or are nearby and can be extended to the site in a cost effective and energy efficient manner.
2. The subject request complies with the applicable provisions and requirements of the McMinnville Zoning Ordinance No. 3380. (Finding of Fact No. 6) as follows:
- (a) Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.
 - (b) Section "17.21.010 (R-4 Multiple-Family Residential Zone - Permitted Uses is satisfied by the request as single-family dwellings are a permitted use in the R-4 zone and the applicant proposes to construct single family dwellings.

RP:sjs

August 23, 2016

McMinnville Planning Dept.
231 N 5th Street
McMinnville, OR. 97128
Re; S 2-16 Bungalows at Chegwyn Phase III

RECEIVED

AUG 23 2016

COMMUNITY DEVELOPMENT
CENTER

Dear Sirs,

Please be advised that Alan Ruden and I have met to discuss me and my wife's concerns to Chegwyn Village Phase III.

Mr. Ruden has proposed a solution to our concerns of unwanted construction traffic through this neighborhood while Phase III is being built.

Mr. Ruden's idea will resolve the concerns I testified to at the last Planning Commission meeting.

Mr. Ruden said he has a meeting with the city staff on Wednesday to propose this plan. It consists of using portable barriers at the end of current streets. It also includes signage to be used during the construction period.

I would encourage the staff to work with Mr. Ruden to make this recommendation a reality which would allow his project to move forward without further delay.

Sincerely,


Bill Whiteman

3480 NE Hembree St.
McMinnville, OR 97128

Cc: Alan Ruden Construction

Ron Pomeroy

From: Patrick Evans [patevans60@gmail.com]
Sent: August 23, 2016 8:31 PM
To: Ron Pomeroy
Subject: Additional information regarding Findings of Facts and Conclusionary Findings re Docket S 2-16
Attachments: Docket S 2 Continuation Response 8.25.16.docx

Ron:

Please accept the attached as additional information for the record in the matter of Docket S 2-16.

Hopefully your meeting tomorrow with Alan will result in a written resolution to address the concerns we've raised both in writing and through testimony at the public hearing. That would be a win-win for all concerned and would allow the project to go forward without further delay.

--

Pat Evans
503-914-8977

Docket S 2-16

Additional information regarding Findings of Facts and Conclusionary Findings (the "Findings") – Exhibit A.

During testimony to the Planning Commission, the City Engineering Director noted that the applicant had the right to ongoing use of the alleyways for Phases I and II of the Bungalows at Chegwyn Village as a result of an Easement recorded as part of the Plat for those projects.

I would argue that while a recorded easement grants ongoing access to the alleyways, it does not give the Grantee the absolute right to carry on activities that are inimical to the "public health, safety, convenience and general welfare" of the Grantor.

Grantor(s) – meaning current residents of the project - could not reasonably expect that noise, damage, traffic congestion and parking in the alleyways would continue on, unabated, for a period approaching five years (the duration of the current project together with a projection of 3 years of construction offered by Alan Ruden.)

Further, a grant of easement does not constitute an unlimited right to the Grantee to use the easement in a manner beyond simple access for the ultimate property owners of Phase III.

We believe that the Ruden Development as the Grantee of continued, but temporary, access rights to the alleyways of Phase I and II has both the ability and the moral, if not legal, obligation to assist the current Grantors (residents of Phase I and II) with an absolute reduction in noise, damage, traffic congestion and parking in the current alleyways by agreeing to leave all current barricades (both alleyways and streets) in place until such time as a majority of infrastructure and home construction are completed on Phase III.

We also firmly believe it is well within the purview and authority of the City Planning Commission, regardless of staff findings, to require the applicant to address these issues otherwise the Commission becomes merely a rubber stamp and not truly representative of community needs and concerns.

Sincerely,

Patrick Evans
3587 NE Joel Street
McMinnville, OR 07128

August 23, 2016

Ron Pomeroy, AICP

Principal Planner

City of McMinnville Planning Department

RE: Chegwyn Village

Alan Ruden, Councilmen, Developer

RECEIVED

AUG 25 2016

COMMUNITY DEVELOPMENT
CENTER

I am presenting in written format as suggested at the hearing in City Council on Thursday

August 18th, 2016 my testimony.

1. Construction vehicles continue to use the "private alleyways" on Monday, August 22, 2016. This follows Alan Ruden's published Comments that "he would be willing to put up signs directing construction Vehicles not to use them".
2. Alan Ruden had a meeting with Patrick Evans, resident on Joel Street day after The City Council Meeting. At that meeting, Alan Ruden said that he would pay For the "seal coat" of the alleyways after construction of homes in new phase Were completed." This was told to me by Patrick Evans on Saturday, August 20th.
- 3 I am requesting that all statements of "promises" between Alan Ruden and Patrick Evans and others be in writing. Available to the City Council and all Homeowners.
4. Alan Ruden and Patrick Evans also met and determined that Alan Ruden's Attorney would draft a "Homeowners Association" document that he, Alan Ruden would pay for.
5. I was never told before signing the deposit and contract for sale even though I asked the question "if there was a "Homeowners Association". When I Initially asked Brian Ruden, I was told no there is no Homeowners Association.
6. Now there is "hostility" in our community regarding the Homeowners Association. Many are saying the same thing "I did not buy a home in a Homeowners Association. There is no need for one. We have no amenities

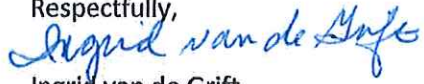
And we do not and have not voted for a Homeowners Association and are Unhappy with any report of anyone constructing such a document.

7. When asked why we need a Homeowners Association the remarks are "some neighbors are not pulling weeds".
8. Many of the neighbors in Chegwyn Village, myself included, have not received The "CCNRS". Which reportedly was to be given before close of escrow.
9. The issue of "of a high concentration of dirt in the air and no mediation" or Action as requested in the hearing has not been taken to relieve the "thick dirt Airborn across the entire area due to the removal of the dirt from the hill Which is across the entire community from NE Hembree to Jacob Street. Just take a look at the dust and dirt covering everything. This could have Been avoided if Alan Ruden had just had something done as suggested by Patrick Evans at the hearing on August 18th.
10. If as Alan Ruden stated at the hearing and as published in the News Register, "I don't think this is a complex issue at all". "He said it's a matter of communication and notification" . Then I request that the City Council address the Need for "communication and notification" and hold Alan Ruden to assuring That all the homeowners in Chegwyn Village be given equal access to ALL THE INFORMATION AND DISCUSSIONS. I believe that this will go a long way to Assuring the homeowners of Chegwyn Village a reasonable and legal situation To this rapidly developing unrest in our new community of 51 homes.
11. Alan Ruden made a statement to William Waiteman, who lives on NE Hembree, at his home on Tuesday, August 23rd that he, Alan Ruden was Meeting with the City today, August 24th, to be able to have "new structured Barricades at the end of the streets and alleyways in Chegwyn Village that could Be removed to allow for Emergency Vehicles. It is crucial to the residents of Chegwyn Village that our streets and alleyways not suffer three or more years Of high volume and speed construction vehicles.
12. As I sat at the table with Alan Ruden on August 18th, I asked him to consider That since he stated that Autum Ridge Road would continue through Chegwyn Village, that at no additional expense to him that he begin the road as a gravel Base so that construction traffic could avoid the existing streets and alleyways. Again, I quote Alan Ruden's comments: "construction vehicles can be directed Away from existing neighbors. A new street Autumn Ridge, is being created To provide alternative access." Please direct Alan Ruden to do as he said. This will go along way to alleviate many of the problems and issues we are facing.

I look forward to the next City Council Meeting on September 15th.

Thank you.

Respectfully,

A handwritten signature in blue ink, reading "Ingrid van de Grift". The signature is written in a cursive, flowing style.

Ingrid van de Grift

3511 NE Joel Street

McMinnville, OR 97128

Alan Ruden
Alan Ruden Inc.
1674 NW Emerson Ct.
McMinnville, OR 97128
(503) 435-9109
alanruden@comcast.net

RECEIVED

AUG 26 2016

COMMUNITY DEVELOPMENT
CENTER

August 26, 2016

Dear Mr. Ron Pomeroy,

On August 25, 2016, we conducted a neighborhood meeting at 3587 NE Joel Street. Those present were myself, Mike Bisset, Ron Pomeroy, and eight concerned neighbors.

During this meeting, we presented our Plan to virtually eliminate construction traffic generated by the development of Phase III of the Bungalows subdivision through their neighborhood. Their neighborhood consists of Phase I and Phase II of the Bungalow Subdivision.

The Plan consists of the following:

- the existing barricades on Joel Street and Jacob Street as well as the two alleys will stay in place during development until the paving of streets and alleys of Phase III.
- Immediately following the removal of the existing barricades on Joel and Jacob Streets, signs will be installed on both sides of the street in the park strips. These signs would say "No Construction Traffic" or "STOP No Construction Traffic" or similar language. The signs will face north and will be bright in color, made of durable aluminum, 24 x 24 inches in size, and easily replaceable if damaged or stolen. These signs will remain in place virtually through the entire build-out of Phase III.
- Immediately following the removal of the existing barricades in both alleys, a portable reflective barricade will be placed in the center of the alleys facing north toward Phase III. This portable barricade will be durable, lightweight, and easy to relocate. The barricades will also have similar signs posted on them as the signs on Joel and Jacob Streets to deter construction traffic. They will stay in place for as long as needed. During our meeting, it was discussed that the portable barricades will be moved to allow garbage and recycling trucks to pass freely. There was interest by a couple present neighbors to slide the barricades out of the way on trash pick up day.
- There will also be a sign installed in the park strip at the southern corner of Samson and Hembree Streets. The sign will state "No Construction Traffic" as well as direct construction traffic north on Hembree to Autumn Ridge Drive. Autumn Ridge Drive will be the construction access street for Phase III. There may be other construction traffic signs installed as needed at the discretion of Alan Ruden Inc.
- Alan Ruden Inc. will deliver written notice to all subcontractors, suppliers, and delivery vehicles of our intention to eliminate construction traffic through Phase I and Phase II. The notice will include penalties for noncompliance including termination of contracts.
- Virtually all construction in Phase I and Phase II will be complete in the next 90 days. After the completion of the remaining homes, there will be construction vehicles allowed into Phase I and

Phase II for warranty purposes. There may be construction vehicles allowed in to provide construction services to individual property owners who wish to improve their property.

We received supportive comments, feedback, and suggestions from those present at the neighborhood meeting concerning our Plan. We intend to fully implement this Plan and by so doing resolve the overriding issue of construction traffic.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alan Ruden', with a large, stylized initial 'A'.

Alan Ruden



CITY OF MCMINNVILLE
PLANNING DEPARTMENT
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311
www.mcminnvilleoregon.gov

MEMORANDUM

DATE: September 15, 2016
TO: McMinnville Planning Commission
FROM: Ron Pomeroy, Principal Planner
RE: Work Session Discussion - Legislative Amendments to Chapter 17.64
(Marijuana Related Activities) of the McMinnville Zoning Ordinance

Report in Brief:

Work session discussion to evaluate topics for possible zoning ordinance text amendments relative to the Marijuana Related Activities chapter (Chapter 17.64) of the McMinnville zoning ordinance.

Background:

In recent public meetings before both the McMinnville City Council and the McMinnville Planning Commission, questions have been raised relative to the operation and/or location of marijuana related businesses in McMinnville. In sum:

- How to measure a 1,000 foot buffer from a protected site to a marijuana facility?
- How should the City define a "school?"
- Should a Medical Marijuana Dispensary be required to be separated from a Commercial Recreational Marijuana Retail business by a minimum distance?

Below is information for your consideration relative to those questions. As discussion of these issues can be quite nuanced and lengthy, their presentation has been separated into discrete elements.

Discussion:

How to measure a 1,000 foot buffer from a protected site to a marijuana facility.

This topic is essentially made up of four distinct decision points.

1. What is the beginning point of the buffer measurement?
2. What point do you measure to?
3. Should you measure the buffer in a straight line or by some other less direct route?

4. What tool is used to calculate the distance measurement?

To the first question City staff's opinion and practice was articulated in an April 20, 2016, memo drafted by City Attorney David Koch to the City Council, regarding, in part, how to measure a 1,000 foot buffer. The relevant section stated:

"For purposes of determining the distance between a dispensary and a school "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public or private elementary or secondary school to the closest point of the premises of a dispensary. If any portion of the premises of a proposed or registered dispensary is within 1,000 feet of a public or private elementary or secondary school it may not be registered. (OAR 333-008-1110)"

As a practical land use matter, property lines define the extent of a subject site. To point, building setbacks are measured from property lines as are landscape buffers, industrial development buffers from residential lands and other land use separation requirements. With the exception of measuring projections into required yards (i.e., an eave overhang, fireplace flue, sunshades, etc.) there is no local historic land use basis for beginning a distance (or buffer) measurement from a point other than the property line.

The legal boundary defining a parcel of land denotes ownership and a level of control of that which occurs within that boundary. Establishing a different beginning point for establishing buffers (or other measurements) would require the Commission to create rules to parse out the individual components of each development type to determine which of those site elements make up to the "site" and which of those are not part of the site for determining a buffer.

For example, would landscaping be considered part of the site and included within the boundary from which the beginning point of a buffer would be measured? In practice, if it was determined that the landscaped areas, outdoor basketball court or tennis court of a school would not be included within the boundary from which a buffer distance would begin, would those same amenities be similarly excluded from an apartment complex, park or community center?

Additionally, as the Commission considers the merits of potentially defining a new set of definitions/standards for distance measurements it is instructive to recall that zoning requirements exist to serve the public good. To what public benefit would this new set of definitions/standards serve?

The second question (What do you measure to?) is also partially addressed by Mr. Koch's memo by the phrase "to the closest point of the premises." While McMinnville does not have an adopted definition for the word "premises" the Oregon Administrative Rules (OAR 845-025-1015(37) provides that the definition of premises depends on what type of marijuana facility is in question.

"Premises" or "licensed premises" includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015: (A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms; (B) All areas outside a building

that the commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and (C) For a location that the commission has specifically licensed for the production of marijuana outside a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has a right to occupy."

Importantly, the State's direction above is specifically relevant to the State licensing of a marijuana facility for business/operational purposes and not matters of land use. However, McMinnville is not bound to the State's layered definition of "premises." Rather, for land use purposes, McMinnville has historically and consistently applied the common definition of premises to mean the property on which specific improvement(s) are located. For example, your residential premises is not just your home, but also the entirety of the property on which your home is located; this includes your driveway, lawn, garden shed, patio or deck, etc. Similarly, the premises of an elementary school includes the playground, driveway, parking lot, landscaping and so on, not just the area enclosed within the walls of the school building.

Also, to gain land use approval for a development proposal, the proposed use needs to provide other site improvements (such as vehicular access, parking, landscaping, pedestrian connection to a public way, etc.). Without provision of these elements, the development would not meet minimum standards of the zoning ordinance and would not be approved. They are integral and part of the site (or "premises") for land use purposes.

Staff suggests that the required 1,000 buffer related to marijuana facilities be measured to the property line of the parcel or lot on which the proposed marijuana related use would be located. Continuing this as the Department's practice would remain consistent with other distance measurements employed by the Planning Department.

To address the third question (Should you measure in a straight line or by some other less direct route?) it may be helpful to consider a couple of common definitions:

The Merriam-Webster Dictionary defines "distance" as "the amount of space between two places of things." Wikipedia defines "distance" as "a numerical description of how far apart objects are." While these definitions are not adopted in city code, they are instructive in providing a common nuance to the terms. Of note, they both imply a straight-line measurement. A suggestion was previously offered by the Commission that perhaps the 1,000 foot buffer might be measured by plotting alternative walking paths.

The Planning, Building and Engineering Departments' practice of calculating distance is to almost exclusively utilize a straight-line method. Examples of this type of measurement include calculations of building height and building area, street frontage, block length, property dimensions and lot area, notification distances for land use applications, parking stall dimensions and so on. -- Exceptions to this are unique situations such as measuring the curve radius of an intersection curb return, calculating an uneven surface area such as topography or street curvature, or measuring the distance of a non-linear feature such as a linear distance measurement of the Cozine Creek centerline.

Without very compelling reasons to deviate from past practice, staff would not support defining a new method of distance measurement specifically for marijuana related uses unique from the industry standard currently employed.

The fourth question relates to the tool that is used by the Planning Department to calculate distance. The Commission had previously raised questions regarding the validity of mapping provided by the Planning Department; in part due to the phrase “not to scale” that was present on a map indicating a medical marijuana buffer.

Currently, and for many years, the Planning Department has purchased licenses for and utilized various mapping programs within the ArcGIS suite. The Planning Department is currently using ArcMap 10.2.2 (released in 2014) which is a geospatial processing program used to generate digital mapping analysis. Currently, ArcMap is the most accurate tool that is available to the City for such purposes and has been a very reliable product in the industry. The 1,000 foot marijuana se related buffers generated by this program are based on entering a radius distance to be measured from the perimeter (property boundary) of a site. This request is then calculated and displayed based on the content of the City’s digital map database.

Maps used for planning, building and engineering purposes are typically printed (or plotted) to specific scales (for example, 1:50, 1:1/4, etc.) as the situation requires. As a courtesy and to enhance ease of use, printing a map that is not to a known or accepted scale typically includes a note to the effect of “not to scale” to let the viewer know that the map is not printed to one of the expected industry standard scales. Placing this note on a map does not mean that the map is incorrectly displaying data or that the map is untrustworthy. Rather, just that it will not match one of the standard architectural or engineering scales.

Staff suggests that the mapping graphics provided by the Planning Department are reliable and accurate graphic representations to the digital data the graphic is based on. Should the Commission choose to explore alternative mapping methods staff would request that the Commission provide specific direction regarding that method.

How should the City define a “school?”

While the McMinnville zoning ordinance contains numerous references to “school,” the term “school” is not defined. In common parlance, we know that a school is a facility of some type that provides an educational service. In McMinnville, our schools are known quantities and some of the things that we know about them are their names, where they are, whom they serve and what their boundaries are.

The State of Oregon however does provide a definition of the term “school” and the City has recently relied on that definition as a benchmark for applying buffers within which marijuana related facilities cannot locate. However, recent public discussions with both the McMinnville City Council and Planning Commission have led to questioning if that definition is sufficient for McMinnville’s purposes and even if that that definition should be locally employed at all. The State defines a public or private elementary or secondary school at OAR 333-00831110(2)(a-e) as:

- (a) Is a public or private elementary or secondary school as those terms are defined OAR 333-008-0010¹
- (b) There is a building or physical space where students gather together for education purposes on a regular basis;
- (c) A curriculum is provided;
- (d) Attendance is compulsory under ORS 339.020 or children are being taught as described in ORS 339.030(1)(a)²; and
- (e) Individuals are present to teach or guide student education. (OAR 333-008- 1110) (ef. 1-28-15)³

As McMinnville is not bound to utilize this five-part "test" for determining what a school is, the Commission recently voiced their concern that the state's definition was too vague and did not provide enough clarity and was therefore not particularly useful as a guide for identifying what a school is. Recently, for land use questions pertaining to the location of marijuana related businesses, the City Council had relied on this definition to determine whether the McMinnville Tennis Courts were constituted a school. The Council determined that these specific tennis courts were a school and warranted the provision of a 1,000 foot buffer from marijuana related businesses. Subsequently, a land use appeal was before the Planning Commission where the Commission found the opposite and voiced the concern noted above. The Commission also stated interest in discussing further how to more clearly craft a definition of "school" that would be more specific that the State's five-part "test" and provide a better basis for identifying what a school is for future land use decisions.

Staff does not have a recommendation at this point as to how the state's guidance should be improved upon. A good starting point for this endeavor may be for the Commission to begin identifying what about the State's guidance is too vague. This may generate a list of school/educational related terms, processes or practices that the Commission could spend time

¹ Elementary School is defined at OAR 333-008-0010(21) "Elementary school" means a learning institution containing any combination of grades Kindergarten through 8. --- Secondary School is defined at OAR 660-008-0010(60) "Secondary school" means a learning institution containing any combination of grades 9 through 12 and includes those institutions that provide junior high schools which include 9th grade.

² Oregon Revised Statute -- ORS 339.020(1-4) (1)Every person having control of a child between the ages of 7 and 18 years who has not completed the 12th grade is required to send the child to, and maintain the child in, regular attendance at a public full-time school during the entire school term. (2)If a person has control of a child five or six years of age and has enrolled the child in a public school, the person is required to send the child to, and maintain the child in, regular attendance at the public school while the child is enrolled in the public school. (3)For the purpose of subsection (1) of this section, a child is considered to be six years of age if the sixth birthday of the child occurred on or before September 1 immediately preceding the beginning of the current school term. (4)For a child who is six years of age, the requirement of subsection (1) of this section is met if the person having control of the child sends the child to, and maintains the child in, regular attendance in any grade of a public full-time school during the entire school term.

³ Oregon Revised Statute -- ORS 339.03(1)(a) Children being taught in a private or parochial school in the courses of study usually taught in kindergarten through grade 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.

Page 6

further refining or defining to add clarity. With this, staff would also suggest a context within which this effort would occur and that similar to a comment offered above which is to identify the public benefit this new definition or set of standards would serve? This may help the Commission in clearly identifying the public need this effort would be undertaken to address.

Should a Medical Marijuana Dispensary be required to be separated from a Commercial Recreational Marijuana Retail business by a minimum distance?

Current State of Oregon regulations provide two separation requirements for marijuana related businesses. The ORS requires that medical marijuana dispensaries be separated from each other by a minimum of 1,000 feet. Additionally, the state limits local jurisdictions from separating commercial recreational retail marijuana businesses by more than 1,000 feet.

Chapter 17.64 (Marijuana Related Activities) of the McMinnville zoning ordinance employs both of those limitations by requiring a minimum 1,000 foot separation between similar types of marijuana business; medical to medical and retail to retail. However, there is no state or local separation requirement between medical and retail marijuana related businesses. In McMinnville, a medical and a retail marijuana business can locate adjacent to each other or even in the same business location; McMinnville currently has two or more such combines business locations in operation).

The City Council recently voiced an interest in evaluating whether or not the 1,000 foot separation should be for a facility regardless of whether or not the use is a medical marijuana dispensary or a retail outlet if there is concern about separation. The two questions before the Commission on this issue are:

1. Would the Commission endorse such a separation requirement?
2. If so, what distance separation would be appropriate?



PLANNING DEPARTMENT
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

(503) 434-7311
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: September 15, 2016
TO: Planning Commission Members
FROM: Chuck Darnell, Associate Planner
SUBJECT: Work Session Discussion - Potential Sign Ordinance Amendments

Report in Brief:

Work session discussion to evaluate potential sign ordinance amendments needed to develop a program for non-conforming signs identified in the McMinnville City Code, Zoning Ordinance, and to comply with recent federal case law.

Background:

In November 2008, the City of McMinnville adopted an updated sign ordinance (Ordinance 4900). This ordinance included an amortization process which would bring nonconforming signs into compliance with the updated sign regulations. The original deadline for nonconforming signs to be brought into compliance was eight years from the adoption of the ordinance, and that deadline is approaching at the end of 2016. The ordinance also required that notice of sign noncompliance be "mailed to affected property owners following the adoption of this ordinance and again no later than one year prior to the end of the amortization period" (Section 17.62.110(C)). Due to limited staffing and resources, the Planning Department has not sent out notification of the upcoming deadline to impacted property and business owners. Staff would like to amend the code to provide more time for notification and compliance.

In addition, a recent United States Supreme Court case, *Reed v. Town of Gilbert*, has defined how sign regulations cannot violate the First Amendment and the right to free speech. Based on the ruling from that case, a sign ordinance that regulates based on the message or content of the sign is content based and would fail the strict scrutiny test if challenged in court. Local governments have been advised to review their sign codes to determine whether the existing regulations are content neutral, or in other words, that the regulations do not treat signs differently based on the content or message of the sign itself.

Discussion:

Sign Code Compliance: The Planning Department has been working with the City Attorney to develop an updated amortization process that will briefly extend the deadline for property owners to come into compliance, and would also require the City of McMinnville to provide a notification prior to taking any enforcement action. This extension is being proposed to provide additional time for Planning Department staff to work with individual property owners that are currently in violation of the sign ordinance in order to encourage voluntary compliance. The ordinance amendments being considered would require the City to notify property owners in violation following the adoption of the updated amortization process, and then notify property owners again six months prior to taking any enforcement action.

The rationale for providing the six month notification is that the signs in non-compliance are in most cases larger than allowed and a comparable signage program is usually a significant budget expense for businesses and property owners. Additional time will allow those that are impacted to plan for the modifications needed in their budgets. The Planning Department is also considering adding language that would allow for a property owner with a nonconforming sign to appeal their notification of sign noncompliance by requesting an exception from the requirements of the sign regulations.

Reed v. Gilbert: In regards to the content neutrality of the current sign regulations, the Planning Department will be completing a thorough review of the sign ordinance to determine whether there are any regulations that could be found to be content based. This will include a review of all sign ordinance regulations, as well as sign definitions. A basic and simple way to determine whether a regulation is content neutral is to determine whether you need to read the content or message on the sign itself to enforce the regulation.

Fiscal Impact:

Notification costs will be associated with the amortization process. Amendments to the sign ordinance based on content neutrality, if any are identified, could prevent future litigation costs if any regulation was challenged.

Recommendation/Suggested Motion:

The Planning Department will provide a powerpoint at the work session to help guide the Planning Commission through the issues and facilitate a dialogue. Then per the direction of the Planning Commission, staff will draft proposed text amendments and provide those at a future meeting for consideration. No motion is required at this time.



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: September 15, 2016
TO: Planning Commission Members
FROM: Heather Richards, Planning Director
SUBJECT: Work Session Discussion – Goal 1, Citizen Involvement

Report in Brief:

This is a work session to evaluate the current structure of a Citizen Advisory Committee and how it achieves Oregon Land Use Goal #1 for citizen involvement.

Background:

Goal #1 of the Oregon land use system is citizen involvement. Oregon Administrative Rules (OAR) 660-015-0000(1) requires that each governing body charged with adopting and administering a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process.

The program needs to incorporate the following components:

1. Citizen Involvement – To provide for widespread citizen involvement by appointing an officially recognized committee that represents a cross-section of affected citizens in all phases of the planning process. This can be the Planning Commission or a separate committee.
2. Communication – To assure effective two-way communication with citizens.
3. Citizen Influence – To provide the opportunity for citizens to be involved in all phases of the planning process.
4. Technical Information – To assure that technical information is available in an understandable form.
5. Feedback Mechanisms – To assure that citizens will receive a response from policy-makers.
6. Financial Support – To insure funding for the citizen involvement program.

The City of McMinnville achieves this program with the Citizen Advisory Committee, a city appointed committee first enabled by Resolution No. 1976-11, which was most recently amended by Resolution No. 1985-1. (See attachment).

Interestingly the Resolution appoints the Planning Commission officially as the Citizen Involvement Committee but also enables a Citizen Advisory Committee.

Discussion:

The Citizen Advisory Committee has not met since 2000 and has three members appointed with four vacancies. It does not appear to be effective or relevant at this point.

Other communities operate with the Planning Commission as the standing Citizen Involvement Committee, and establish a Citizen Advisory Committee and Technical Advisory Committee for each significant long-range planning effort. The Citizen Advisory Committee is then populated with interested residents and stakeholders that meet for a prescribed period of time to develop the product, conduct a public process and then hand the product to the Planning Commission for a formal public deliberation and adoption process. Typically these committees are 15 – 20 people, and include members of city commissions and committees as appropriate, as well as city partners, other stakeholders and interested residents. This type of process allows for a robust public participation that is specific and timely. The Technical Advisory Committee is then often appointed with technical experts who work with city staff on providing the due diligence, research and review needed to support the Citizen Advisory Committee.

Fiscal Impact:

There is no anticipated fiscal impact.

Recommendation/Suggested Motion:

The Planning Department will provide a powerpoint at the work session to help guide the Planning Commission through the issues and facilitate a dialogue. Then per the direction of the Planning Commission, staff will draft proposed text amendments and provide those at a future meeting for consideration. No motion is required at this time.

RESOLUTION NO. 1985-1

A Resolution creating a citizen involvement process to carry out certain policies adopted in the McMinnville Comprehensive Plan, 1981, and to adopt bylaws for the reconstituted Citizens' Advisory Committee. Resolution No. 1981-4 and Resolution No. 1982-8 are repealed with adoption of the resolution.

WHEREAS, the McMinnville City Council in the adoption of the McMinnville Comprehensive Plan, 1981, pledges to continue to engage citizens in community advisory positions for input on the major elements of the comprehensive plan. This input will be accomplished through the reconstitution of the Citizens' Advisory Committee. The City Council also pledges to undertake a major review of the comprehensive plan every five years, starting in July of 1985, to make necessary amendments; now; therefore,

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. The City of McMinnville shall continue to provide opportunities for citizen involvement through appointment of citizens from the community to the Planning Commission and Citizens' Advisory Committee and by conducting open meetings before both bodies as is required by City ordinance or resolution. In addition, notice of public hearings before the Planning Commission and the City Council shall be given as per the requirements of McMinnville Ordinances No. 3380 and No. 3702 and other ordinances, as appropriate.
2. The Planning Commission of the City of McMinnville shall serve as the Citizen Involvement Committee (CIC) and shall review the citizen involvement program annually (September meeting). The Planning Commission shall have the powers and duties as are now or may hereafter be provided by state law, city charter, and ordinances including but not limited to Ordinances No. 3688 as amended, No. 3702 as amended, and No. 3380 as amended, and as assigned by the City Council.
3. Public hearings before the Planning Commission shall be conducted as per the requirements of Ordinance No. 3682 as amended and as per the requirements of state law and other applicable city ordinances.
4. The Citizens' Advisory Committee (CAC) shall be reconstituted as enumerated below:
 - (a) Membership.
 - (1) The Citizens' Advisory Committee shall consist of seven members, selected from within the Urban Growth Boundary. The members shall be appointed by the City Council for four-year terms. The members who are serving three-year terms at the time of the adoption of this resolution shall have a year added onto their respective terms so that all terms become four years in length. Members may be reappointed by the City Council for a second term, and may be appointed to the expanded Citizens' Advisory Committee for the major review period. Members may not serve more than two consecutive four year terms. City Council members, Planning Commissioners, Airport Commissioners, and Water and Light Commissioners may not serve on the committee.

- (2) The duties and responsibilities of the Citizens' Advisory Committee shall be as set forth in this resolution and by the City Council in adopted bylaws.
 - (3) An additional eight members of the community, selected from within the Urban Growth Boundary or from within the planning area of influence as defined in the Urban Growth Boundary Management Agreement, shall be appointed to the Citizens' Advisory Committee by the Council prior to the scheduled comprehensive plan update. These members shall serve as long as necessary to accomplish the update and shall only make recommendations on the update of the plan.
 - (4) The City shall solicit membership on the Citizens' Advisory Committee through news releases in the local media. The Council will seek to appoint members from all levels of the social and economical structure of the City.
- (b) Citizens' Advisory Committee Involvement Program.

- (1) The Citizens' Advisory Committee shall be responsible for making recommendations on long range goals and policies for community conservation and development to the Planning Commission and/or City Council. The Citizens' Advisory Committee shall not make recommendations on planning issues which are "quasi-judicial" in nature.
- (2) Specific responsibilities of the Citizens' Advisory Committee shall be to make recommendations on land use goal and policy development, amendments to the comprehensive plan text, amendments to the urban growth boundary, amendments to the urban growth management agreement, and implementation ordinance text amendments as assigned by the Planning Commission.
- (3) The Citizens' Advisory Committee shall be able to initiate requests for amendments to the comprehensive plan text, maps, (comprehensive and zoning) or implementation ordinances as is necessary to accomplish the recommendations formulated and being forwarded to the Planning Commission for consideration.
- (4) The Citizens' Advisory Committee, in its expanded form, shall be able to participate in the preparation and development of background elements, goals, policies, proposals, and implementation ordinance amendments and revisions during the comprehensive plan update.
- (5) All meetings of the Citizens' Advisory Committee shall be open to the public and conducted as public forums (informal hearings) in which testimony can be received. Recommendations of the Citizens' Advisory Committee shall be forwarded to the Planning Commission and the City Council as attachments to the staff

report. The final decision of the Planning Commission/City Council and the rationale used to reach that decision, shall be relayed back to the Citizens' Advisory Committee.

- (6) The Citizens' Advisory Committee, subject to approval of the budgetary officer, may distribute questionnaires to seek community attitudes on pertinent planning matters.
- (7) Notice shall be provided to the local newspaper prior to Citizens' Advisory Committee meetings when possible. Notice of all meetings shall also be posted in City Hall.

5. The City of McMinnville will continue to provide additional opportunities for citizen involvement in all phases of the planning process. That process will involve communication of opportunities for participation, provision of technical information for all planning related requests, creation of feedback mechanisms to evaluate decisions and keep citizens informed, and continuation of support of the citizen involvement program by the City.

- (a) Communication - All planning related items and meetings shall be given publicity through one or more of the following methods: News releases or notice to local media (newspaper and/or radio), meeting notices and/or agendas posted in City Hall, notices and/or agendas posted in the community in conspicuous places, and legal notices and property owner notices where required. Special attention shall be paid to communication during comprehensive plan updates.
- (b) Technical Information - In addition to providing information through news releases, the City shall make available all technical information, application forms, letters and other information pertaining to both comprehensive and current planning matters during normal office hours at City Hall (Planning Department) for public inspection. Copies of the comprehensive plan and zoning and land division ordinances shall be placed on reserve at the municipal library. Some information shall be provided free of charge to the general public. The type of information, and amount, for free distribution shall be determined by the City.

The city staff shall also be available to assist in the interpretation and effective use of the technical information.

- (c) Feedback Mechanisms - Feedback throughout the planning process shall take several forms. First, verbal communication between elected and appointed officials at public meetings and hearings shall constitute valid feedback. Documentation of such feedback shall be through recorded tapes and minutes. Upon request, individuals shall be supplied with documentation of decisions (findings of fact) or written responses from staff (at the direction of the Council, Planning Commission, or Citizens' Advisory Committee) to answer specific inquiries.

Evaluation of feedback mechanisms shall be undertaken by the Planning Commission annually, as previously noted. Prior to that evaluation, recommendations shall be sought from the Citizens' Advisory Committee and public comment shall be elicited through news releases. The Planning Commission shall propose any changes in the citizen involvement process to the City Council for consideration.

- (d) Support - Subject to budgetary constraints, which may occur in the future, the City shall support citizen involvement by providing staff assistance to the Citizens' Advisory Committee and through providing necessary funds for participation and dissemination of information.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 2 day of January, 1985, by the following votes:

Ayes: Bernt Hanson, Johnstone, Wertz, Carole Hansen, and Wilson

Nays: _____

Approved this 2 day of January, 1985.

Edward J. Gentry
MAYOR

Attest:

Marym E. Herben
RECORDER