

Kent Taylor Civic Hall 200 NE Second Street McMinnville, OR 97128

City Council Meeting Agenda Tuesday, August 13, 2019 6:30 p.m. – Work Session 7:00 p.m. – Regular Council Meeting

Welcome! All persons addressing the Council will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. If you wish to address Council on any item not on the agenda, you may respond as the Mayor calls for "Invitation to Citizens for Public Comment."

6:30 PM -COUNCIL WORK SESSION - COUNCIL CHAMBERS

- 1. CALL TO ORDER
- 2. DISCUSSION ON POSSIBLE COMPETING MEASURE RELATED TO MEASURE 36-202 (Charter Amendment: Restricts City Regulations and Fees on Care Facilities)
- 3. ADJOURNMENT

7:00 PM - REGULAR COUNCIL MEETING - COUNCIL CHAMBERS

- 1. CALL TO ORDER
- 2. PLEDGE OF ALLEGIANCE
- 3. INVITATION FOR PUBLIC COMMENT The Mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit comments to 3 minutes per person for a total of 30 minutes. Please complete a request to speak card prior to the meeting. Speakers may not yield their time to others.
- 4. PRESENTATION
 - a. Three Mile Lane Area Plan Update Planning Director Heather Richards
- 5. POSSIBLE MOTION TO FILE NOTICE A REQUEST FOR BALLOT TITLE FOR COMPETING MEASURE RELATED TO MEASURE 36-202 (Charter Amendment: Restricts City Regulations and Fees on Care Facilities)
- 6. ADVICE/INFORMATION ITEMS
 - a. Reports from Councilors on Committee & Board Assignments
 - b. Department Head Reports
 - c. Cash and Investment Report- May

7. CONSENT AGENDA

- a. Consider request from Morning Thunder Cafe located at 619 NE 3rd Street C1 for an OLCC Limited on-premises Liquor License.
- b. Consider request from JADA Ventures, LLC DBA: Two Dogs Taphouse located at 608 NE 3rd Street for a Limited on-premises Liquor License.

8. RESOLUTIONS

- a. Consider **Resolution No. <u>2019-56</u>**: A Resolution authorizing the acquisition of property for the Old Sheridan Road Improvements Project, and exercising the power of eminent domain.
- b. Consider **Resolution No. <u>2019-55</u>**: A Resolution approving a lease amendment and extension with Comcast of Oregon II, Inc.
- c. Consider **Resolution No. <u>2019-52</u>**: A Resolution amending the composition of the Affordable Housing Task Force.
- d. Consider **Resolution No. <u>2019-53</u>**: A Resolution appointing members to the Affordable Housing Task Force.
- e. Consider **Resolution No. <u>2019-54</u>**: A Resolution adopting a Code Violation Civil Penalty Schedule. (will be considered after Ordinance No. 5079).

9. ORDINANCES

- a. Consider first reading with possible second reading of **Ordinance No**. **5074**: An Ordinance amending the Comprehensive Plan Map Designation of the property at 1901 NW Baker Creek Road from a mixture of Commercial and Residential to only Residential.
- b. Consider first reading with possible second reading of **Ordinance No. <u>5075</u>**: An Ordinance amending the zoning designation of the property at 1901 NW Baker Creek Road from a mixture of R-1 (Single Family Residential) and EF-80 (Exclusive Farm Use) to only R-1 (Single Family Residential).
- c. Consider first reading with possible second reading of Ordinance No. <u>5076</u>: An Ordinance amending an existing Planned Development Overlay District to remove the property at 1901 NW Baker Creek Road from the Planned Development Overlay District.
- d. Consider first reading with possible second reading of **Ordinance No. <u>5077</u>**: An Ordinance approving a Conditional Use to allow for the expansion of an existing electrical power substation at 1901 NW Baker Creek Road.
- e. Consider first reading with possible second reading of **Ordinance No**. <u>5078</u>: An Ordinance amending Title 2 of the McMinnville Municipal Code, creating Chapter 2.50 establishing a civil code enforcement process.
- f. Consider first reading with possible second reading of **Ordinance No. <u>5079</u>**: An Ordinance amending Titles 8, 9 and 17 of the McMinnville Municipal Code, relating to public nuisances.
- g. Consider first reading with possible second reading of **Ordinance No**. **5080**: An Ordinance amending McMinnville Municipal Code Chapter 5.10 provisions related to the Local Transient Lodging Tax.

10. ADJOURNMENT

Kent Taylor Civic Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made a least 48 hours before the meeting to the City Recorder (503) 435-5702 or melissa.bisset@mcminnvilleoregon.gov.



City of McMinnville
Administration
230 NE Second Street
McMinnville, OR 97128
(503) 435-5702
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 13, 2019

TO: Mayor and City Councilors

FROM: Melissa Bisset, City Recorder/ Elections Official

SUBJECT: Discussion on possible competing measure related to Measure 36-202

Background:

The City received a prospective petition from Arthur Bradley on December 7, 2018. The Chief petitioner, Mr. Bradley, was notified that State Law requires 15% of the registered voters in the City the day the prospective petition is filed sign the petition signature sheets. According to the Yamhill County Elections Office there were 20,627 registered voters in the City of McMinnville and 3,095 signatures were needed to qualify the petition for the ballot.

On December 21st the City Attorney certified and filed the ballot title in compliance with ORS 250.035. The ballot title along with directions for petitioning the ballot title were posted on the City of McMinnville's website and public notice of the ballot title was published in the December 28th News Register. The Chief petitioner filed a petition for review of the ballot title with the Yamhill County Circuit Court. On March 5th Circuit Court Judge Jennifer Chapman issued a letter of opinion regarding the ballot title.

On May 17th the Chief petitioner met the requirements outlined in State Statute and began to circulate the petition. Petition signature sheets were returned to the Elections Official on July 3rd. On July 18th the Yamhill County Elections Office verified 3,455 to be valid.

The initiative contained the required number of signatures and the initiated measure was filed with the City Council on July 23rd. The Notice of Measure Election was filed with the County Elections Official on July 30th.

Discussion:

The City Council may choose to refer a competing measure to the voters. The competing measure must be prepared not more than 30 days after the filing of the petition with the Council and no later than the 80th day before the November 5, 2019 election.

The City Referral Steps are outlined on page 10 of the Elections Division Referral Manual.

Attachments:

City Referral Steps
Referral Manual

Form SEL 805: Request for Ballot Title

Recommendation:

If the City Council wishes to refer a competing measure to the voters, the Council must file the text of the referral for ballot title preparation or the ballot title for publication of notice of receipt of ballot title with the Elections Official. As noted above, it must be filed no later than the 80th day before the November 5, 2019 election which is August 16th. The Council may use Form SEL 805 to file.

City Referral Steps

City Governing Body

- Begin process by filing with city elections official the:
 - → ballot title (skip to step 4)
 - → referral text (continue to step 2).
 - (1) 80th day before the election

City Attorney

- 3 Prepare and files ballot title that impartially summarizes the referral and its major effect.
 - 5th business day after receipt

Registered Voter (steps not required)

- 5 Voter who is dissatisfied with ballot title can petition circuit court for review.
 - 7th business day after ballot title filed
- 6 Voter notifies city elections official of petition filing.
 - 5pm 1st business day after the petition is filed with circuit court

County Elections Official

- 8 Assign measure number.
 - any time after deadline to file notice of measure election

City Elections Official

- **2** Forward a copy of the referral text to the city attorney for preparation of a ballot title.
 - next business day after receipt of referral
- Publish receipt of ballot title.
 - next available edition of a newspaper of general circulation in the city
 - in addition, the notice may also be published on the city's web site for a minimum of seven days.
- 7 File with the county elections official form SEL 802 containing the final ballot title and an explanatory statement, if required.
 - (1) 61st day before the election

Competing Measure

If a qualified initiative is filed by the city elections official at a city governing body meeting that occurs on the 90th day before the election and the governing body refers a competing measure, the ballot title process including the challenge period must be completed no later than the 61st day before the election.

City Referral Process



Local charter or ordinance requirements do not supersede ORS 250.035 relating to ballot title format or the statement of measures filed under ORS 254.095.

Once a city governing body adopts a resolution referring a measure for the voters to decide, a ballot title must be drafted. All ballot titles must comply with the requirements in ORS 250.035.

Ballot Title Process

ORS 250.035, 250.275, 250.285, and 250.296

A ballot title is a concise and impartial statement prepared by the city governing body or the city attorney that will be printed on the ballot summarizing the referral and its major effect. Any voter may challenge the ballot title in circuit court and the referral may only appear on the ballot once this process is complete.

1 Preparation

For any referral, the city governing body may:

> prepare and file a ballot title with the city elections official

or

→ file referral text with the city elections official.



Form SEL 805 Request for Ballot Title - Preparation or Publication of Notice may be used to file:

→ the text of the referral for drafting of a ballot title

or

→ the ballot title drafted by the governing body or city attorney for publication of notice.

The city elections official will forward a copy of the referral text to the city attorney for preparation of a ballot title. After receiving the referral, the city attorney drafts and files a ballot title with the city elections official.

2 Format

Each ballot title must contain all of the following elements:

- → a caption that does not exceed 10 words describing the subject of the referral;
- → a question that does not exceed 20 words plainly phrasing the main purpose of the referral so that an affirmative response to the question corresponds to a yes vote on the referral; and
- → a summary that does not exceed 175 words describing the major effect of the referral.
 - Additional ballot title requirements apply to referrals requesting a general obligation bond, a local option tax, or a permanent rate limit.
 - For further information you may contact the Elections Division, your bond counsel, or the Oregon Department of Revenue, Property Tax Division 800 356 4222.

3 Notice

After receiving a ballot title from the city governing body or the city attorney, the city elections official publishes notice in the next available edition of a newspaper of general circulation that any voter may challenge the ballot title. It is advisable to also publish the notice on the city website for a minimum of seven days. The notice must include all of the following:

- → a statement that a ballot title has been received and that any voter may file a petition for review of the ballot title;
- → the deadline for filing a petition for review of the ballot title with the circuit court; and
- → the ballot title provided by the city governing body or city attorney or information on how to obtain a copy.



Notice must be published prior to the deadline to file a petition to review the ballot title.

4 Ballot Title Appeal

Any registered voter who is dissatisfied with the ballot title may petition the circuit court to review the ballot title. If a registered voter files a petition to review a ballot title with the circuit court, the voter must:

- → name the city governing body or city attorney as respondent, depending who prepared the ballot title;
- → state the reasons why the ballot title is insufficient, not concise or unfair; and
- → notify the city elections official in writing that a petition has been filed.



If the notification of the city elections official is not timely filed, the petition to the circuit court may be dismissed.

5 Circuit Court Review

When a petition is filed, the circuit court conducts its review and renders its decision certifying a ballot title meeting the requirements of ORS 250.035. The review of the ballot title by the circuit court shall be the first and final review.



If the Circuit Court certifies a different ballot title, the city elections official forwards the final ballot title to the city official authorized to submit notice of measure election for preparation of form SEL 802.

Explanatory Statement

ORS 251.067, 251.285, 251.345, and OAR 165-022-0040

An explanatory statement is an impartial, simple and understandable statement explaining the measure. The city governing body must prepare and file an explanatory statement of no more than 500 words for a referral **only** if:

→ the county is producing a voters' pamphlet

or

→ the referral will appear in the state voters' pamphlet.



Cities are encouraged to adopt and comply with an ordinance that provides a judicial review procedure for an explanatory statement which is contested. If a city measure is to appear in the state voters' pamphlet, a judicial review procedure is required.



See the State Voters' Pamphlet Manual available at www.oregonvotes.gov for additional requirements for referrals appearing in the state voters' pamphlet.

Certification of Referral to Ballot

ORS 254.095

The city governing body must certify that the challenge process is complete and file the final ballot title on:



Form SEL 802 Notice of Measure Election - City.



If the county is producing a voters' pamphlet, the county elections official will reject any SEL 802 that is not accompanied by an explanatory statement.

After receiving a city referral, the county elections official assigns a measure number.



Ballot measure numbers will not be repeated. If the measure is later removed from the ballot, the measure number will not be re-used.

Withdrawal of Referral

To withdraw a referral, the city governing body must complete and file with the county elections official:



Form SEL 804 Withdrawal - Notice of Measure Election.



The SEL 804 must be submitted no later than the 61st day before the election.

Referral Manual

Published by

Elections Division 255 Capitol St NE, Suite 501 Salem, OR 97310-0722 Adopted by

Oregon Administrative Rule No. 165-014-0005



3 503 986 1518



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Using This Manual

This manual contains the procedures for a county, city, or district referral. It is very important to review the procedures thoroughly and follow the instructions completely.



Failure to follow the instructions contained in this manual may result in the removal of the referral from the ballot.

Icons

The following icons are used in this manual to emphasize information:



alert icon

indicates alert; warning; attention needed



info icon

indicates additional information



deadline icon

indicates a deadline



petition sheet icon

indicates a reference to a signature sheet



form icon

indicates a reference to a form



search icon

indicates information located elsewhere

Assistance

If you have questions about the material covered in this manual or need further assistance, please contact:

Elections Division

255 Capitol St NE Suite 501

Salem OR 97310

503 986 1518

fax 503 373 7414

☑ elections.sos@oregon.gov

www.oregonvotes.gov

1 866 673 8683

se habla español

tty 1 800 735 2900

for the hearing impaired

Getting Started

A referral is a resolution prepared by a county, city, or district governing body to place a measure on the ballot for voters of the jurisdiction to decide. For any referral to appear on the ballot all of the following must occur:

- 1 drafting of ballot title;
- 2 publication of notice of receipt of ballot title;
- 3 completion of ballot title challenge period and if challenged completion of the ballot title review by circuit court; and
- 4 if necessary, drafting of explanatory statement only if the county is producing a voters' pamphlet.
 - An explanatory statement is an impartial, simple and understandable statement explaining the measure and its effect.
 - See OAR 165-022-0040 available at www.oregonvotes.gov.

Notice of Local Option Tax Measure or General Obligation Bond

House Bill 2873, which passed at the 2017 Regular Session, requires county elections officials to file with the Secretary of State a copy of the Notice of Measure Election for each local option tax measure or general obligation bond measure placed on the ballot by a municipal corporation.

2019 Local Elections Calendar

District Measures	March 12	May 21	September 17	November !
Last Day for County Elections Official to Publish				
→ notice of district board election	December 1	February 9	June 8	July 27
Last Day for County, City, or District Governing Body to	File with Local	Elections Offic	ial	
→ ballot title for publication of notice or	December 22	March 2	June 29	August 17
→ referral text for drafting of ballot title				
Last Day for Local Governing Body to File with County E	lections Officia	E:		
→ Form SEL 801 Notice of Measure Election - County	January 10	March 21	July 18	September 5
Form may only be filed upon completion of the l	pallot title challe	enge process.		
→ Form SEL 802 Notice of Measure Election - City	January 10	March 21	July 18	September 5
Form may only be filed upon completion of the l	pallot title challe	enge process.	572099 • CV374CII	V-1000
→ Form SEL 803 Notice of Measure Election – District	January 10	March 21	July 18	September 5
Form may not be filed until after the deadline for completion of the ballot title challenge process.	100	ely preceding e		
Last Day to File with County Elections Official				
→ arguments for inclusion in county voters' pamphlet	January 14	March 25	July 22	September 9

2020 Local Elections Calendar

March 10	May 19	September 15	November 3
November 30	January 30	June 6	July 16
ith Local Elections December 21	official February 29	June 27	August 15
			State of the state
y Elections Officia	al		
	March 19 enge process.	July 16	September 3
January 9 e ballot title chall	March 19 enge process.	July 16	September 3
for the immediat	March 19 ely preceding e	July 16 election has passed a	September 3 and only upon
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	March 12	July 20	August 27
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County Referral Steps

County Governing Body

- Begin process by filing with county elections official the:
 - → ballot title (skip to step 4)

O

- → referral text (continue to step 2).
- (7) 80th day before the election

District Attorney

- 3 Prepare and files ballot title that impartially summarizes the referral and its major effect.
 - 5th business day after receipt

Registered Voter (steps not required)

- 5 Voter who is dissatisfied with ballot title can petition circuit court for review.
 - 7th business day after ballot title filed
- 6 Voter notifies county elections official of petition filing.
 - 5pm 1st business day after the petition is filed with circuit court

County Governing Body

- 8 File with the county elections official form SEL 801 containing the final ballot title and an explanatory statement, if required.
 - (1) 61st day before the election

County Elections Official

- 2 Forward a copy of the referral text to the district attorney for preparation of a ballot title.
 - next business day after receipt of referral
- 4 Publish receipt of ballot title.
 - next available edition of a newspaper of general circulation in the county
 - in addition, the notice may also be published on the county's web site for a minimum of seven days.
- 7 If necessary, forward the final ballot title to county governing body.
 - next business day after receipt from circuit court
- 9 Assign measure number.
 - any time after deadline to file notice of measure election

County Referral Process



Local charter or ordinance requirements do not supersede ORS 250.035 relating to ballot title format or the statement of measures filed under ORS 254.103.

Once a county governing body adopts a resolution referring a measure for the voters to decide, a ballot title must be drafted. All ballot titles must comply with the requirements in ORS 250.035.

Ballot Title Process

ORS 250.035, 250.175, 250.185, and 250.195

A ballot title is a concise and impartial statement prepared by the county governing body or the District Attorney that will be printed on the ballot summarizing the referral and its major effect. Any voter may challenge the ballot title in circuit court and the referral may only appear on the ballot once this process is complete.

1 Preparation

For any referral, the county governing body may:

→ prepare and file a ballot title with the county elections official

or

→ file referral text with the county elections official.



Form SEL 805 Request for Ballot Title - Preparation or Publication of Notice may be used to file:

> the text of the referral for drafting of a ballot title

or

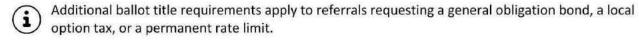
→ the ballot title drafted by the governing body or district attorney for publication of notice.

The county elections official will forward a copy of the referral text to the District Attorney for preparation of a ballot title. After receiving the referral, the District Attorney drafts and files a ballot title with the county elections official.

2 Format

Each ballot title must contain all of the following elements:

- → a caption that does not exceed 10 words describing the subject of the referral;
- → a question that does not exceed 20 words plainly phrasing the main purpose of the referral so that an affirmative response to the question corresponds to a yes vote on the referral; and
- → a summary that does not exceed 175 words describing the major effect of the referral.



For further information you may contact the Elections Division, your bond counsel, or the Oregon Department of Revenue, Property Tax Division 800 356 4222.

3 Notice

After receiving a ballot title from the county governing body or the District Attorney the county elections official publishes notice in the next available edition of a newspaper of general circulation that any voter may challenge the ballot title. It is advisable to also publish the notice on the county website for a minimum of seven days. The notice must include all of the following:

- → a statement that a ballot title has been received and that any voter may file a petition for review of the ballot title;
- → the deadline for filing a petition for review of the ballot title with the circuit court; and
- → the ballot title provided by the county governing body or District Attorney or information on how to obtain a copy.



Notice must be published prior to the deadline to file a petition to review the ballot title.

4 Ballot Title Appeal

Any registered voter who is dissatisfied with the ballot title may petition the circuit court to review the ballot title. If a registered voter files a petition to review a ballot title with the circuit court, the voter must:

- → name the county governing body or District Attorney as respondent, depending who prepared the ballot title;
- → state the reasons why the ballot title is insufficient, not concise or unfair; and
- → notify the county elections official in writing that a petition has been filed.



If the notification of the county elections official is not timely filed, the petition to the circuit court may be dismissed.

5 Circuit Court Review

When a petition is filed, the circuit court conducts its review and renders its decision certifying a ballot title meeting the requirements of ORS 250.035. The review of the ballot title by the circuit court shall be the first and final review.



If the Circuit Court certifies a different ballot title, the county elections official forwards the final ballot title to the county official authorized to submit notice of measure election for preparation of form SEL 801.

Explanatory Statement

ORS 251.067, 251.285, 251.345, and OAR 165-022-0040

An explanatory statement is an impartial, simple, and understandable statement explaining the measure. The county governing body must prepare and file an explanatory statement of no more than 500 words for a referral **only** if:

→ the county is producing a voters' pamphlet

or

> the referral will appear in the state voters' pamphlet.



Counties are encouraged to adopt and comply with an ordinance that provides a judicial review procedure for an explanatory statement which is contested. If a county measure is to appear in the state voters' pamphlet, a judicial review procedure is required.



See the State Voters' Pamphlet Manual available at www.oregonvotes.gov for additional requirements for referrals appearing in the state voters' pamphlet.

Certification of Referral to Ballot

ORS 254.103

The county governing body must certify that the challenge process is complete and file the final ballot title on:



Form SEL 801 Notice of Measure Election - County.



If the county is producing a voters' pamphlet, the county elections official will reject any SEL 801 that is not accompanied by an explanatory statement.

After receiving a county referral, the county elections official assigns a measure number.



Ballot measure numbers will not be repeated. If the measure is later removed from the ballot, the measure number will not be re-used.

Withdrawal of Referral

To withdraw a referral, a county governing body must complete and file with the county elections official:



Form SEL 804 Withdrawal - Notice of Measure Election.



The SEL 804 must be submitted no later than the 61st day before the election.

City Referral Steps

City Governing Body

- Begin process by filing with city elections official the:
 - → ballot title (skip to step 4)
 - or
 - → referral text (continue to step 2).
 - (7) 80th day before the election

City Attorney

- 3 Prepare and files ballot title that impartially summarizes the referral and its major effect.
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Registered Voter (steps not required)

- 5 Voter who is dissatisfied with ballot title can petition circuit court for review.
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County Elections Official

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 - any time after deadline to file notice of measure election

City Elections Official

- 2 Forward a copy of the referral text to the city attorney for preparation of a ballot title.
 - next business day after receipt of referral
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 - next available edition of a newspaper of general circulation in the city
 - in addition, the notice may also be published on the city's web site for a minimum of seven days.
- 7 File with the county elections official form SEL 802 containing the final ballot title and an explanatory statement, if required.
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If a qualified initiative is filed by the city elections official at a city governing body meeting that occurs on the 90th day before the election and the governing body refers a competing measure, the ballot title process including the challenge period must be completed no later than the 61st day before the election.

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Certification of Referral to Ballot

ORS 254.095

The city governing body must certify that the challenge process is complete and file the final ballot title on:



Form SEL 802 Notice of Measure Election - City.



If the county is producing a voters' pamphlet, the county elections official will reject any SEL 802 that is not accompanied by an explanatory statement.

After receiving a city referral, the county elections official assigns a measure number.



Ballot measure numbers will not be repeated. If the measure is later removed from the ballot, the measure number will not be re-used.

Withdrawal of Referral

To withdraw a referral, the city governing body must complete and file with the county elections official:

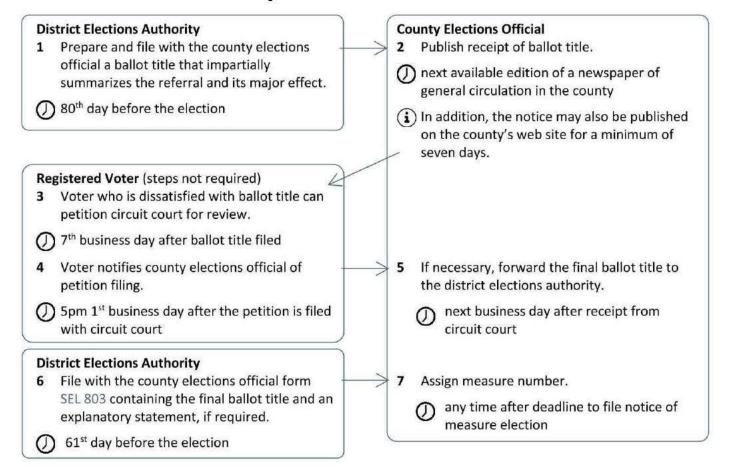


Form SEL 804 Withdrawal - Notice of Measure Election.

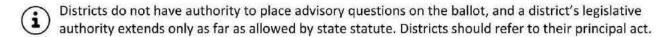


The SEL 804 must be submitted no later than the 61st day before the election.

District Referral Steps



District Referral Process



Once a district elections authority adopts a resolution referring a measure for the voters to decide, a ballot title must be drafted. All ballot titles must comply with the requirements in ORS 250.035.

Ballot Title

ORS 250.035, 255.085 and 255.145

A ballot title is a concise and impartial statement that will be printed on the ballot summarizing the measure and its major effect. Any voter may challenge the ballot title in circuit court, and the referral may only appear on the ballot once this process is complete.

1 Preparation

The ballot title is prepared by the district elections authority with the assistance of the District Attorney of the county where the administrative office of the district is located or an attorney employed by the district.

2 Format

Each ballot title must contain all of the following elements:

- → a caption that does not exceed 10 words describing the subject of the referral;
- → a question that does not exceed 20 words plainly phrasing the main purpose of the referral so that an affirmative response to the question corresponds to a yes vote on the referral; and
- → a summary that does not exceed 175 words describing the major effect of the referral.



Additional ballot title requirements apply to referrals requesting a general obligation bond, a local option tax, or a permanent rate limit.



For further information you may contact the Elections Division, your bond counsel, or the Oregon Department of Revenue, Property Tax Division 800 356 4222.

3 Notice

The district elections authority must file the ballot title with the county elections official for publication of notice. It is advisable to also publish the notice on the district website for a minimum of seven days. The ballot title may be filed using:



Form SEL 805 Request for Ballot Title - Preparation or Publication of Notice

The county elections official publishes in the next available edition of a newspaper of general circulation or mails to each voter in the district a notice that a ballot title has been received. It is advisable to also publish the notice on the county website for a minimum of seven days. The notice must include all of the following:

- → date of the election;
- → a statement that a ballot title has been received and that any voter may file a petition for review of the ballot title;
- → the deadline for filing a petition for review of the ballot title with the circuit court;
- → the ballot title drafted or information on how to obtain a copy; and
- → other information as applicable from the SEL 803 filed by the district elections authority.



Notice must be published prior to the deadline to file a petition to review the ballot title.

4 Ballot Title Appeal

Any registered voter who is dissatisfied with the ballot title may petition the circuit court to review the ballot title. If a registered voter files a petition to review a ballot title with the circuit court, the voter must:

- → name the district elections authority as respondent;
- → state the reasons why the ballot title is insufficient, not concise or unfair; and
- → notify the county elections official in writing that a petition has been filed.



If the notification of the county elections official is not timely filed, the petition to the circuit court may be dismissed.

5 Circuit Court Review

When a petition is filed, the circuit court conducts its review and renders its decision certifying a ballot title meeting the requirements of ORS 250.035. The review of the ballot title by the circuit court shall be the first and final review.



If the Circuit Court certifies a different ballot title, the county elections official forwards the final ballot title to the district elections authority for preparation of form SEL 803 and must publish an amended notice of election in the next available edition of a newspaper of general circulation in the district.

Explanatory Statement

ORS 251.067, 251.285, 251.345, and OAR 165-022-0040

An explanatory statement is an impartial, simple and understandable statement explaining the measure. The district elections authority must prepare and file an explanatory statement of no more than 500 words for a referral **only** if:

→ the county is producing a voters' pamphlet

or

- → the referral will appear in the state voters' pamphlet.
 - Districts are encouraged to adopt and comply with an ordinance that provides a judicial review procedure for an explanatory statement which is contested. If a district measure is to appear in the state voters' pamphlet, a judicial review procedure is required.
 - See the State Voters' Pamphlet Manual available at www.oregonvotes.gov for additional requirements for referrals appearing in the state voters' pamphlet.

Certification of Referral to Ballot

ORS 255.085

The district elections authority must certify that the challenge process is complete and file the final ballot title on:



Form SEL 803 Notice of Measure Election - District.



If the county is producing a voters' pamphlet, the county elections official will reject any SEL 803 that is not accompanied by an explanatory statement.

Withdrawal of Referral

To withdraw a referral, the district elections authority must complete and file with the county elections official:



Form SEL 804 Withdrawal - Notice of Measure Election.



The SEL 804 must be submitted no later than the 61st day before the election.



List of Forms

SEL 801

Notice of Measure Election - County

SEL 802

Notice of Measure Election – City

SEL 803

Notice of Measure Election - District

SEL 804

Withdrawal - Notice of Measure Election

SEL 805

Ballot Title Request - Preparation or Publication of Notice

Request for Ballot Title

Signature

SEL 805

Preparation or Publication of Notice

rev 01/18 OAR 165-014-0005

No later than the **80**th **day before an election**, a governing body that has referred a measure must prepare and file with the local elections official the text of the referral for ballot title preparation or the ballot title for publication of notice of receipt of ballot title. This form may be used to file the text of the referral and request the elections official begin the ballot title drafting process or file a ballot title and request the elections official publish notice of receipt of ballot title.

Filing Information			
Election Date	Authorized Official		
Contact Phone		Email Address	
Referral Information			
Title, Number or other Identifier			
This Filing is For			
Drafting of Ballot Title Attach referral	text.	Publication of Notice Ballot title below.	
Ballot Title Additional requirements m	nay apply		
Caption 10 words which reasonably identifies	the subject of the measu	ire.	
Question 20 words which plainly phrases the	chief purpose of the mea	asure.	
S			
Summary 175 words which concisely and imp	partially summarizes the i	measure and its major effect.	
By signing this document:			
• = =		ning body, or district elections authority to submit this Request	

Date Signed



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 13, 2019

TO: Mayor and City Councilors

FROM: Heather Richards, Planning Director SUBJECT: Three Mile Lane Area Plan Update

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

OBJECTIVE/S: Strategically plan for short and long-term growth and development that will create enduring value for the community

Report in Brief:

This is a presentation to update the City Council on the Three Mile Lane Area Planning project.

Attachments:

Three Mile Lane Area Plan Public Involvement Strategy Draft Presentation

Fiscal Impact:

This effort is funded by a Transportation Growth Management grant from Oregon Department of Transportation and Department of Land Conservation and Development.



City of McMinnville Planning Department 231 NE Fifth Street McMinnville, OR 97128 (503) 434-7311

www.mcminnvilleoregon.gov

MEMORANDUM

DATE: November 8, 2018

SUBJECT: THREE MILE LANE AREA PLAN (3MLAP) - PUBLIC INVOLVEMENT STRATEGY

Background

This project will develop an Area Plan for the Three Mile Lane corridor in McMinnville (approx. 1340 acres, see attached maps), updating the 1981 Three Mile Lane Overlay District and the 1996 Highway 18 Corridor Refinement Plan, integrating land uses (residential, industrial, commercial, tourism, hospital and airport) and a multi-modal transportation system (vehicular/bike/ped/transit) that serves both local and state transportation needs and provides active connectivity amongst the land uses on the Three Mile Lane corridor as well as with the city center. The area plan will also provide a vehicle to maximize the opportunities for job creation, housing, and resiliency planning in the corridor by leveraging the land assets to their highest and best use for affordable housing, industrial development, tourism development, opportunities for hospital- and airport- related activities, and gateway improvements.

Three Mile Lane is a corridor of mixed land uses (high density residential subdivisions, community college, hospital, roadside commercial, regional tourism commercial, industrial, office campus and airport). However the uses are disparate and are not connected very well with each other or with the city center with a multi-modal transportation system, With the aide of a consultant team and a Project Advisory Committee, this project will review the 1981 Three Mile Lane Overlay District, the 1996 Highway 18 Corridor Refinement Plan, and the 2010 McMinnville Transportation System Plan evaluating whether or not the proposed transportation scenarios are adequate for the evolving land uses, and develop new scenarios if necessary that ensure there are multiple connections amongst the land uses for enhanced mobility, and an unified local road network that allows for a variety of transportation options connecting the Three Mile Lane land uses to each other and the City Center.

In simpler terms, this Area Plan should set the stage for how this area should build out in the future, and the infrastructure that we need to plan for including roads, bicycle and pedestrian paths, sewer and water) to support that build out and ensure that all of the different uses are optimally connected with each other in a safe and convenient way as well as with the city center.

The City of McMinnville hopes to achieve, through a comprehensive public process, the development of an area plan for the Three Mile Lane district that depicts the future vision for the area in such a way that it:

• Integrates housing, economic development, tourism opportunities and gateway developments in a way that complements each other and creates enduring value for future generations.

- Leverages the land-use opportunities of Three Mile Lane for economic development opportunities so that the combined energies of the tourism destination of the Falls Event Center, the Hospital, the Commercial / Industrial District and the Airport all complement and reinforce each other's potential.
- Creates a transportation network that serves both the north and south side of Highway 18 in the Three Mile Lane corridor that connects the business community, the hospital, residential neighborhoods, and tourism amenities with the City Center and downtown McMinnville through attractive local roads, bicycle/pedestrian trails, and transit.
- Ensures that future development serves the community of McMinnville to its highest and best standards.
- Defines Three Mile Lane as a gateway to McMinnville.

ISSUE: Due to the age of the governing plans, the design and plans for a multi-modal transportation system connecting the land uses within the area and with the city center is limited. Local road connectivity across the Yamhill River is dependent upon the crossing at Yamhill River bridge. Freight connections from Highway 18 to the McMinnville Industrial Park is cumbersome. Bicycle and pedestrian infrastructure is fragmented. Transit opportunities are accommodated but not well integrated. Since the adoption of the overlay district and the corridor refinement plan, the Evergreen Campus has been developed, the local hospital was constructed, Chemeteka College expanded its campus and presence in McMinnville, several affordable housing developments have been constructed or are under construction. The existing development is comprised of many different land uses that are not connected very well with each other or with the city center. Most uses are dependent upon the highway for access as the frontage roads on both side of Highway 18 are fragmented. McMinnville will need to identify how to connect all of these different land uses and interests both literally with transportation infrastructure but also with a holistic vision as the area grows into its potential.

With several large tracts of undeveloped land and the recent large business investments in this area, Three Mile Lane is poised for the most growth potential of any district in the city. As this corridor develops into a tourism attractor with the Wings and Waves Water Park, the Space and Aviation museums and the new planned hotel and conference center developments, there is also an opportunity to define this corridor as a gateway to McMinnville with urban design amenities associated with the transportation system and future planned transportation improvements. An area plan will provide a vehicle to maximize the opportunities for job creation, housing, and resiliency planning in the corridor by leveraging the land assets to their highest and best use for affordable housing, industrial development, tourism development, hospital expansion, airport expansion and gateway improvements. It will then allow for the City of McMinnville and ODOT to review the 1996 Highway 18 Corridor Refinement Plan and ensure that it meets all of the local, regional and state needs of the area for transportation infrastructure.

OPPORTUNITY: Large property owners in the study area are posed to make significant investments in their properties but are interested and willing to work with the community and the City of McMinnville on developing an Area Plan to ensure that their investments serve the long-term needs and goals of the community. Without the Area Plan, and the resulting refinement of the overlay district and corridor refinement plan, the City may lose the opportunity to partner with these large property owners on infrastructure investments that will further the goals of the community in terms of integrating the lands uses and transportation systems in this area to serve future generations with multi-modal transportation choices.

EXPECTED OUTCOMES: In addition to the planned deliverables of an Area Plan with zoning ordinance and comprehensive plan amendments, it is expected that this project will allow for more land use efficiencies, strategic and targeted job creation, tourism investment opportunities, mixed use neighborhoods with affordable housing, multi-modal transportation choices, connectivity to the city center, enhanced freight mobility, resiliency planning connecting medical services with residential neighborhoods, and gateway urban design place-making.

This project will produce the following deliverables: 1) a Three Mile Lane Area Plan (3MLAP) adopted by the City of McMinnville with an articulated vision for the area, goals and objectives, performance metrics and a recommended implementation plan; 2) amendments to the Three Mile Lane Overlay District with design and development standards; 3) Comprehensive Plan Map Amendments; 4) zoning ordinance text amendments relative to the tourism commercial zone and potentially the creation of an airport zone; and 5) potential amendments to the 1996 Highway 18 Corridor Refinement Plan and the 2010 McMinnville Transportation System Plan if needed.

Purpose of Public Involvement

Public involvement is the hallmark of good community planning. The intent of the project is to establish broad public engagement throughout the project as work occurs. The City of McMinnville and consultant team will solicit public input after presentations of initial findings and before conducting work. The project will rely on a Project Advisory Committee to review draft products and provide input at key points (e.g. before recommendations and decisions are made and before draft work products are finalized). The project, requires many assumptions that need to be vetted and agreed upon, as well as many policy choices that will affect current and future residents. In short, local review and community input are essential to developing policy approaches that are locally appropriate and politically viable.

Public Involvement must allow the community an opportunity to fully engage in the 3MLAP planning process. City shall consider, and work with Consultant to address "environmental justice" issues; "environmental justice" is defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. "Fair treatment" means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies. "Meaningful involvement" means that: (I) Potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and health; (2) The public's contribution can influence the regulatory agency's decision; (3) The concerns of all participants involved will be considered in the decision making process; and (4) The decision makers seek out and facilitate the involvement of those potentially affected.

The public involvement program must include specific steps to provide opportunities for participation by federal Title VI communities. City and Consultant shall utilize the ODOT Title VI (1964 Civil Rights Act) Plan guidance to identify Title VI populations, formulate public involvement strategies, and report outreach efforts to, and participation by, Title VI communities.

Public Involvement Strategy

The Three Mile Lane Area Plan Public Involvement Strategy is focused on three primary components: 1) Project Advisory Committee; 2) Public Outreach; and 3) Online Project Website.

Project Advisory Committee

This project will utilize a Project Advisory Committee to inform the final product. The Project Advisory Committee will consist of a Citizen Advisory Committee (CAC) and Technical Advisory Committee (TAC).

The purpose of the Project Advisory Committee is to

:

- Review draft work products, advise on public involvement, and consider public input when making recommendations
- Advise the project team on matters regarding land-use needs, economic development opportunities, transportation needs and other issues relative to the area plan.
- Work collaboratively with, and provide guidance to, the staff and consultant project team in the preparation of the Three Mile Lane Area Plan
- Review, provide input on, and recommend a draft Three Mile Lane Area Plan to City Council and Planning Commission.

Citizen Advisory Committee

The CAC should be comprised of a representative snapshot of the City of McMinnville's demographic profile, with every effort made to include representative age groups, income levels, cultural identities, etc., living and working within the community. To this end, the City has sought out advisory committee members that represent one or more of the following:

Accessibility Advocates **Active Transportation Advocates** Architects or Developers **Property Owners and Business Owners Business Owners** Chemeketa Community College Transit Riders or YCTA Board Member Planning Commission City Council Linfield College School District Housing Advocates Senior Citizens Working Professionals Young Adults Youth Latino Representatives

Technical Advisory Committee

The TAC should be comprised of technical advisors from the City of McMinnville (City Engineering, Public Works, Planning and Parks Divisions), Oregon Department of Transportation, Yamhill County Transit Authority, Oregon Department of Land Conservation and Development, Public Safety Representatives, and Bicycle and Pedestrian Representatives.

Exhibit 1. Project Advisory Committee Members

EXHIBIT 1. Project Advisory Committee Members			
Citizen Advisory Committee (CAC)			
REPRESENTING			
Planning Commission	Christopher Knapp		
•	Lori Schanche		
City Council	Zach Geary		
	Scott Hill		
	Wendy Stassens		
Property and Business Owners	Robert Banagay – Business Owner		
	Danielle Hoffman, Chemeketa College		
	Peter Hoffstetter, Willamette Valley Medical Center		
	Stewart Kircher, Property Owner		
	Chris Norville, Airport Manager		
	Alan Roodhouse, Property Owner		
	Chris Shelby, Business, Property Owner		
	Mary Stern, Habitat for Humanity		
Partner Stakeholders	MEDP – TBD		
	Courtney Cunningham – Local Business		
	Ken Denier – Urban Design, Architect		
	Alan Fox – McMinnville Resident		
	Phil Frischmuth – McMinnville Resident		
	David Hayes – McMinnville Resident		
	Galen McBee – Active Transportation (Bike.Ped)		
	Sandy Rabe – McMinnville Resident		
	Danielle Zemlicka – McMinnville Resident		
	Danielle Zemlicka – Welvilmiville Resident		
Technical Advisory Committee (TAC)			
Planning Staff	Heather Richards – Co- Lead		
-	Jamie Fleckenstein – Co-Lead		
Engineering Staff	Mike Bisset, City Engineer		
ODOT	Michael Duncan, Senior Region Planner, Project Manager		
	Daniel Fricke, Area Planner		
	Keith Blair, Traffic Analyst		
	Dorothy Upton, Traffic Analyst		
	Jenna Berman, Active Transportation Liaision		
	Kristie Gladhill, Planning Analysis (TPAU)		
DLCD	Angela Carnahan, Regional Representative		
YCTA	Cynthia Thompson, Executive Director		
1917	Cynthia Thempoon, Excoditive Director		

Project Management Team

The Project Management Team (PMT) will be comprised of City and Consultant Staff as shown in exhibit below.

Exhibit 2. Project Management Team Members

Agency/Firm	Individual	Role and Responsibility
City of McMinnville	Heather Richards	Co-Lead, Project Manager
City of McMinnville	Jamie Fleckenstein	Co-Lead, Project Manager
Oregon Department of Transportation	Michael Duncan	Project Director
Angelo Planning Group	Darci Rudzinski	Lead, Project Manager
Angelo Planning Group	Andrew Parish	Project Director
Andrew Mortensen	David Evans Associates	Project Support
Chris Zahas	Leland Consulting	Project Support
Ken Pirie	Walker Macy	Project Support

The City shall issue press releases, place advertisements in media, process and send mail and e-mail, place articles and announcements in City publications, identify stakeholders and conduct similar activities to support public involvement efforts for the Project. Consultant shall prepare text and graphics for public involvement material, as more particularly specified in the Statement of Work ("SOW").

City shall provide for Spanish translation of key outreach materials throughout the Project.

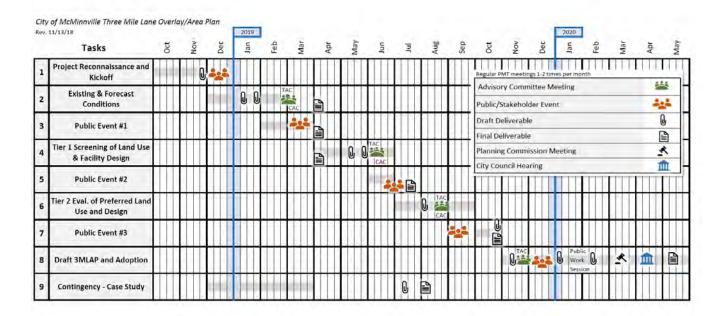
External Communications Protocols

Heather Richards from the City of McMinnville is the city's project manager. Any external communications (e.g., community members, industry representatives, media, et.) will be routed through Heather Richards.

Public Outreach

Public Open House Workshops

The City expects to host three public workshops per the following project schedule. These projects will both inform on project progress and solicit input for decision-making milestones and community aspirations for the area.



Focus Group Interviews

The project will host three focus group interviews with stakeholders to identify key issues of concerns, obtain input on vision and goals, and solicit input on how their organizations want to be involved in the project. One of these focus groups must represent organizations, agencies or institutions that serve Title VI populations in the study area. Other focus groups will represent the development community and Study Area stakeholders.

Broader Public Engagement

The project will include additional means of informing and engaging the community: The City of McMinnville will utilize its social media network to help communicate the progress of the project to the general public. The City has a presence on a blog website, facebook, Instagram and twitter under the moniker of McMinnville Matters.

Project Website

Project website. The consultant team will develop a project website to provide project information to the public. Threemilelane.com



threemilelane.com



City of McMinnville

City Council Update
August 13, 2019



Project Update

www.threemilelane.com



Project Purpose and Background



The purpose of the project is to develop an area plan for the Three Mile Lane corridor informed by:

- Three Mile Lane Overlay District, 1981 & 1994
- Highway 18 Corridor Refinement Plan, 1996
- McMinnville Transportation System Plan (TSP), 2010
- Green Cities Project and Design Charrette, 2017
- Residential BLI/Housing Needs/Housing Strategy (ongoing)
- Over two decades of development and the prospects for new investment

GOAL 1: Support and enhance the district's economic vitality and marketability

Project Goals

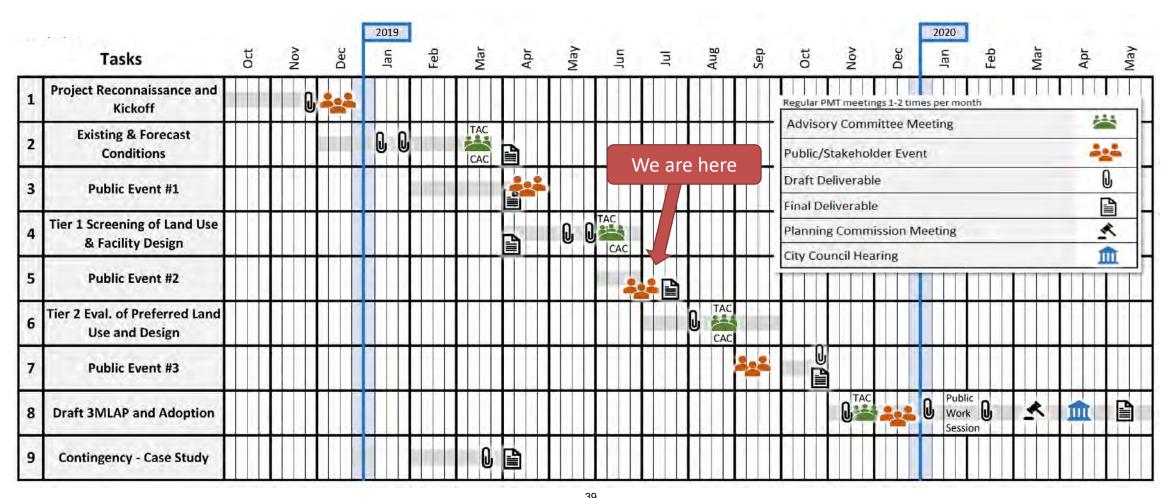
GOAL 2: Provide opportunities for a complementary mix of land uses, consistent with the vision of a diverse and vibrant district

GOAL 3: Enhance multi-modal connections throughout the district.

GOAL 4: Create an aesthetically pleasing gateway to the City of McMinnville.

Project Schedule



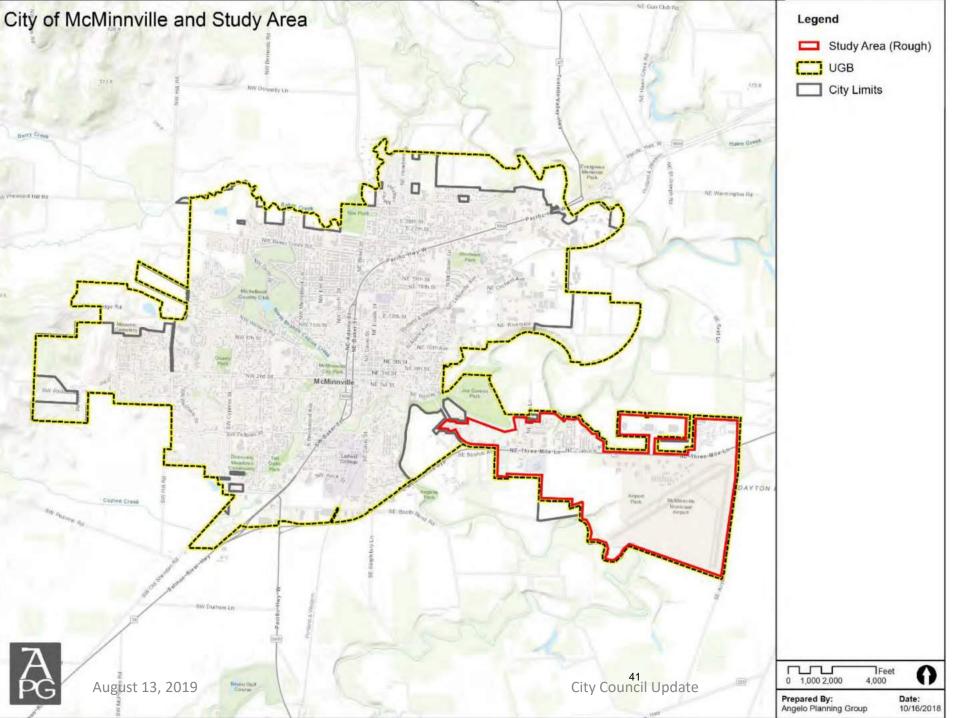


Technical & Reference Documents



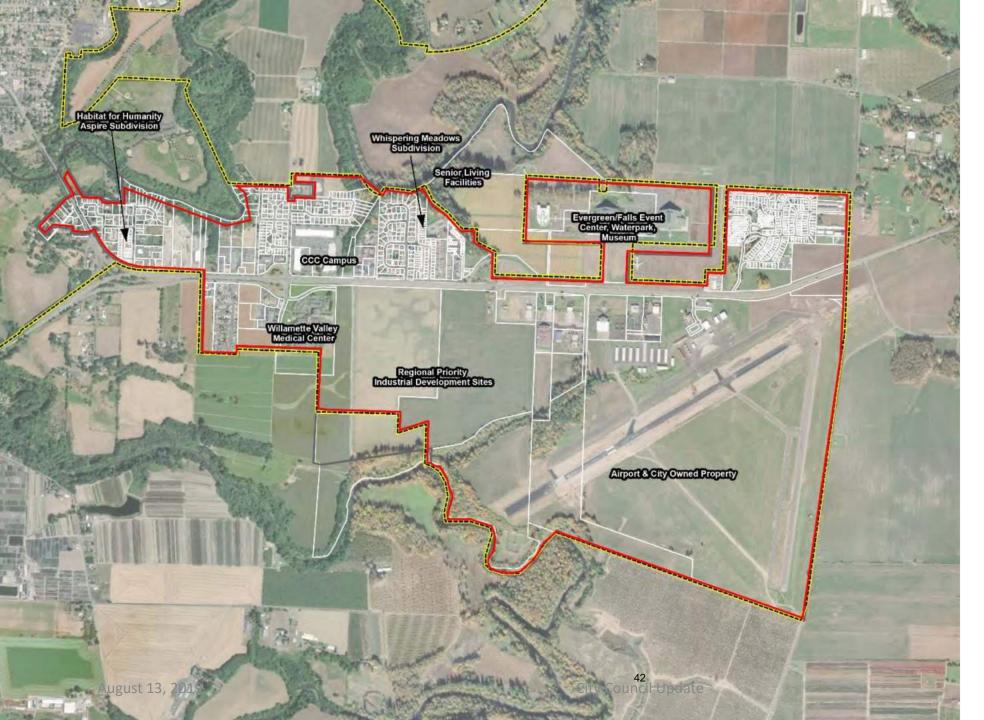
- Existing Land Use & Zoning
- Existing Transportation Operations & Safety
- Conditions Booklet
- Economic Analysis
- Case Study Report
- Evaluation Criteria Memorandum
- Design Booklet

Available at: https://threemilelane.com/



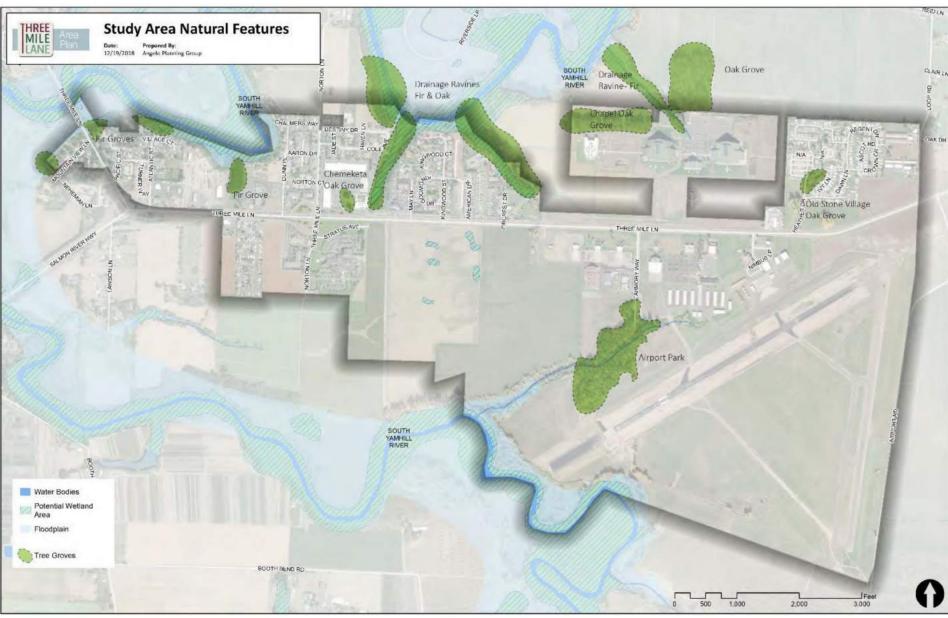


Study Area Context





Study Area



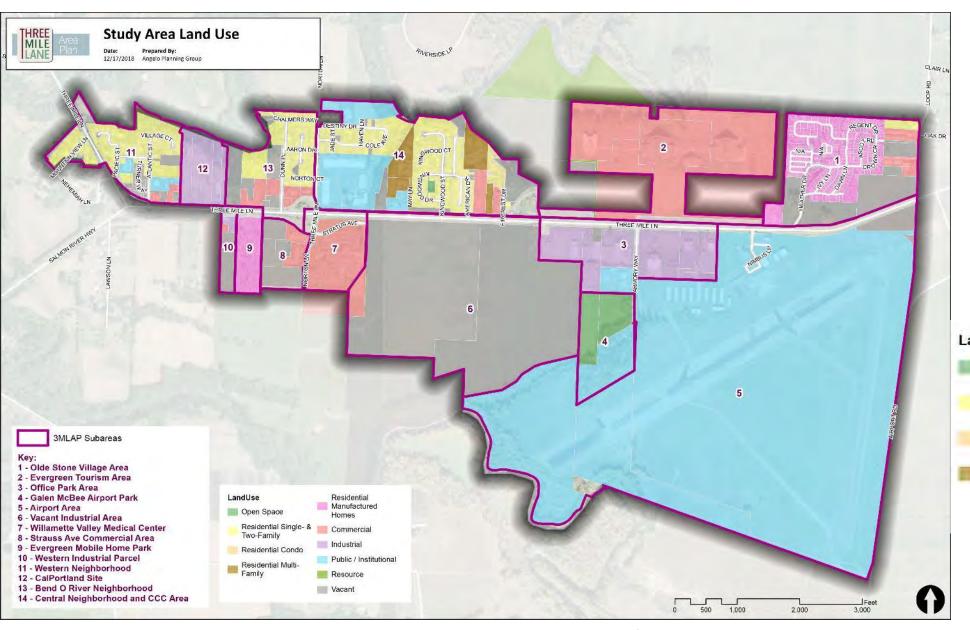


Natural Features



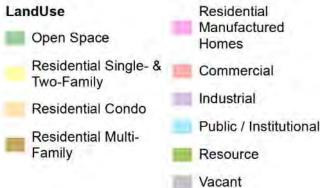
Existing Conditions: Land Use & Zoning

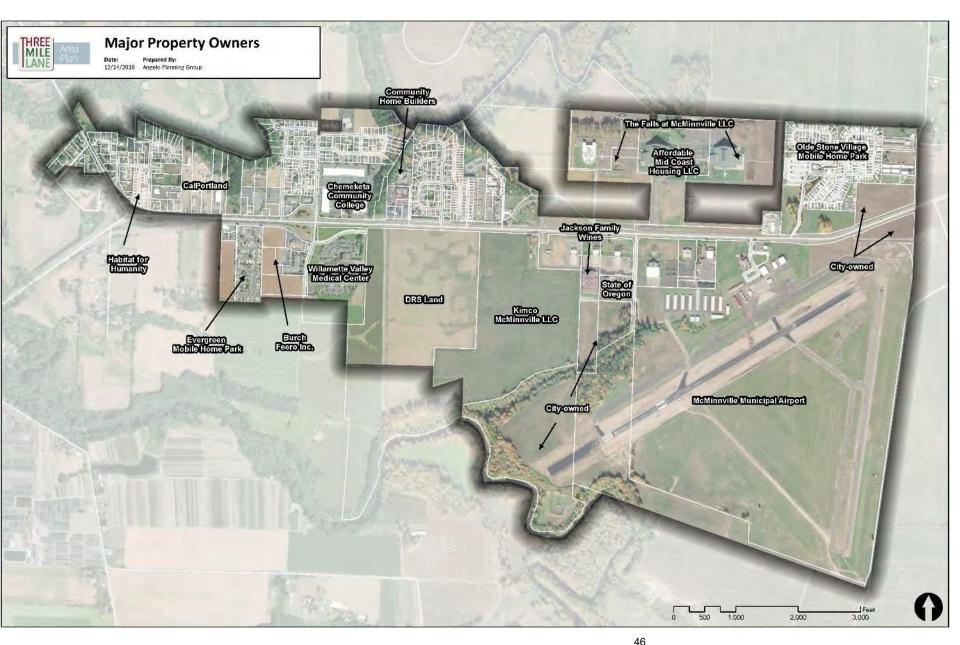






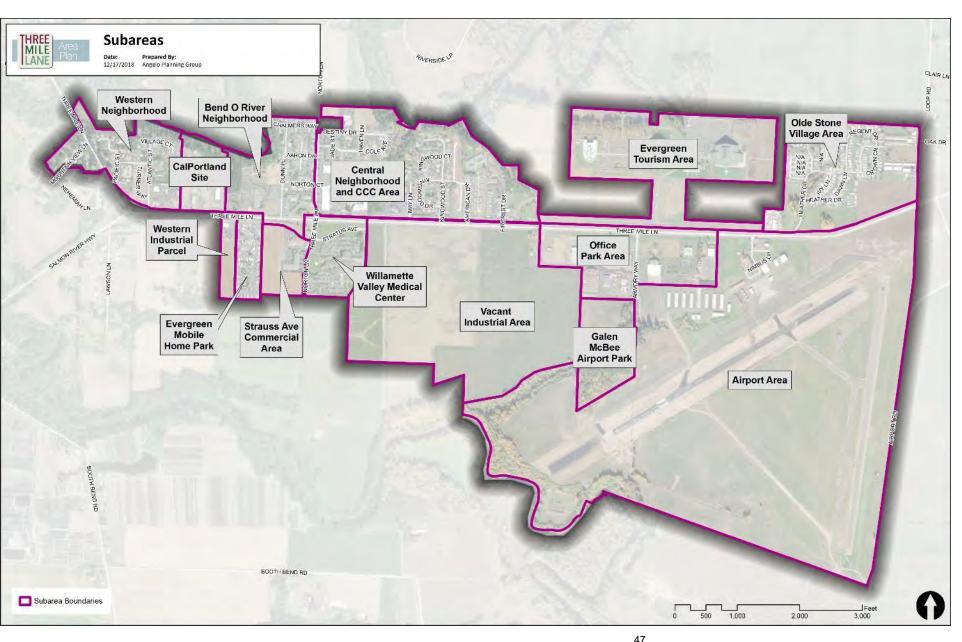
Land Use







Major Property Owners





Subareas



Evergreen Tourism Area



Office Park Area



Galen McBee Airport Park





Willamette Valley Medical Center



Strauss Ave Commercial Area



Evergreen Mobile Home Park

Land Uses by Subarea







CalPortland Site



Bend O River Neighborhood





Bend O River Neighborhood



Central Neighborhood and CCC Area

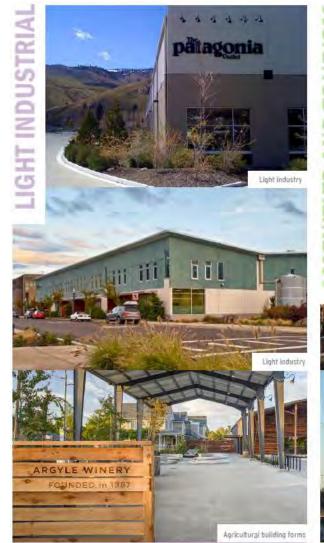


Central Neighborhood and CCC Area

Land Uses by Subarea

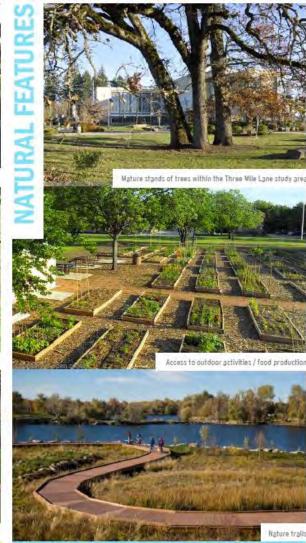
Land Use Opportunities











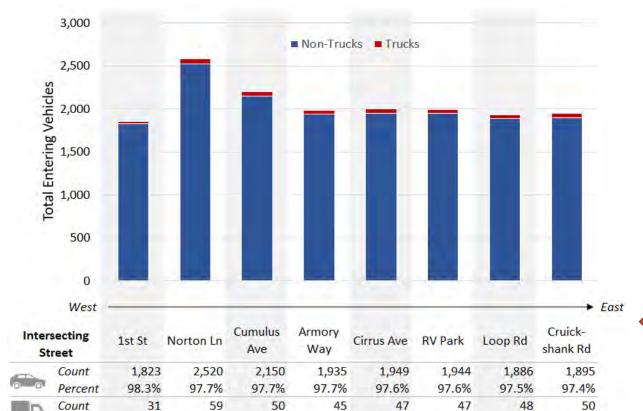


Existing Conditions: Transportation



Multimodal Traffic Counts





2.3%

0

5

2.4%

0

0

2.4%

0

0

2.5%

0

0

2.3%

0

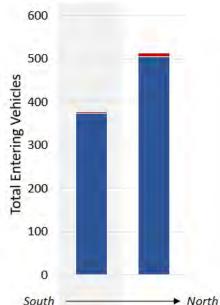
0

2.3%

0

5

PM Peak Hour
Total Vehicle,
Truck, Bike, and
Pedestrian Counts



Three Mile Lane Intersections

Norton Lane Intersections

Journ		
secting	Stratus Ave	Cumulus Ave
Count	374	505
Percent	98.9%	98.4%
Count	4	8
Percent	1.1%	1.6%
Count	0	1
Count	1	11
	creet Count Percent Count Percent Count Count Percent	secting Ave Count 374 Percent 98.9% Count 4 Percent 1.1% Count 0

2.6%

Percent

Count

Count

1.7%

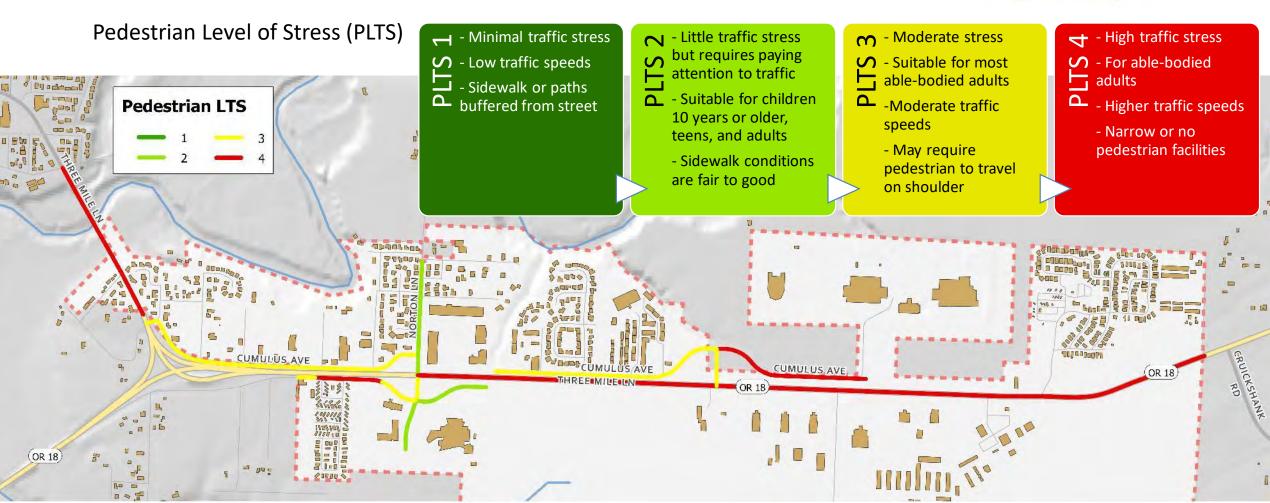
3

15

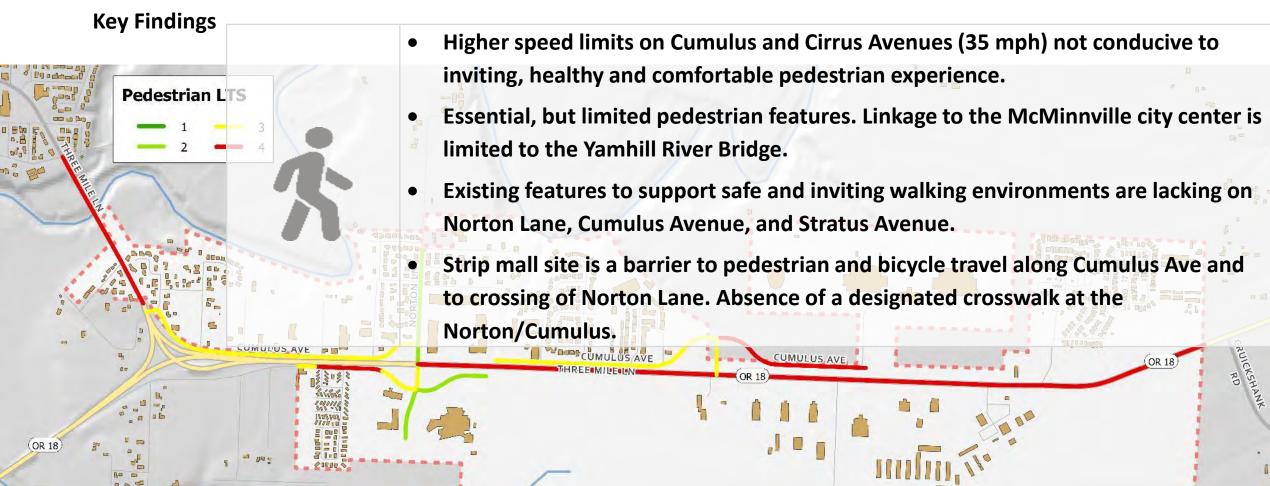














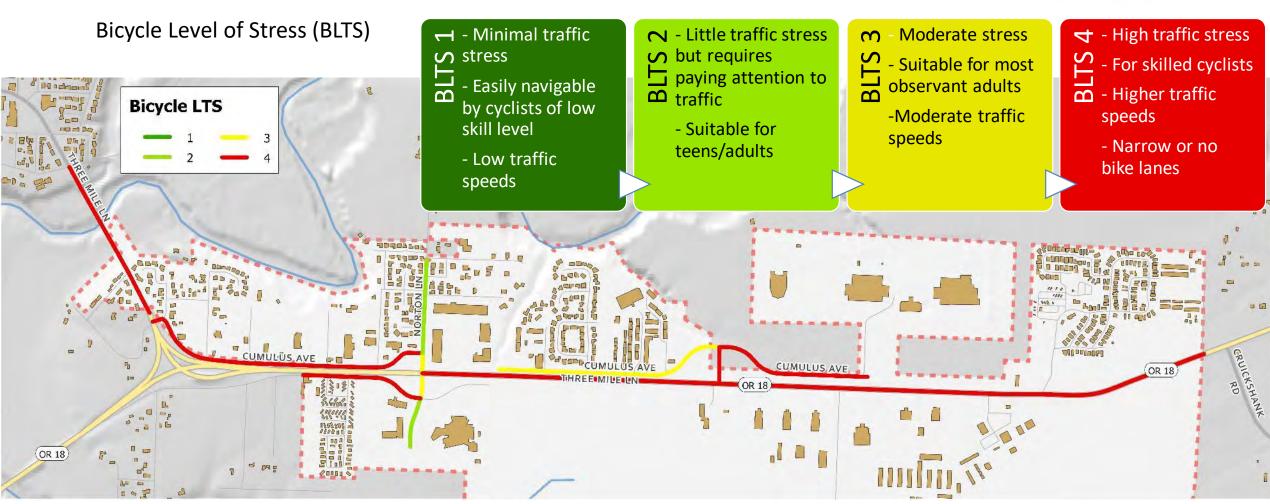
Development patterns that form pedestrian barriers





Bicycle System

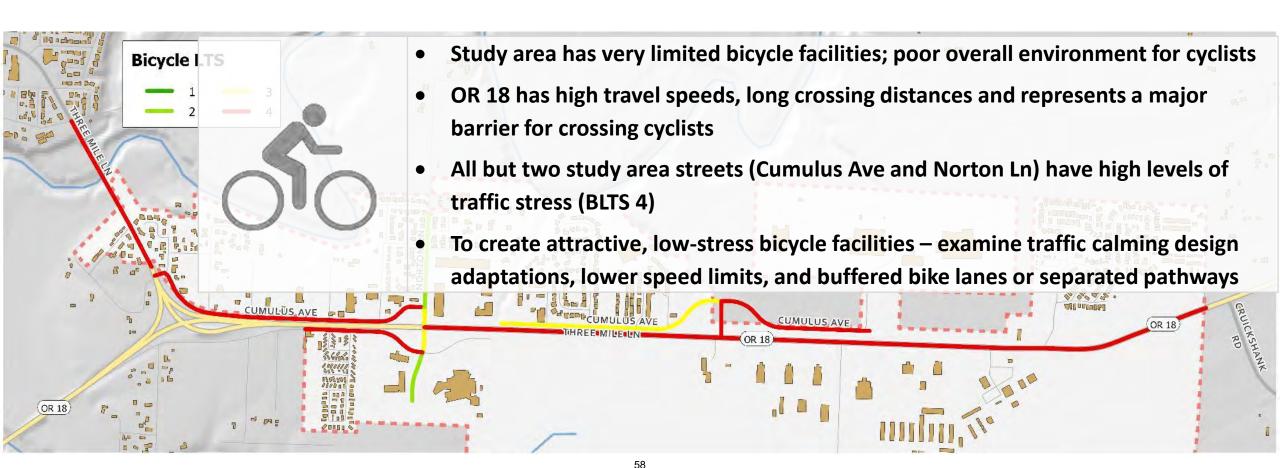




Bicycle System



Key Findings



Bicycle System





Bike Lane



Raised Cycle Track



Buffered Bike Lane



Two-Way Cycle Track

Bicycle Facility
Types



Shared Lane



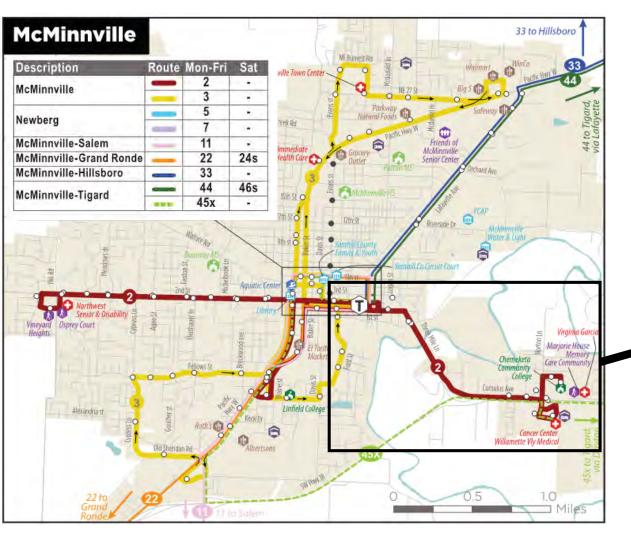
Shared-Use Path

Shared-Use Path

Source: NACTO

Transit System





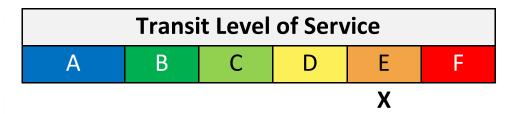


Transit System





McMinnville Route #2 Service



Key Findings

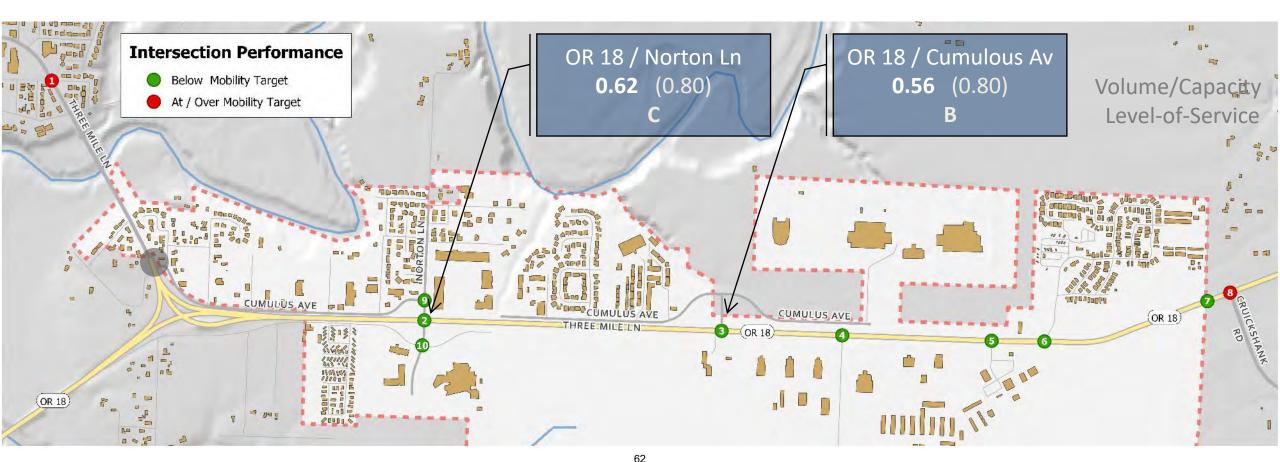


- YCTA provides limited (hourly) service on Route 2 connecting to downtown McMinnville.
- If and when YCTA service increases to 30 minute frequency, future transit operations will improve to LOS C.

Vehicle System



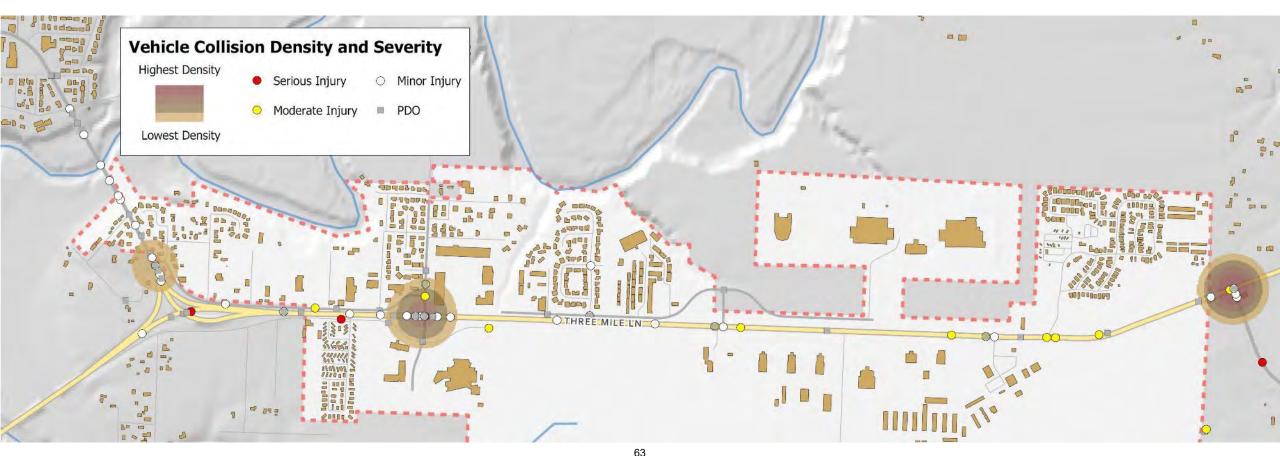
Intersection Traffic Operations – P.M. Peak Hour



Vehicle System



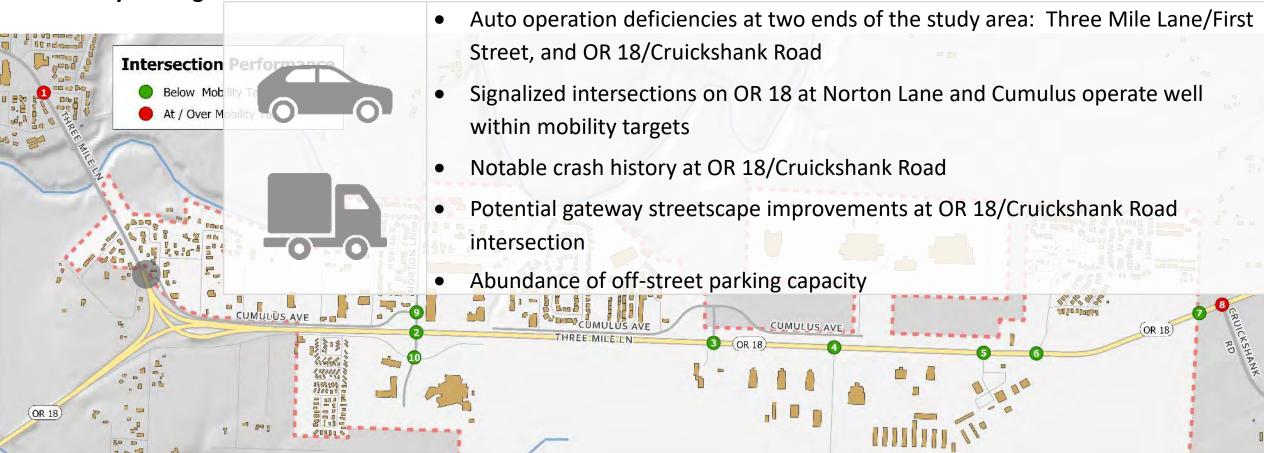
Vehicle Safety Evaluation – Reported Crashes (2012-2016)



Vehicle System

























Transportation: Issues & Opportunities

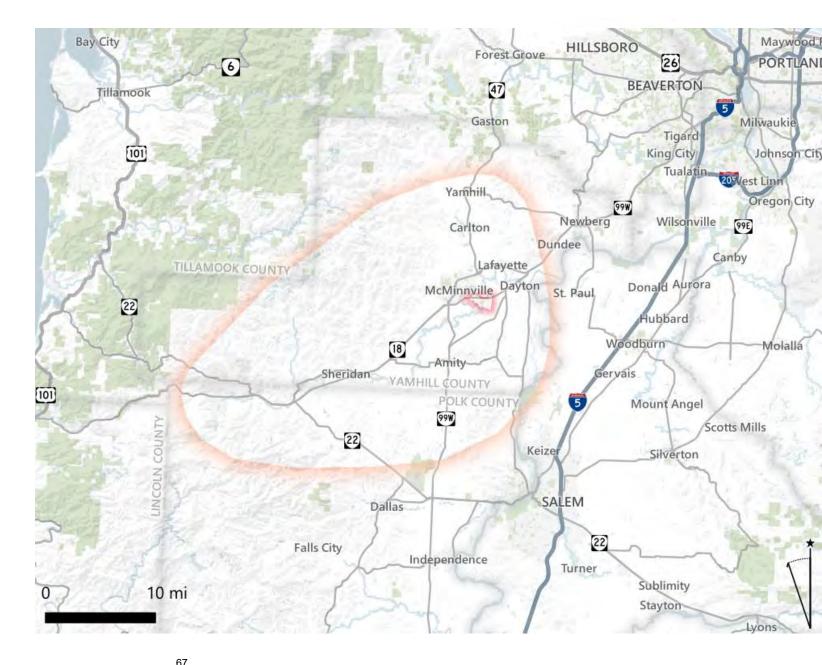


Economic Analysis



Market Area

Represents the area from which the most demand for residential, commercial, and industrial uses will originate



Key Demographic Characteristics



Projected 10-year Growth Rates

1.4% / 1.1%

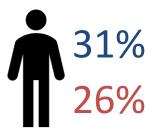
Annual Population Growth Yamhill County

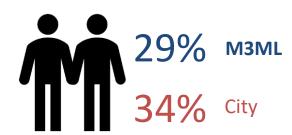


Annual Employment Growth Mid-Valley Region



Households by Size





Job Growth (5-yr, of 3,060) ____





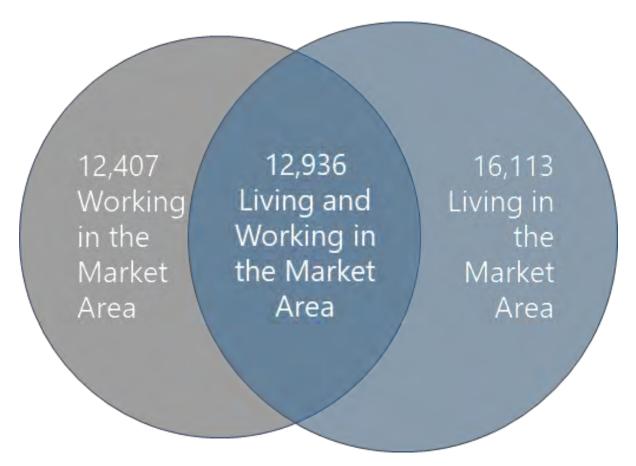




Commute Patterns

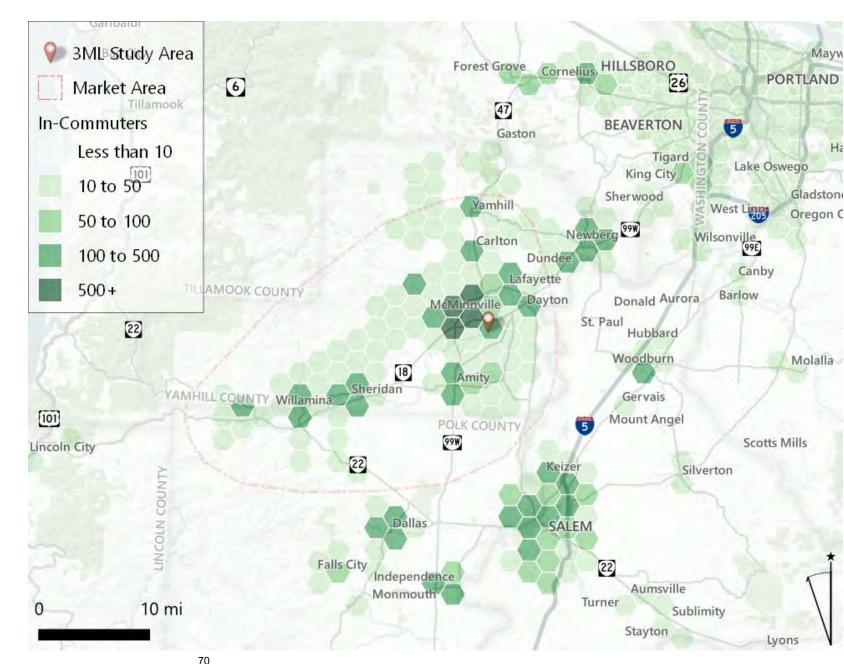


- McMinnville is a commuter City
 - Only 45% of employed Market Area residents work in the Market Area
 - 39% of employed McMinnville residents work in McMinnville



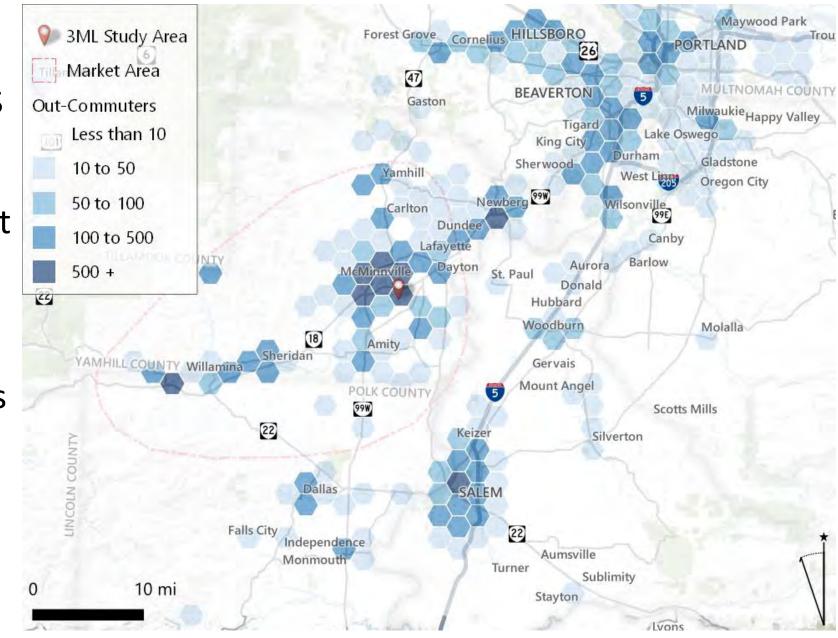
Home locations of market area workers

 Most people commute to work in the market area from nearby



Job locations of market area residents

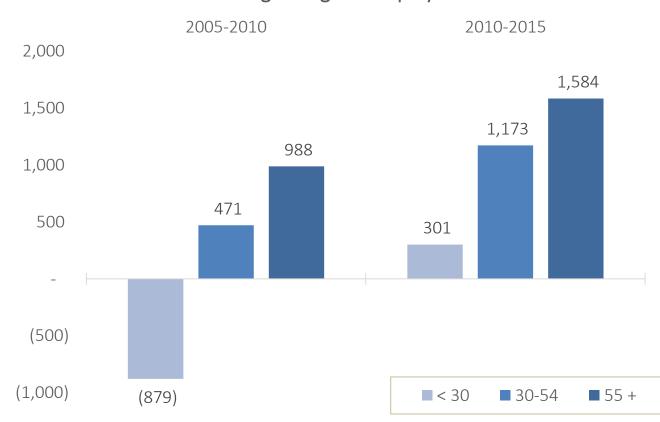
- Many more people commute *from* the market area than live there
- McMinnville attracts significantly more residents that work across the greater region
- Significantly more people travel further to parts of the metro and Salem



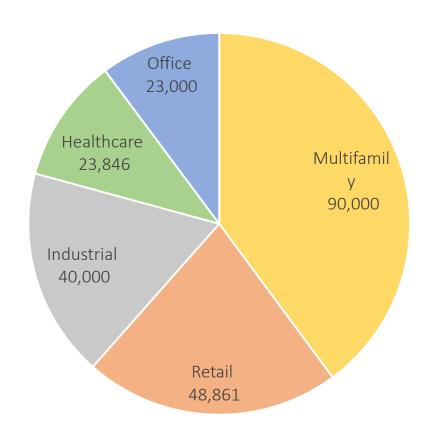
Ageing Workforce

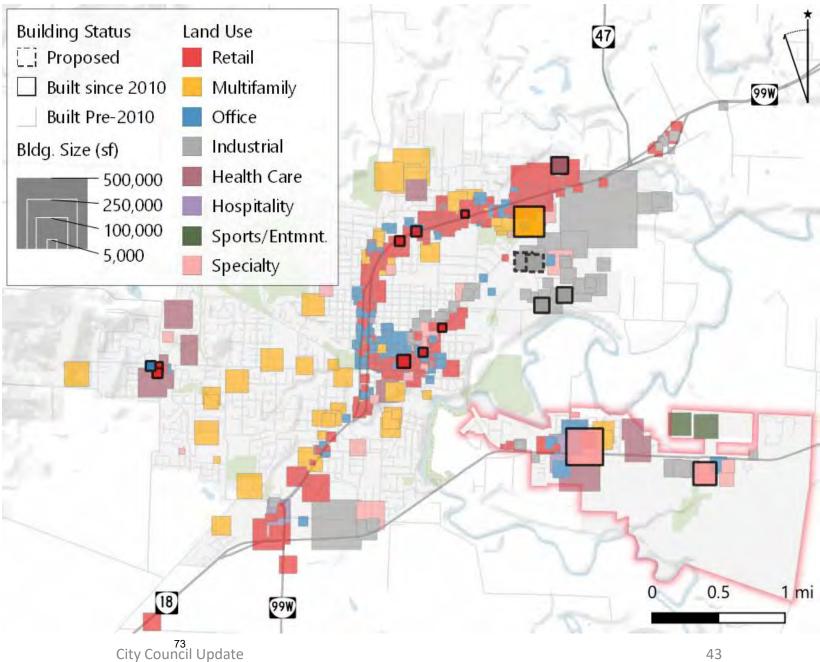


Change in Age of Employees



Development Activity



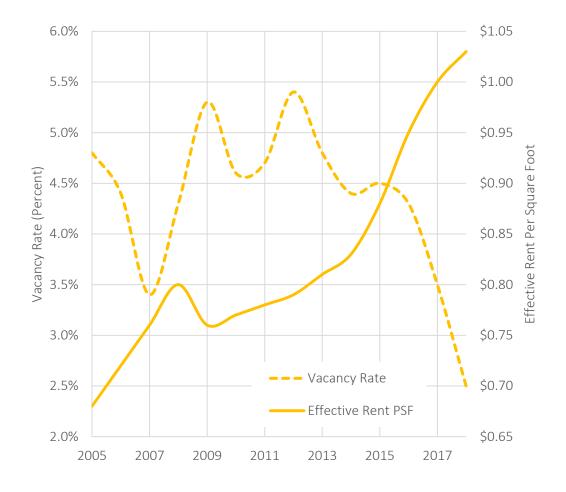


43 August 13, 2019

Apartment market data indicates strong demand for new construction

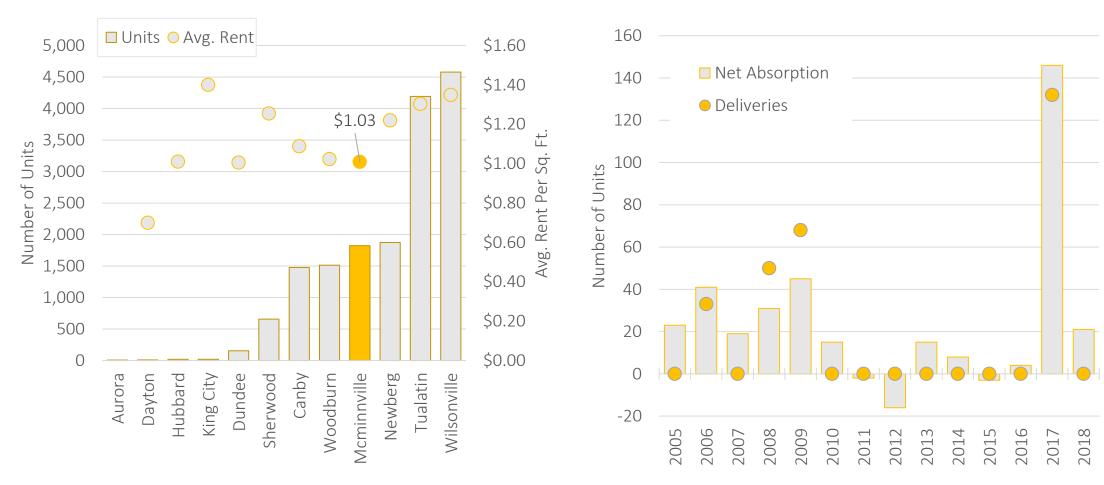


- Prospects are strong regional and nationally.
- Strong rent growth but low average rents across all inventory
- New construction expected to rent for ~\$1.50 PSF
- Very low vacancy indicates demand, but rents may only support lower-density residential typologies like townhomes and garden apartments (walkups)



But rents and construction starts are low relative to the region

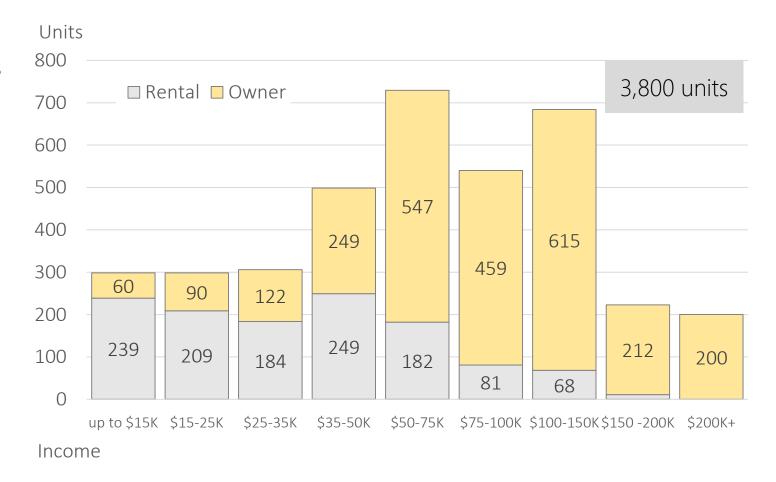




10-year Residential Demand Market Area

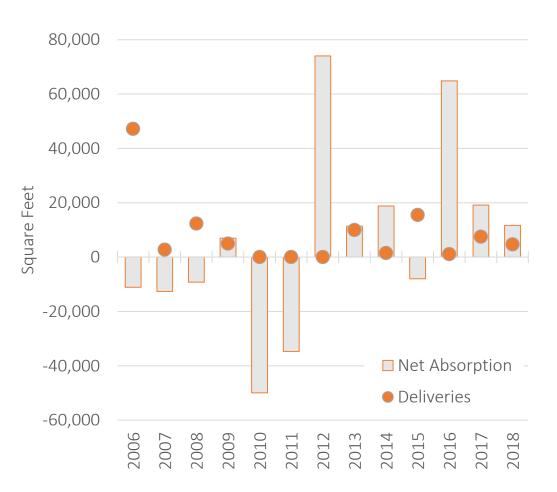


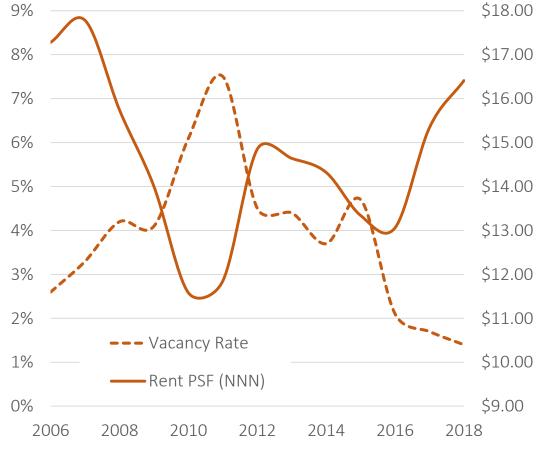
- Regional demand for 3,800 residential units over 10 years
- 3ML could capture a significant portion on site:
 - 200+ apartments (~6 acres)
 - ~100 townhomes (~7 acres)
 - Single-family, zoning permitting



Retail market characteristics



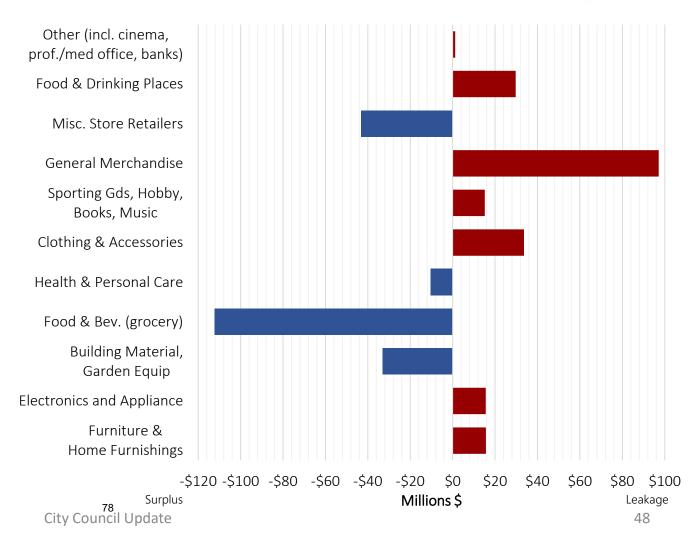




Retail spending indicates immediate opportunities for new construction



- Significant opportunities in Gen. Merch. and dining/ drinking based on leakage
- Large existing surplus in grocery supply, but population growth will still drive demand for additional grocery stores.
- Demand from tourist and other visitor spending would inflate demand but is not captured in the data



Goods vs. Entertainment Spending



- Despite the perceived "retail apocalypse," spending on retail goods and services at bricks and mortar locations continues to grow.
- Notably, Americans' spending at restaurants and bars is growing faster than spending at other retail establishments, reflecting both cultural changes, and Americans' increasing interest in sharing experiences with family and friends (sometimes at the expense of spending on goods.)

Sales at Non-Food Retail vs. Restaurants/Bar

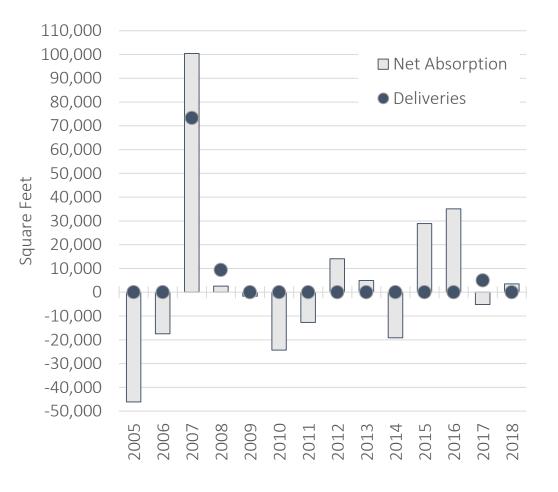


Source: Federal Reserve Economic Data (FRED).

The office market is tight and rents are improving

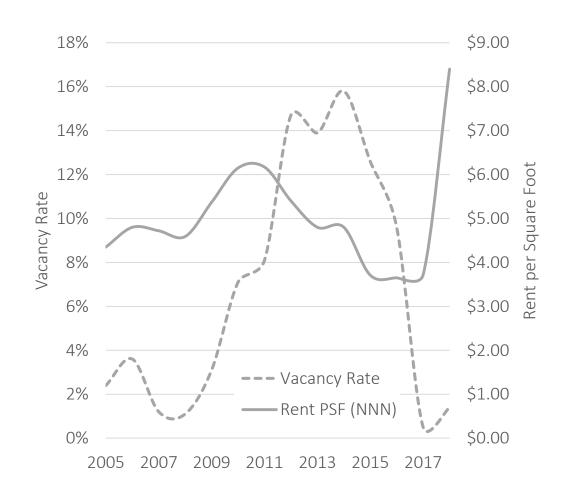


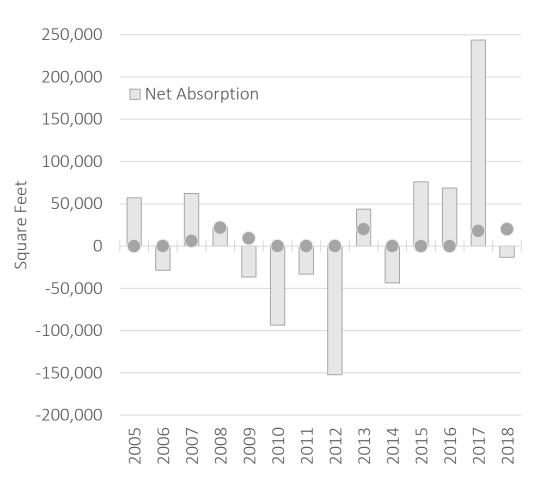




The industrial is very tight and prospects are improving

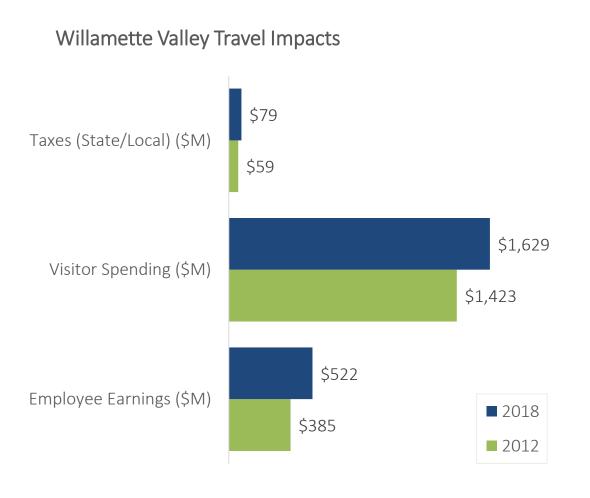






Tourism is growing and provides unique opportunities





- Willamette Valley was the secondmost visited tourist destination in Oregon with almost 20 million visitors in FY 2017
- The arts and culture environment in Yamhill County is a growing field of increasing vitality. Artist studios and monthly wine walks increasingly attract visitors from outside the region.
- Tourism growth increases demand for lodging, retail, restaurants, and craft industrial development.

Anticipated Development Mix

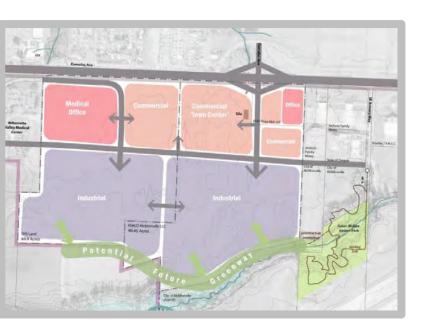


- Residential
 - Townhomes
 - Garden apartments
- Grocery anchored and/or mid-to-large format retail
 - Specialty/experiential retail, especially tied to the wine industry
- Low-rise office
- Craft industrial
- Mixed-use commercial (office over retail)
- Lodging and hospitality

Public Outreach



- Advisory Committee Meeting & Design Charette
- Property Owners Work Session & Case Studies









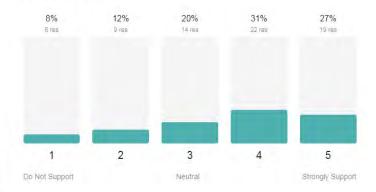
Public Outreach

Open House and Survey

What is your level of support for Goal 1?

70 out of 70 answered

3.60 Average rating



Goal 1 comments:

- · Too much emphasis on commercial/industrial development
- · Industrial is at odds with "attractive" and "tourist destinations"
- Would like to preserve the rural/suburban character
- I want more opportunities for work and revenue in that area destination shopping center with retailers like costco and target would be great for the community.
- I'm not very interested in retail/commercial development.
- It depends on what kinds of industry you're talking about.
- Need to add a balance of public green space/parks.
- · Diversity of goods and services would be beneficial in this area
- · Homeowners in the area would love a full sizes grocery
- There is a large need for medical facilities and medical office that this area could fulfill.
- Connectivit
- Preserve trees and habitat
- I'd rather see residential uses and affordable housing than more business use.
- Use waterways for local activities and tourism
- · Parking, traffic, and safety issues need to be addressed.

Process



CAC workshop and case studies

Draft land use plans building on Case Studies thematically

(Mostly)
Qualitative
Evaluation of Land
Use Scenarios

Preliminary
Preferred Option
& Public Input

Process

THREE Area Plan

CAC workshop and case studies

Draft land use plans building on Case Studies thematically (Mostly)
Qualitative
Evaluation of Land
Use Scenarios

Preliminary
Preferred Option
& Public Input

Preferred Land Use Option and Facility Design Option Detailed analysis and implementation work

Discussion with Advisory Committees and the Public

Adoption Process



Land Use and Facility Design Options

Common Elements

- Boundaries remain the same: UGB is in the same location, developable land is roughly 400 acres
- Airport expected to develop per the 2004 Airport Plan
- Local roadway designs are adaptable to any land use concept



Common Elements: Transportation

- Cumulus Avenue is connected to SW Norton Lane through or adjacent to the Chemeketa Community College campus.
- New public 'complete' streets are added to new developments south of Three Mile Lane.
- Three Mile Lane bridge is improved for bicycle and pedestrian safety.
- New and improved bicycle and pedestrian connections throughout the area.



Common Elements: Urban Design

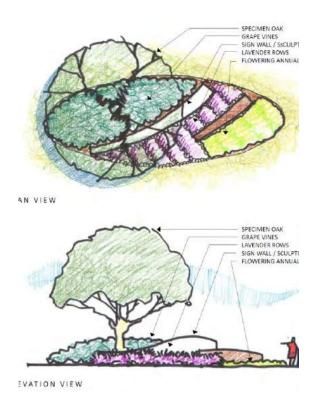
- Landscape and architectural design standards are recommended to ensure new development is designed to reflect regional agricultural and historic forms and support this area's function as a gateway to McMinnville.
- Preserve views to natural features like mountains and the river
- Gateway elements are included to mark the entrance to McMinnville



Common Elements: Parks and Trails

- A trail system connects the South Yamhill River, Galen McBee Airport Park, Evergreen Campus, and Joe Dancer Park along riparian corridors and through new development. The location of these trails changes slightly per concept, but they are always present.
- Recreational access is added to the Yamhill River and riparian corridors and oak stands are protected











Gateways

COMPLETE STREETS DESIGN

The following table summarizes the street standards proposed in McMinnville's 2010 TSP, with potential adjustments noted to enhance cyclist and pedestrian comfort.

	Major Collector Existing Standards	Notes	Local Residential Existing Standards	Notes
Right-of-Way	74'	Increase to 80'	50'	Increase to 58'
Speed	25-30 mph		15-25 mph	
Maximum Average Daily Traffic (ADT)	16,000		1,200	
Adjacent Land Use Intensity	Medium		Low	
Sidewalks	5' residential 10-12' commercial	6'	5'	Increase to 6'
Planter Strips	6' residential N/A commercial	8'	5'	Increase to 6'
Curb-to-Curb Street Width	44'	Suggest 50'	28'	H
On-Street Parking Two Sides	N/A	Possible in urban/ town center area	yes	Switch to one side parking if travelway too narrowsee below
Bike Facility	2 lanes (5')	Change to 8' buffered bike lanes (or cycle tracks)	Shared Lane	OK, with sharrow markings
Median / Center Turn Lane	12'	Ensure canopy trees planted	None	
Travel Lane Width August	2 Lanes (11') 13, 2019		See street width	With on-street parking on both sides, the resulting travelway wall be 14' two- way, which is narrow.









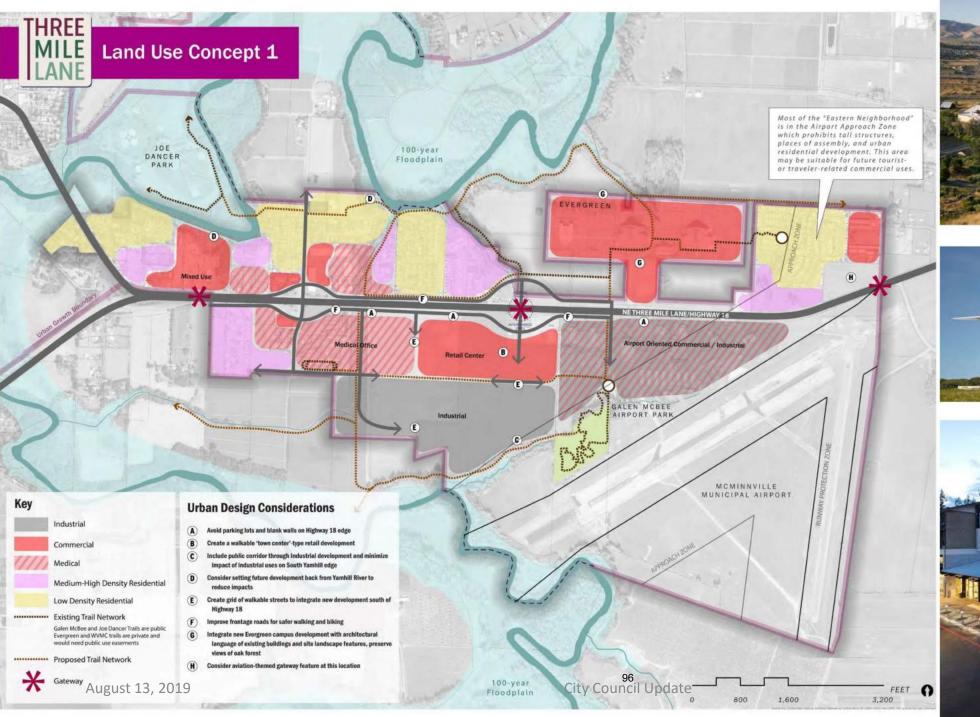
Cycle Track

Cross Sections



PROPOSED 3ML MAJOR COLLECTOR STREET CROSS-SECTION

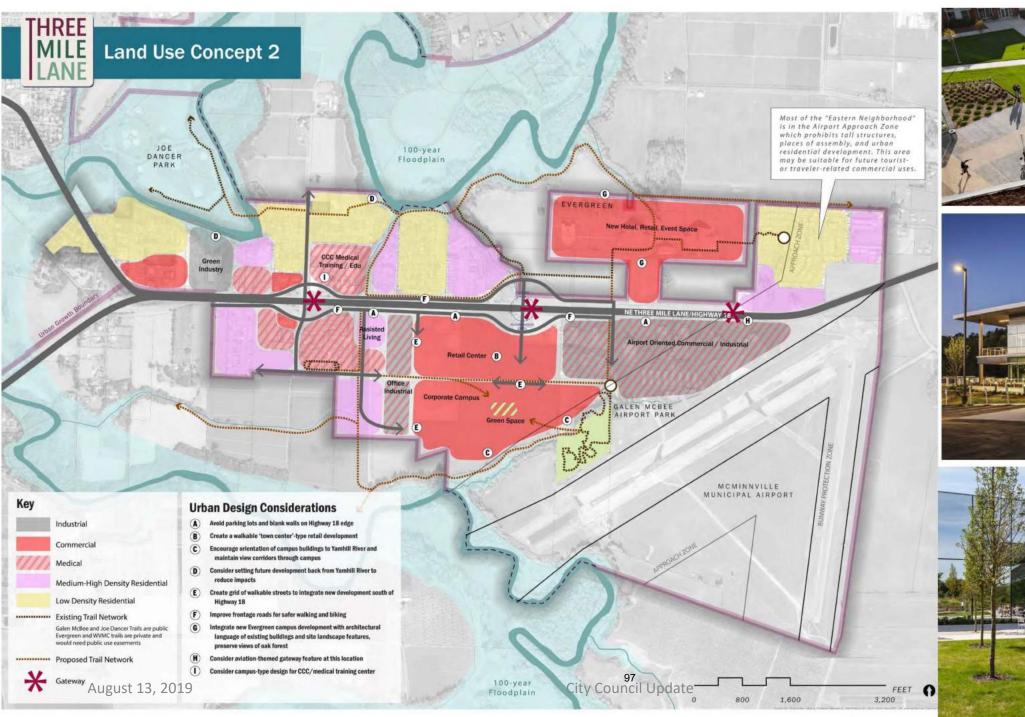
PROPOSED 3ML LOCAL RESIDENTIAL STREET CROSS-SECTION







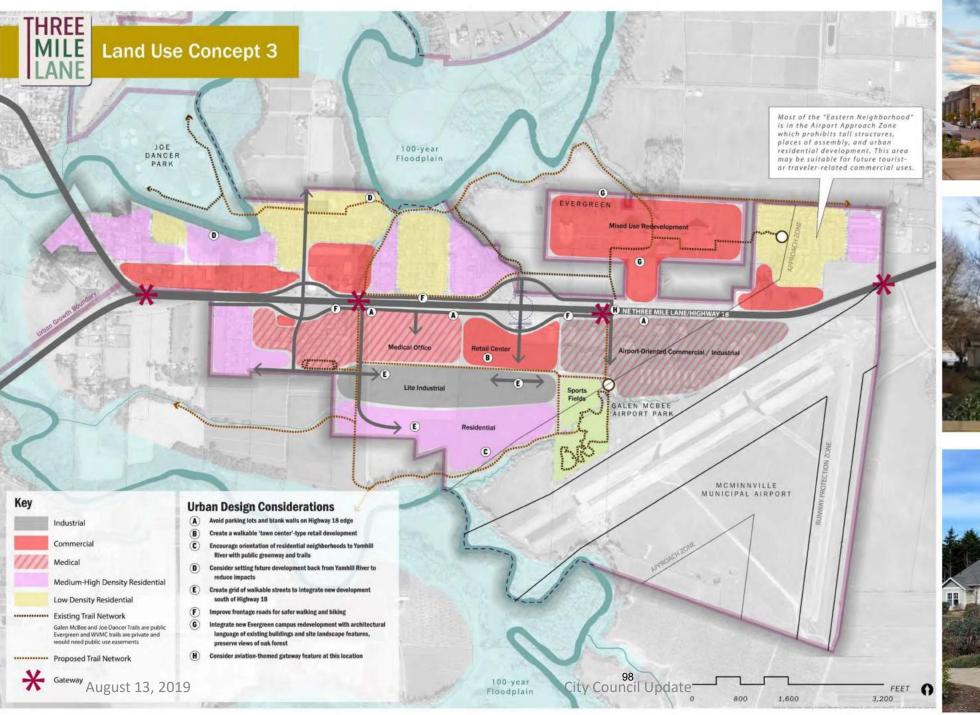








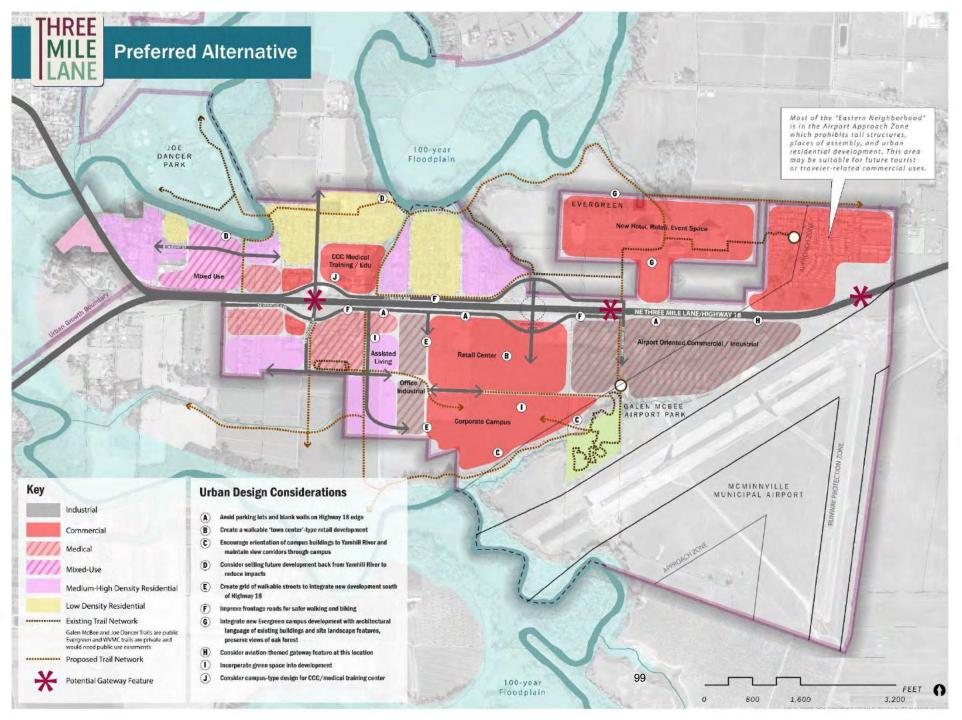












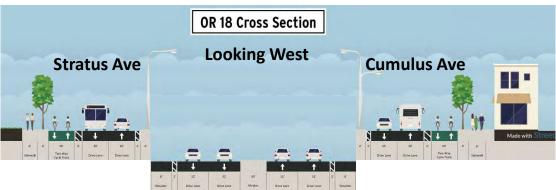
A HYBRID OF ALL THREE

- Walkable McMinnville Retail Center reflecting McMinnville's unique charm.
- Corporate campus, with buildings oriented to Yamhill River; maintaining view corridors.
- Mixed-use and medical-related uses.
- New hotel, retail and event space; touristcommercial.



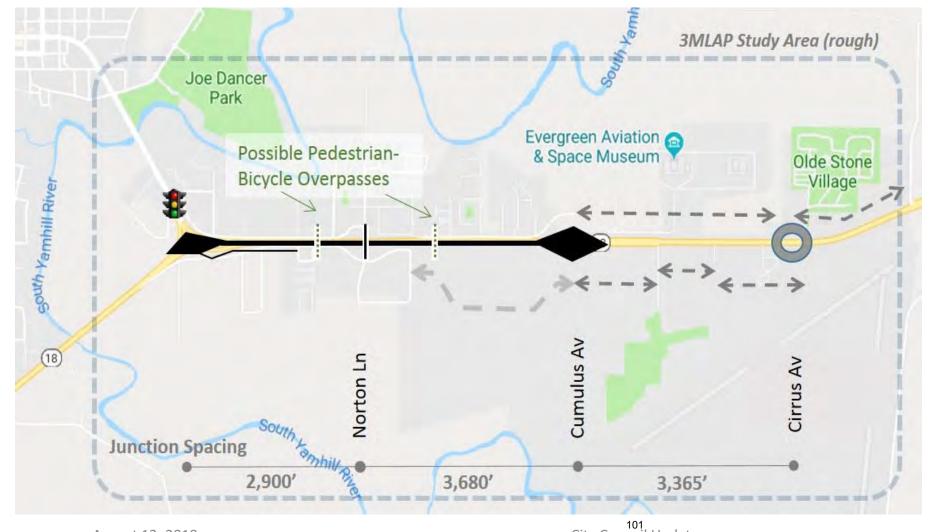
Three Mile Lane Design Options





Facility Design Option 1: Interchanges





Facility Design Option 1:

Interchanges



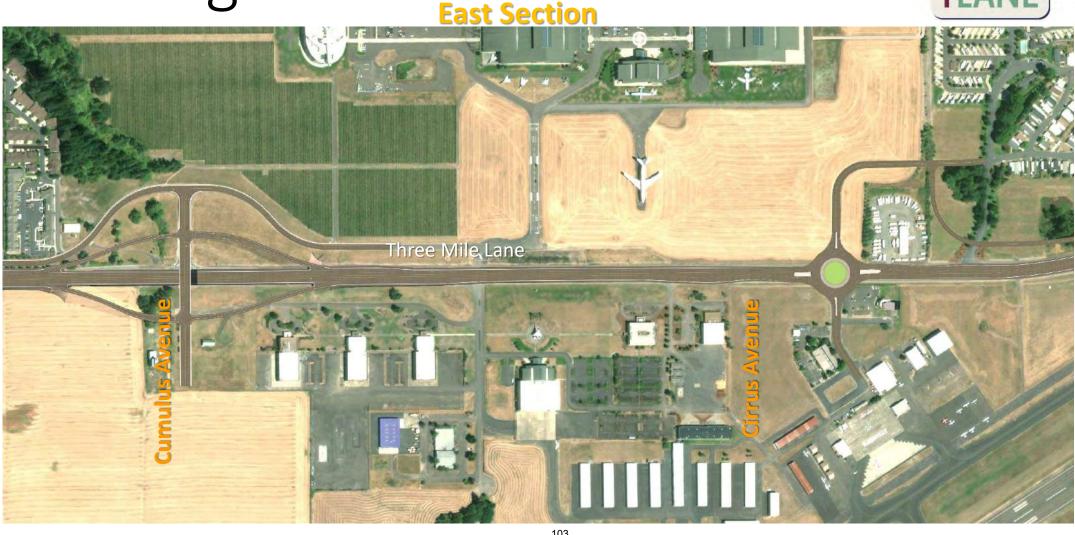
Area Plan





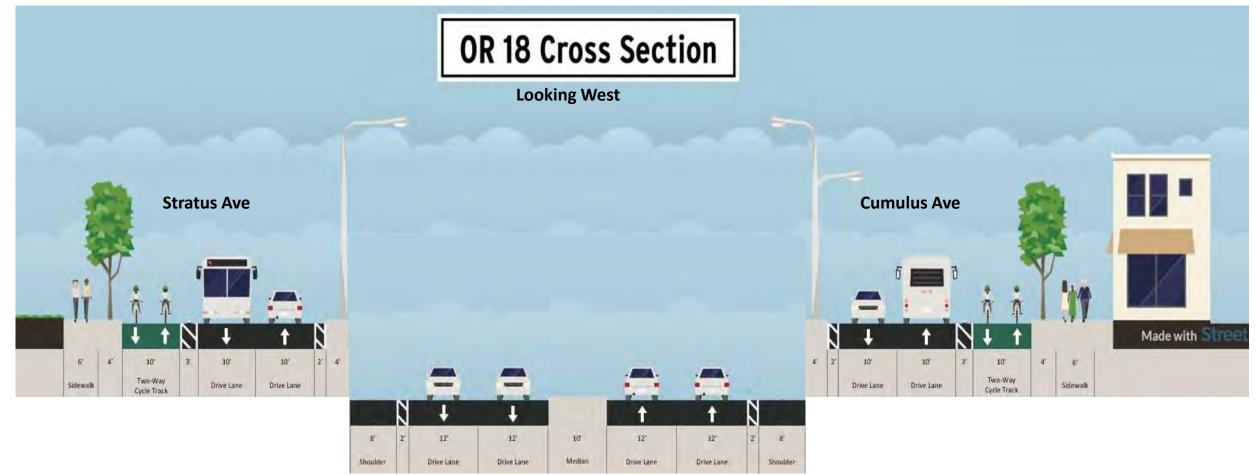
Facility Design Option 1: Interchanges





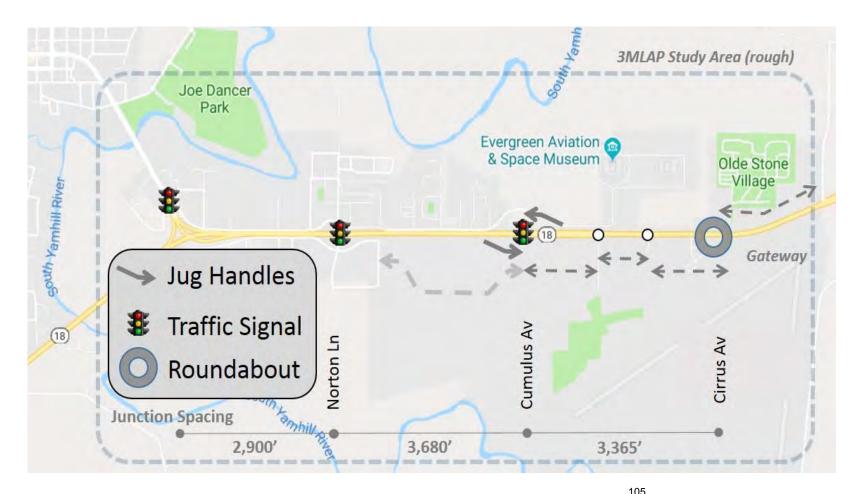
Facility Design Options

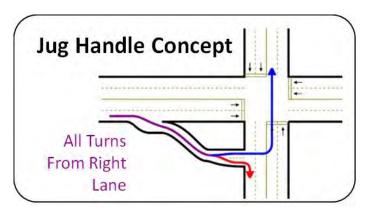




Facility Design Option 1: Interim Junction Enhancements



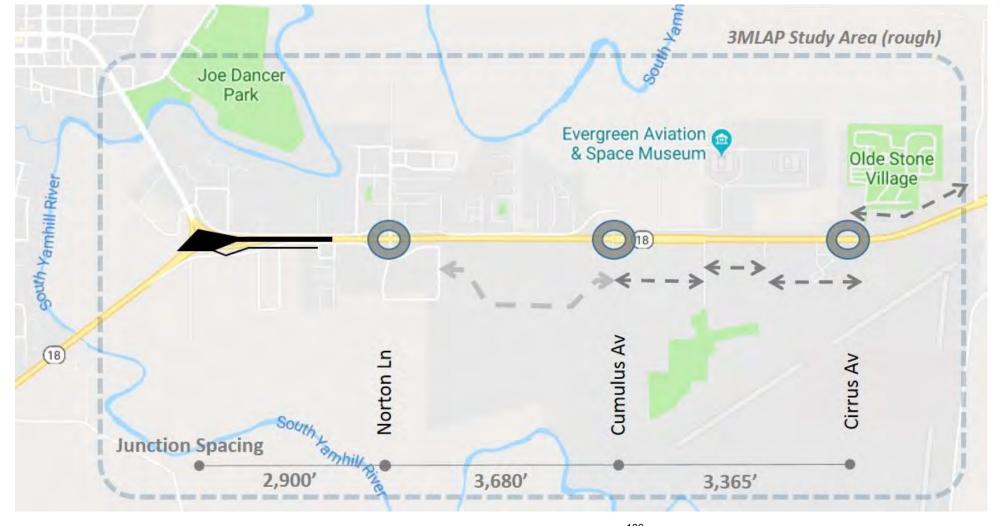




The Jug Handle concept removes all turn movements from the major highway and shifts them to the cross-street via a right-turn lane.

Facility Design Option 2: Roundabouts





Facility Design Option 2: Roundabouts



West Section



Facility Design Option 2: Roundabouts





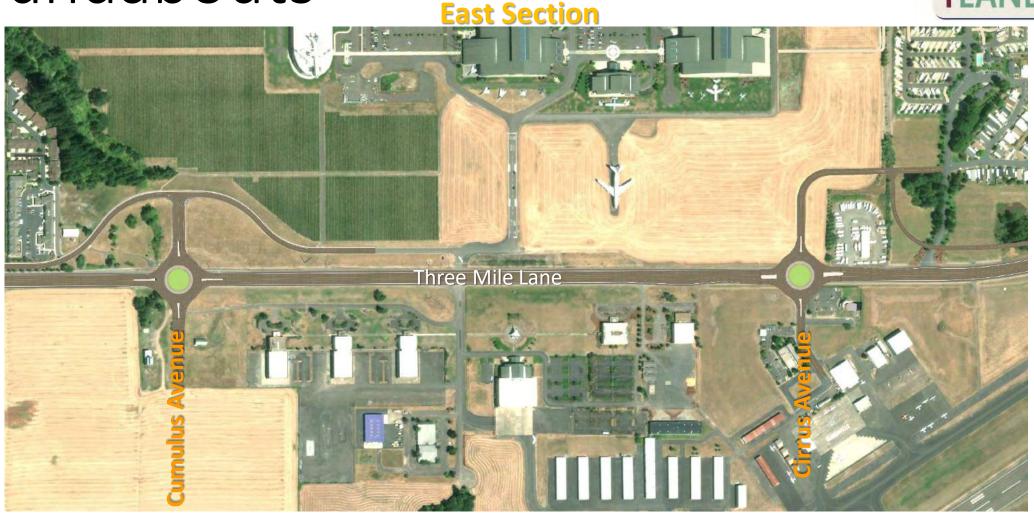


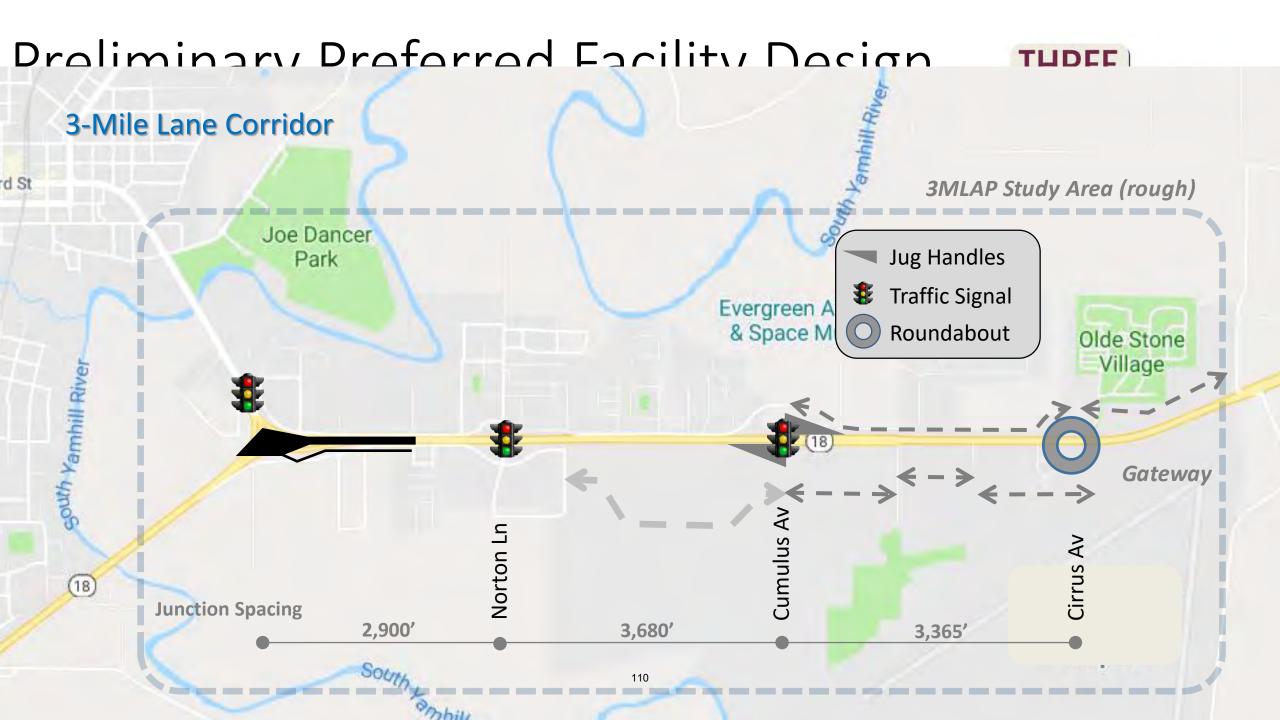
August 13, 2019

Facility Design Option 2:

Roundabouts







Next Steps



- Preferred Alternative Design and Evaluation
 - Traffic operations, multimodal assessment, and safety analysis
 - Recommended changes to support land use
 - New and updated policies
 - Land use and zoning amendments
 - Changes in development requirements
- TAC & CAC Meeting #3
 - Late summer/early fall 2019
- Public Event
 - Fall 2019

APPENDIX INFORMATION



Vision Statement



The Three Mile Lane District is a vibrant community that serves as the gateway to Downtown McMinnville and Oregon Wine Country. Employment opportunities, attractive housing options, and tourist destinations characterize the area. Residents and workers enjoy safe and efficient options to travel to Downtown McMinnville and benefit from close proximity to a variety of goods and services, all easily reached by motorist, bicyclist, pedestrian, and transit rider alike. The connection to McMinnville's rich history and the surrounding landscape is reflected in urban design elements throughout the area, highlighting the uniqueness of this special place.



GOAL 1: Support and enhance the district's economic vitality and marketability

Objectives

- Leverage land uses for economic development, urban density, and family wage job creation and retention
- Optimize existing economic drivers in the area (airport, business park, tourism areas, hospital, community college)
- Enable development/redevelopment
- New tourism opportunities that capitalize on area's unique assets



GOAL 2: Provide opportunities for a complementary mix of land uses, consistent with the vision of a diverse and vibrant district

Objectives

- Incorporate Great Neighborhood Principles
- Mix of housing types: single-family detached, attached housing, and multifamily
- Mixed-use development
- Transit-supportive land use pattern
- Access to amenities for residents, employees, and visitors
- Bicycle/pedestrian trail/pathway system



City of McMinnville Great Neighborhood Principles

- 1. Natural Feature Preservation
- 2. Scenic Views
- 3. Parks and Open Spaces
- 4. Pedestrian Friendly
- 5. Bike Friendly
- 6. Connected Streets
- 7. Accessibility

- 8. Human Scale Design
- 9. Mix of Activities
- 10. Urban Rural Interface
- 11. Housing for Diverse Incomes
- 12. Housing Variety
- 13. Unique and Integrated Design



GOAL 3: Enhance multi-modal connections throughout the district *Objectives*

- Improve pedestrian and bicycle connections, safety, and comfort
- Improve transit connectivity and access
- Improve driver safety in the corridor; meet State and City mobility targets; protect freight mobility; balance access to properties with transportation function



GOAL 4: Create an aesthetically pleasing gateway to the City of McMinnville

Objectives

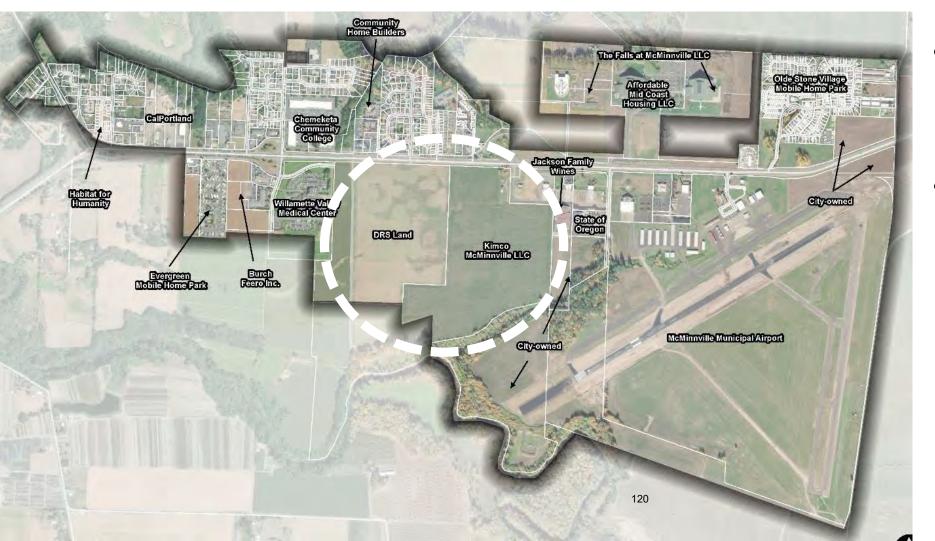
- Gateway feature that can be enjoyed from multiple vantage points
- Development opportunities and streetscape improvements
- Cohesive design language
- Context-appropriate landscape design create a buffer to the highway, human scale, sense of place



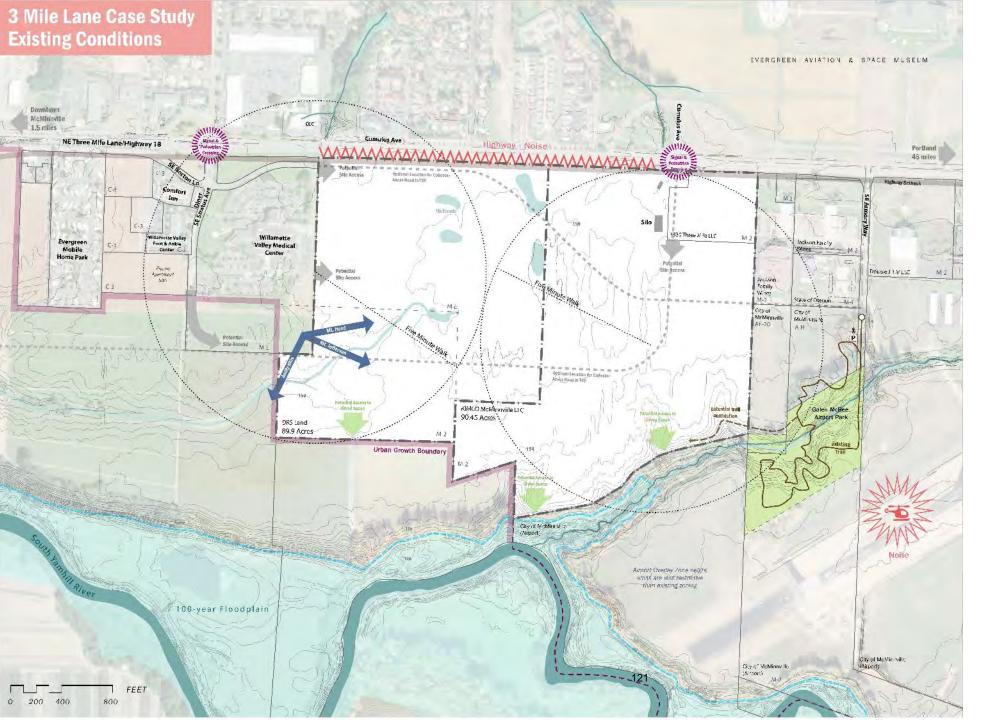
- Are your hopes for the area reflected in the vision statement, goals and objectives?
- Do the proposed goals adequately support the vision statement? Will the associated objectives help the community achieve the vision?
- Are there any important aspects that are missing from the goals and objectives?
- Is there anything included that isn't helpful in achieving the desired future expressed by the vision statement?

Redevelopment Case Study





- Market / design study for large, undeveloped sites
- Will include:
 - Potential building programs
 - Conceptual site studies
 - Preliminary development pro forma





Redevelopment
Case Study:
Existing
Conditions

CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND May 2019

GENERAL OPERATING

		021121012 01 21011111	•	
 FUND#	FUND NAME	CASH IN BANK	INVESTMENT	TOTAL
01	General	\$787,824.53	\$7,574,356.32	\$8,362,180.85
05	Special Assessment	502.40	145,618.82	146,121.22
07	Transient Lodging Tax	314.88	3,000.00	3,314.88
10	Telecommunications	852.74	1,030.00	1,882.74
15	Emergency Communications	778.61	104,094.81	104,873.42
20	Street (State Tax)	349.10	2,028,887.48	2,029,236.58
25	Airport Maintenance	873.06	102,749.03	103,622.09
45	Transportation	38.83	6,532,832.71	6,532,871.54
50	Park Development	730.18	1,480,740.09	1,481,470.27
58	Urban Renewal	308.37	267,168.74	267,477.11
59	Urban Renewal Debt Service	236.42	228,300.27	228,536.69
60	Debt Service	627.12	1,324,137.24	1,324,764.36
70	Building	818.27	1,236,500.00	1,237,318.27
75	Sewer	374.69	1,558,560.30	1,558,934.99
77	Sewer Capital	699.15	29,940,103.65	29,940,802.80
79	Ambulance	172.27	(1,005,164.72)	(1,004,992.45)
80	Information Systems & Services	120.07	223,713.61	223,833.68
85	Insurance Reserve	998.41	1,834,290.54	1,835,288.95
	CITY TOTALS	796,619.10	53,580,918.89	54,377,537.99

MATURITY			INTEREST	
DATE	INSTITUTION	TYPE OF INVESTMENT	RATE	CASH VALUE
N/A	Key Bank of Oregon	Checking & Repurchase Sweep Account	0.20%	\$ 796,019.10
N/A	Key Bank of Oregon	Money Market Savings Account	0.02%	8,522,161.73
N/A	State of Oregon	Local Government Investment Pool (LGIP)	2.75%	40,057,820.34
N/A	State of Oregon	Park Improvement Bonds (LGIP)	2.75%	627,542.92
N/A	State of Oregon	Transportation Bond (LGIP)	2.75%	3,436,401.18
N/A	State of Oregon	Urban Renewal Loan Proceeds (LGIP)	2.75%	281,983.48
N/A	MassMutual Financial Group	Group Annuity	3.00%	655,609.24
				\$ 54,377,537.99



City Reco	order Use
Final Action:	
■ Approved	■ Disapproved

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Morning Thunder Cafe BUSINESS LOCATION ADDRESS: 619 NE 3 rd St C1 LIQUOR LICENSE TYPE: Limited on-premises	9
Is the business at this location currently licensed at Yes No If yes, what is the name of the existing busines	
Hours of operation: 8:30 am – 2 pm Sunday-Sa Entertainment: N/A Hours of Music: N/A Seating Count: 48 total; 32 restaurant 16 court EXEMPTIONS: (list any exemptions)	,
Tritech Records Management System Che	
Recommended Action: Approve Di	
Chief of Police / Designee	City Manager / Designee



City Reco	order Use
Final Action: Approved	■ Disapproved

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: JADA Ventures, LI BUSINESS LOCATION ADDRESS: 608 NE 3 rd St LIQUOR LICENSE TYPE: Limited on-premises	LC DBA: Two Dogs Taphouse
Is the business at this location currently lice	ensed by OLCC
If yes, what is the name of the existing busi	ness:
Hours of operation: Sunday – Saturday 11 a Entertainment: Recorded music, televisions Hours of Music: Seating Count: 119 total; 106 restaurant, 1	5
EXEMPTIONS: (list any exemptions)	
Tritech Records Management System Criminal Records Check: Yes Recommended Action: Approve	I No
Chief of Police / Designee	City Manager / Designee
Cinci di l'olice / Designee	city manager / Designee



City of McMinnville
Community Development Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7312
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 13, 2019

TO: Jeff Towery, City Manager

FROM: Larry Sherwood, Project Manager

SUBJECT: Old Sheridan Road Improvement Project- Property Acquisition Resolution

Report in Brief:

The City is currently working on the design to improve SW Old Sheridan Road from SW Cypress Lane to Highway 99W. To accomplish the project, it is necessary to acquire the fee title interest in three (3) parcels and temporary construction easements over four (4) parcels of property, located along the existing City right-of-way.

Background:

The Old Sheridan Road Improvements Project is the last of the five Capital Improvement Projects identified in the voter approved 2014 Transportation Improvements bond measure. Transferred from Yamhill County to the City in June of 2019, this section of Old Sheridan Road is currently a substandard minor arterial with a deficient bridge, poor pavement, missing sidewalks and partial bike lanes. Traffic currently backs up on Old Sheridan Road at the 99W intersection due to the lack of a dedicated left turn lane and a traffic signal without separate left turn phasing.

Discussion:

This project will construct improvements to Old Sheridan Road including: the replacement of the bridge over Cozine Creek; road widening; the addition of sidewalks and bike lanes on both sides of Old Sheridan Road; the installation of a dedicated left turn lane at the intersection of Old Sheridan Road and Highway 99W; traffic signal upgrades: landscaping; storm water facilities; and street lighting.

The project has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of transportation infrastructure so that property damage is minimized, transportation promoted, and travel safeguarded. The upgrades are consistent with the City's adopted 2010 Transportation System Plan.

The attached resolution provides City staff and its consultants (HHPR) the authorization to acquire the needed right-of-way parcels and temporary construction easements necessary to construct the improvements.

Attachments:

- 1. Resolution
- 2. Vicinity Map
- 3. Parcel Exhibits
- 4. RES 2019-39 Jurisdictional Transfer Resolution

Fiscal Impact:

Funding for the project was included in the voter approved 2014 Transportation Improvement bond measure and is included in the adopted FY 2020 Transportation Fund (45) budget.

Recommendation:

Staff recommends that the City Council adopt the attached resolution authorizing City staff and its consultants to acquire the needed right-of-way parcels and temporary construction easements necessary to construct the Old Sheridan Road Improvements Project, Project 2017-6.

RESOLUTION NO. 2019 - 56

A Resolution authorizing the acquisition of property for the Old Sheridan Road Improvements Project, and exercising the power of eminent domain.

RECITALS:

The City of McMinnville may exercise the power of eminent domain under ORS 223.105(2) and ORS Chapter 35 when deemed necessary by the City Council to accomplish public purposes for which the City has responsibility.

The City has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.

The City is acting to improve Old Sheridan Road including: replacing the bridge over Cozine Creek; the addition of sidewalks and bike lanes; the installation of a left turn lane and traffic signal upgrades at the intersection of Old Sheridan Road and Highway 99W; landscaping; storm water facilities; and street lighting. The project is consistent with the City's adopted 2010 Transportation System Plan, and funding for the project was included in the voter approved 2014 Transportation Improvement bond measure.

The project has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of transportation infrastructure so that property damage is minimized, transportation promoted, and travel safeguarded.

To accomplish the Project, it is necessary to acquire the fee title interest in three (3) parcels and temporary construction easements over four (4) parcels of property located along the existing City right-of-way, as described and shown in Attachment 3.

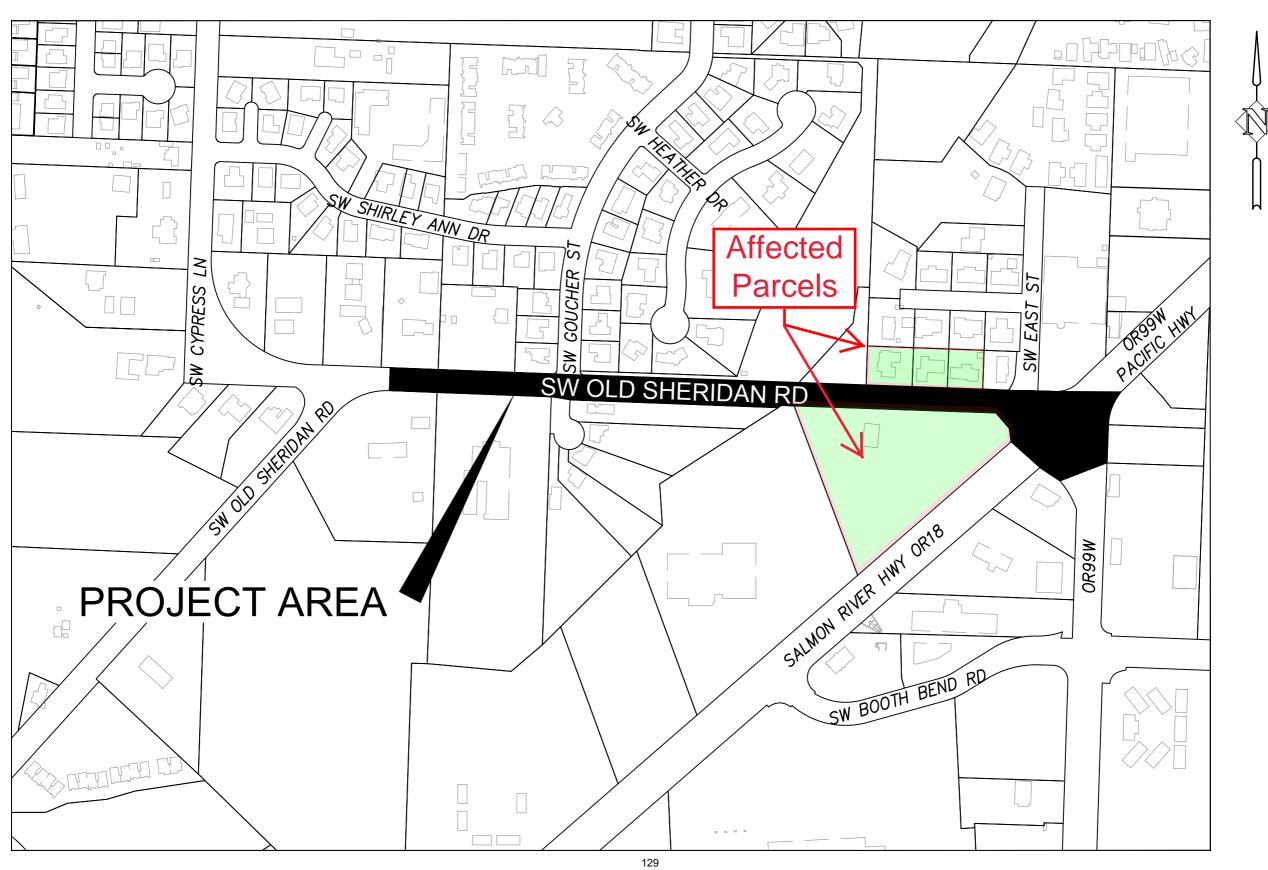
NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

- 1. The foregoing statements of authority and need are true and the Project is in the public interest.
- 2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Attachment 3 subject to payment of just compensation and to procedural requirements of Oregon law.
- 3. The City's staff and the City's agents are authorized to negotiate an agreement with the owner and other persons in interest as to the compensation to be paid for each acquisition and, in the event that no satisfactory agreement can be reached, the City's staff and the City's agents are authorized to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition.
- 4. The City of McMinnville expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 13th day of August 2019 by the following votes:

Ayes:	
Nays:	
Approved this 13th day of Au	gust 2019.
Approved as to form:	MAYOR
, pp. 6.64 46 16 16 16 16 16 16 16 16 16 16 16 16 16	
CITY ATTOPNEY	

ATTACHMENT 2



VICINITY MAP

ATTACHMENT 3

Old Sheridan Road Improvements-Parcel & Temporary Construction Easement Acquisition

File Number	Taxlot Number	Property Owner	Property Addrress	Fee	I TCF	ROW to be Acquired?	Comments
1	1700 44 29BD	Gary & Paula Mackey	1125 SW Old Sheridan Road	371 SF	953 SF	I YAS	In order to have the necessary space to construct retaining walls and sidewalks.
2	1800 44 29BD	Brandi Pointer	1133 SW Old Sheridan Road	175 SF	808 SF	l Yes	In order to have the necessary space to construct retaining walls and sidewalks.
3	1900 44 29BD	Jackson Miller & Kathleen Spring	1149 SW Old Sheridan Road		1044 SF	I NO	In order to have the necessary space to construct retaining walls and sidewalks.
7	2600 44 29BD	SMS Mobile Homes, Inc.	1120 SW Old Sheridan Road	1748 SF	5198 SF	Yes	In order to realign Old Sheridan at its intersection with Highway 99W and to provide space for the construction of a dedicated left turn lane, bike lanes and sidewalks.

EXHIBIT A

August 2, 2019 Map & Tax Lot No. 4S 4W 29BD-1700

OWNER: Gary P. Mackey

Paula Safford Mackey

Page 1 of 3

Parcel 1 (Fee Simple)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 29, Township 4 South, Range 4 West, of the Willamette Meridian, Yamhill County, Oregon, being a portion of that tract of land as conveyed to Gary P. Mackey and Paula Stafford-Mackey that Statutory Warranty Deed recorded September 6, 2017 as Instrument No. 2017-14380, Records of Yamhill, said parcel being that portion of said property included in a strip of land, variable in width, said line is to be lengthened or shortened to terminate at the boundary lines of said property lying southerly of the following center line described below.

Beginning at the intersection of SW Old Sheridan Road (Market Road No.19) and SW Cypress Lane, a 5/8-inch iron rod with a yellow plastic cap in monument box inscribed "G & L Land Surveying", origin unknown, and with an Engineer's Station of 13+41.81 said intersection bears South 89°42'31" East, a distance of 341.81 feet from the southwest corner of the S.F. Stagg Donation Land Claim No. 55 marked with a 2-1/2 inch brass disk in a monument box inscribed "Yamhill County Surveyor D.L.C. #55 S.W. Cor." as set in Yamhill County Survey Records; thence South 89°42'31" East, along the existing center line of SW Old Sheridan Road (Market Road No.19), a distance of 1662.38 feet to Engineer's Station 30+04.19 and the beginning of the new center line, being at the beginning of a 305.00 foot radius curve to the right, having a central angle of 45°46'44"(the long chord of which bears South 66°49'10" East, 237.26 feet), 243.69 feet to Engineer's Station 32+47.90; and a point on the existing center line of Salmon River Highway (Oregon State Highway 18), Engineer's Station 16+55.77 and the terminus of this description.

Bearings are based on the Oregon Coordinate Reference System, Salem Zone, NAD 83 (2011) Epoch 2010.0.

The widths in feet of said strip of land referred to are as follows:

Page 2 of 3

Station	to	Station	Width left of Centerline
29+50.00		30+02.49	32.88 feet in a straight line to 34.63 feet
30+02.49		30+43.66	34.63 feet, around a curve to the right with a radius of 342.54 feet, a length of 45.77 feet, and which the long chord bears South 87°51'13" East, a distance of 45.73 feet to 36.00 feet
30+43.66		30+53.18	36.00 feet, around a curve to the right with a radius of 341.00 feet, a length of 10.65 feet, and which the long chord bears South 81°24'01" East, a distance of 10.64 feet to 36.00 feet
30+53.18		30+53.41	36.00 feet in a straight line to 34.41 feet

EXCEPTING therefrom that portion lying within the existing right of way of SW Old Sheridan Road (Market Road No. 19).

Containing 371 square feet, more or less.

Parcel 2 (Temporary Construction Easement)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 29, Township 4 South, Range 4 West, of the Willamette Meridian, Yamhill County, Oregon, being a portion of that tract of land as conveyed to Gary P. Mackey and Paula Stafford-Mackey that Statutory Warranty Deed recorded September 6, 2017 as Instrument No. 2017-14380, Records of Yamhill, said parcel being that portion of said property included in a strip of land, variable in width, said line is to be lengthened or shortened to terminate at the boundary lines of said property lying southerly of the above described center line described above.

Station	to	Station	Width left of Centerline
29+55.00		30+02.31	38.05 feet in a straight line to 39.63 feet
30+02.31		30+16.63	39.63 feet, around a curve to the right with a radius of 347.54 feet, a length of 15.95 feet, and which the long chord bears North 89°38'01" East, a distance of 15.95 feet to 40.10 feet
30+16.63 30+16.20		30+16.20 30+55.00	40.10 feet in a straight line to 51.19 feet 51.19 feet in a straight line to 55.91 feet

Page 3 of 3

EXCEPTING therefrom that portion lying within the existing right of way of SW Old Sheridan Road (Market Road No. 19).

EXCEPTING therefrom that portion lying within Parcel 1.

Containing 953 square feet, more or less.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON JULY 10, 1996 PATRICK M. GAYLORD 2767

Renewed through 6-30- 2021

EXHIBIT "B" FEE SIMPLE & TEMPORARY CONSTRUCTION EASEMENT 4S4W29BD 4S4W29BD 4S4W29BD TL 1700 TL 1600 TL 1800 1125 SW OLD SHERIDAN RD GARY P. MACKEY AND PAULA STAFFORD-MACKEY STA: 30+16.63 OFF: 40.10' L STA: 14+42.89 STA: 30+16.20 OFF: 26.93' L OFF: 51.19' L STA: 30+55.00 STA: 30+02.31 OFF: 39.63' L OFF: 55.91' L STA: 30+43.66 OFF: 36.00' L STA: 30+53.18 STA: 29+55,00-OFF: 38.05' L OFF: 36.00' L

STA: 30+02.49 -STA: 29+50.00-OFF: 34.63' L OFF: 32.88' L

Δ=1'47'19" $\Delta = 7.39'19''$ R=341.00' R=342.54' L=10.65' LC=N87 51'13"W, LC=N81 24'01"W,

STA: 15+11.

STA: 30+53.42 OFF: 34.39' L

> SCALE 1" = 30'

LEGEND



FEE SIMPLE ± 371 SQ.FT.

SW OLD SHERIDAN ROAD (MARKET RD. NO. 19)



TEMPORARY CONSTRUCTION EASEMENT ± 953 SQ.FT.



Harper HHPR Houf Peterson Righellis Inc.

ENGINEERS • PLANNERS LANDSCAPE ARCHITECTS . SURVEYORS

Suite 200, Portland, OR 97202 205 SE Spokane Street, phone: 503.221.1131 www.hhpr.com fax: 503.221.1171 PAGE 1 OF 1 MAC-02 GMW 08/02/2019

SEE ATTACHED LEGAL DESCRIPTION

EXHIBIT A

August 2, 2019 Map & Tax Lot No. 4S 4W 29BD-1800

OWNER: Brandi Pointer

Page 1 of 2

Parcel 1 (Fee Simple)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 29, Township 4 South, Range 4 West, of the Willamette Meridian, Yamhill County, Oregon and being a portion of that tract of land as conveyed to Brandi Pointer in that Statutory Warranty Deed recorded November 6, 2017 as Instrument No. 2017-17861, Records of Yamhill, said parcel being that portion of said property included in a strip of land, variable in width, and lying northerly of the following center line described below.

Beginning at the intersection of SW Old Sheridan Road (Market Road No.19) and SW Cypress Lane, a 5/8-inch iron rod with a yellow plastic cap in monument box inscribed "G & L Land Surveying", origin unknown, and with an Engineer's Station of 13+41.81 said intersection bears South 89°42'31" East, a distance of 341.81 feet from the southwest corner of the S.F. Stagg Donation Land Claim No. 55 marked with a 2-1/2 inch brass disk in a monument box inscribed "Yamhill County Surveyor D.L.C. #55 S.W. Cor." as set in Yamhill County Survey Records; thence South 89°42'31" East, along the existing center line of SW Old Sheridan Road (Market Road No.19), a distance of 1662.38 feet to Engineer's Station 30+04.19 and the beginning of the new center line, being at the beginning of a 305.00 foot radius curve to the right, having a central angle of 45°46'44"(the long chord of which bears South 66°49'10" East, 237.26 feet), 243.69 feet to Engineer's Station 32+47.90; and a point on the existing center line of Salmon River Highway (Oregon State Highway 18), Engineer's Station 16+55.77 and the terminus of this description.

Bearings are based on the Oregon Coordinate Reference System, Salem Zone, NAD 83 (2011) Epoch 2010.0.

The widths in feet of said strip of land referred to are as follows:

Station	to	Station	Width left of Centerline
28+63.61		29+70.00	30.00 feet in a straight line to 33.55 feet

EXCEPTING therefrom that portion lying within the existing right of way of SW Old Sheridan Road (Market Road No. 19).

Containing 175 square feet, more or less.

Parcel 2 (Temporary Construction Easement)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 29, Township 4 South, Range 4 West, of the Willamette Meridian, Yamhill County, Oregon and being a portion of that tract of land as conveyed to Brandi Pointer in that Statutory Warranty Deed recorded November 6, 2017 as Instrument No. 2017-17861, Records of Yamhill, said parcel being that portion of said property included in a strip of land, variable in width, and lying northerly of the following center line described above.

Station	to	Station	Width left of Centerline
28+70.00		29+32.66	35.22 feet in a straight line to 37.30 feet
29+32.66	-	29+32.22	37.30 feet in a straight line to 50.66 feet
29+32.22		29+58.20	50.66 feet in a straight line to 51.53 feet
29+58.20		29+58.65	51.53 feet in a straight line to 38.17 feet
29+58.65	i	29+70.00	38.17 feet in a straight line to 38.55 feet

EXCEPTING therefrom that portion lying within the existing right of way of SW Old Sheridan Road (Market Road No. 19).

EXCEPTING therefrom that portion lying within Parcel 1.

Containing 808 square feet, more or less.

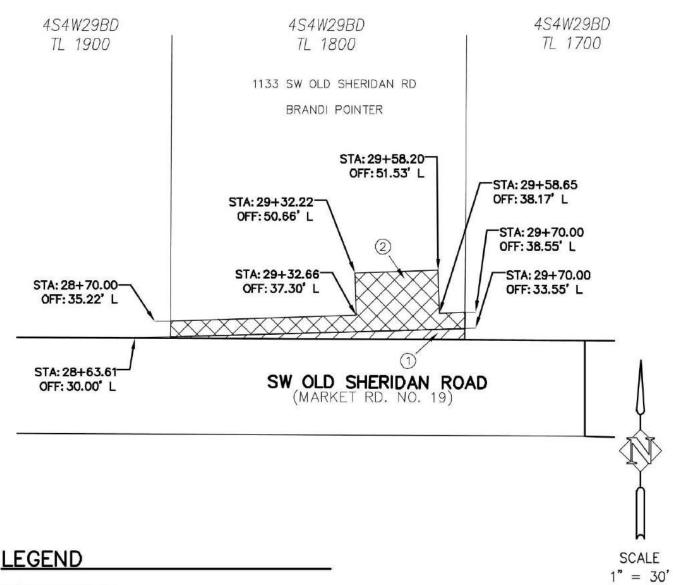
REGISTERED PROFESSIONAL LAND SURVEYOR

OREGÓN JULY 10, 1996 PATRICK M. GAYLORD 2767

Renewed through 6-30-202/

EXHIBIT "B"

FEE SIMPLE & TEMPORARY CONSTRUCTION EASEMENT





FEE SIMPLE ± 175 SQ.FT.



TEMPORARY CONSTRUCTION EASEMENT ± 808 SQ.FT.

SEE ATTACHED LEGAL DESCRIPTION



Harper HHPR Houf Peterson Righellis Inc.

ENGINEERS • PLANNERS LANDSCAPE ARCHITECTS + SURVEYORS 205 SE Spokane Street, Suite 200, Portland, OR 97202 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171 MAC-02 **GCB** 08/01/2019 PAGE 1 OF 1

EXHIBIT A

August 2, 2019

Map & Tax Lot No. 4S 4W 29BD-01900

OWNERS: Jackson B. Miller and

Kathleen M. Spring

Page 1 of 2

Parcel 1 (Temporary Construction Easement)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 29, Township 4 South, Range 4 West, of the Willamette Meridian, Yamhill County, Oregon and being a portion of that tract of land as conveyed to Jackson B. Miller and Kathleen M. Spring in Statutory Warranty Deed recorded November 20, 2017 as Instrument No. 2007-24905, Records of Yamhill County, said parcel being that portion of said property included in a strip of land, variable in width, and lying northerly of the following center line as described below.

Beginning at the intersection of SW Old Sheridan Road (Market Road No.19) and SW Cypress Lane, a 5/8-inch iron rod with a yellow plastic cap in monument box inscribed "G & L Land Surveying", origin unknown, and with an Engineer's Station of 13+41.81 said intersection bears South 89°42'31" East, a distance of 341.81 feet from the southwest corner of the S.F. Stagg Donation Land Claim No. 55 marked with a 2-1/2 inch brass disk in a monument box inscribed "Yamhill County Surveyor D.L.C. #55 S.W. Cor." as set in Yamhill County Survey Records; thence South 89°42'31" East, along the existing center line of SW Old Sheridan Road (Market Road No.19), a distance of 1662.38 feet to Engineer's Station 30+04.19 and the beginning of the new center line, being at the beginning of a 305.00 foot radius curve to the right, having a central angle of 45°46'44"(the long chord of which bears South 66°49'10" East, 237.26 feet), 243.69 feet to Engineer's Station 32+47.90; and a point on the existing center line of Salmon River Highway (Oregon State Highway 18), Engineer's Station 16+55.77 and the terminus of this description.

Bearings are based on the Oregon Coordinate Reference System, Salem Zone, NAD 83 (2011) Epoch 2010.0.

The widths in feet of said strip of land referred to are as follows:

The widths in feet of said strip of land referred to are as follows:

Station	to	Station	Width left of Centerline
27+50.00		28+48.54	33.56 feet
28+48.54		28+48.54	33.56 feet in a straight line to 58.13 feet
28+48.54		28+73.25	58.13 feet in a straight line to 58.13 feet
28+73.25		28+74.01	58.13 feet in a straight line to 35.35 feet
28+74.01		28+80.00	35.35 feet in a straight line to 35.55 feet

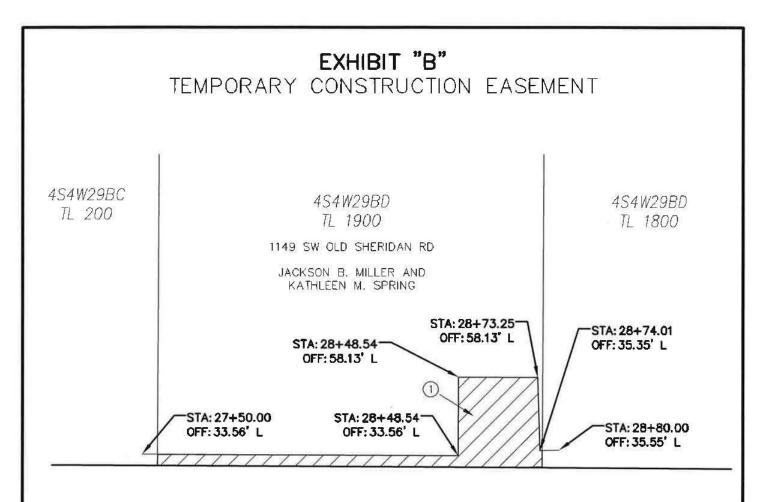
EXCEPTING therefrom that portion lying within the existing right of way of SW Old Sheridan Road (Market Road No. 19).

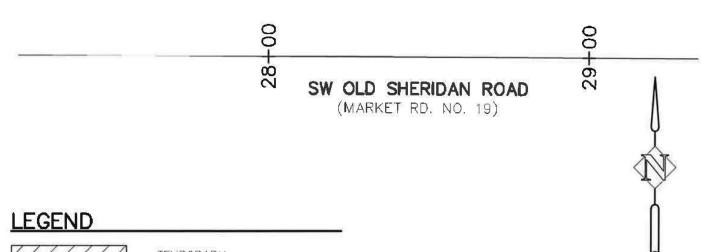
Containing 1044 square feet, more or less.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON JULY 10, 1996 PATRICK M. GAYLORD 2767

Renewed through 6-30- 2021







SEE ATTACHED

TEMPORARY 1) CONSTRUCTION EASEMENT ± 1,044 SQ.FT.



SCALE 1" =30' Harper HHPR Houf Peterson Righellis Inc.

ENGINEERS . PLANNERS LANDSCAPE ARCHITECTS . SURVEYORS

205 SE Spokane Street, Suite 200, Portland, OR 97202 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

LEGAL DESCRIPTION

GCB

08/02/2019

PAGE 1 OF 1

MAC-02

EXHIBIT A

August 2, 2019 Map & Tax Lot No. 4S 4W 29BD - 2600

OWNER: SMS Mobile Homes, Inc.

Page 1 of 3

Parcel 1 (Fee Simple)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 29, Township 4 South, Range 4 West, of the Willamette Meridian, Yamhill County, Oregon, being a portion of that tract of land as conveyed to J&M Homes, LLC, an Oregon Limited Liability Company in a Memorandum Agreement and Assignment of Rents recorded March 5, 2014 as Instrument No. 2014-02402, Records of Yamhill County, said parcel included in a strip of land, variable in width, said line is to be lengthened or shortened to terminate at the boundary lines of said property lying southerly of the following center line as described below.

Beginning at the intersection of SW Old Sheridan Road (Market Road No.19) and SW Cypress Lane, a 5/8-inch iron rod with a yellow plastic cap in monument box inscribed "G & L Land Surveying", origin unknown, and with an Engineer's Station of 13+41.81 said intersection bears South 89°42'31" East, a distance of 341.81 feet from the southwest corner of the S.F. Stagg Donation Land Claim No. 55 marked with a 2-1/2 inch brass disk in a monument box inscribed "Yamhill County Surveyor D.L.C. #55 S.W. Cor." as set in Yamhill County Survey Records; thence South 89°42'31" East, along the existing center line of SW Old Sheridan Road (Market Road No.19), a distance of 1662.38 feet to Engineer's Station 30+04.19 and the beginning of the new center line, being at the beginning of a 305.00 foot radius curve to the right, having a central angle of 45°46'44"(the long chord of which bears South 66°49'10" East, 237.26 feet), 243.69 feet to Engineer's Station 32+47.90; and a point on the existing center line of Salmon River Highway (Oregon State Highway 18), Engineer's Station 16+55.77 and the terminus of this description.

Bearings are based on the Oregon Coordinate Reference System, Salem Zone, NAD 83 (2011) Epoch 2010.0.

The widths in feet of said strip of land referred to are as follows:

Page 2 of 3

Station	to	Station	Width right of Centerline
28+63.61		30+03.19	30.00 feet in a straight line to 34.65 feet
30+03.19		30+43.52	34.65 feet, around a curve to the right with a radius of 267.16 feet, a length of 35.80 feet, and which the long chord bears South 83°57'52" East, a distance of 35.77 feet to 36.00 feet
30+43.52		31+22.29	36.00 feet, around a curve to the right with a radius of 269.00 feet, a length of 69.47 feet, and which the long chord bears South 74°55'19" East, a distance of 69.28 feet to 36.00 feet
31+22.29		31+48.55	36.00 feet, around a curve to the right with a radius of 121.00 feet, a length of 23.17 feet, and which the long chord bears South 62°02'14" East, a distance of 23.14 feet to 37.22 feet
31+48.55	ĺ	31+56.89	37.22 feet, around a curve to the right with a radius of 28.00 feet, a length of 7.51 feet, and which the long chord bears South 48°52'02" East, a distance of 7.49 feet to 38.90 feet

EXCEPTING therefrom that portion lying within the existing right of way of SW Old Sheridan Road (Market Road No. 19).

Containing 1,748 square feet, more or less.

Parcel 2 (Temporary Construction Easement)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 29, Township 4 South, Range 4 West, of the Willamette Meridian, Yamhill County, Oregon, being a portion of that tract of land as conveyed to SMS Mobile Homes, Inc. in a Memorandum Agreement and Assignment of Rents recorded March 5, 2014 as Instrument No. 2014-02402, Records of Yamhill County, said parcel included in a strip of land, variable in width, lying southerly of the following centerline as described above.

Page 3 of 3

Station	to	Station	Width right of Centerline
25+50.00		28+63.52	35.00 feet in a straight line to 35.00 feet
28+63.52		29+53.27	35.00 feet in a straight line to 37.99 feet
29+53.27		29+52.33	37.99 feet in a straight line to 85.58 feet
29+52.33		29+96.57	85.58 feet in a straight line to 86.87 feet
29+96.57		30+30.21	86.87 feet in a straight line to 73.25 feet
30+30.21		30+17.79	73.25 feet in a straight line to 54.86 feet
30+17.79		30+17.14	54.86 feet in a straight line to 35.12 feet

EXCEPTING therefrom that portion lying within the existing right of way of SW Old Sheridan Road (Market Road No. 19).

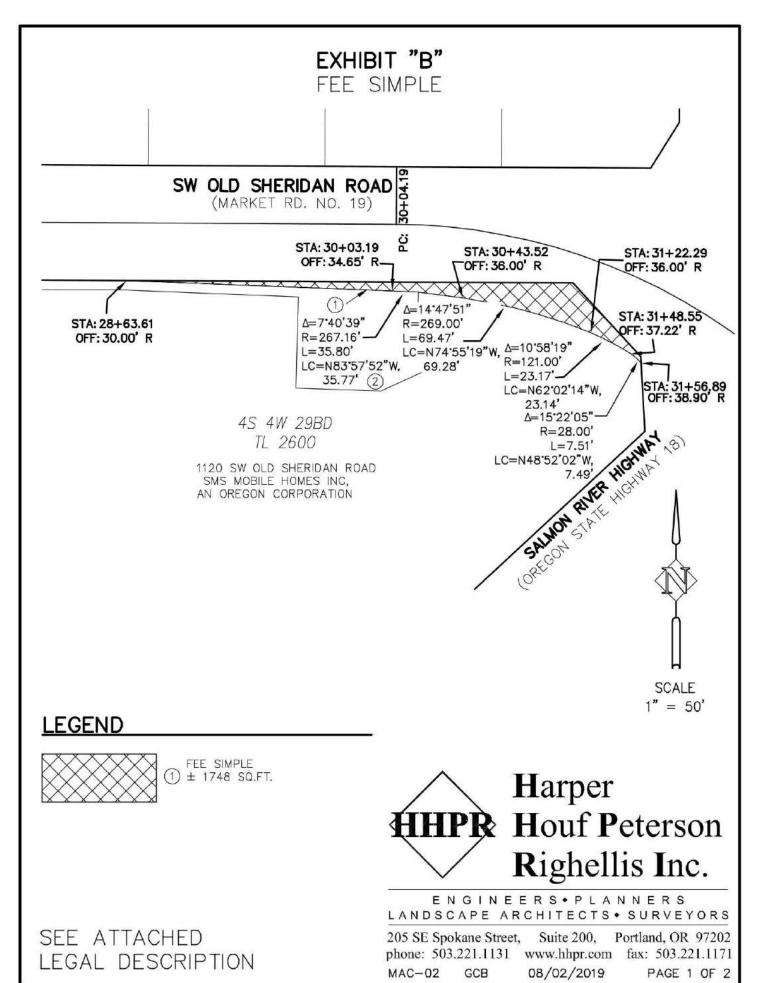
EXCEPTING therefrom that portion lying within Parcel 1.

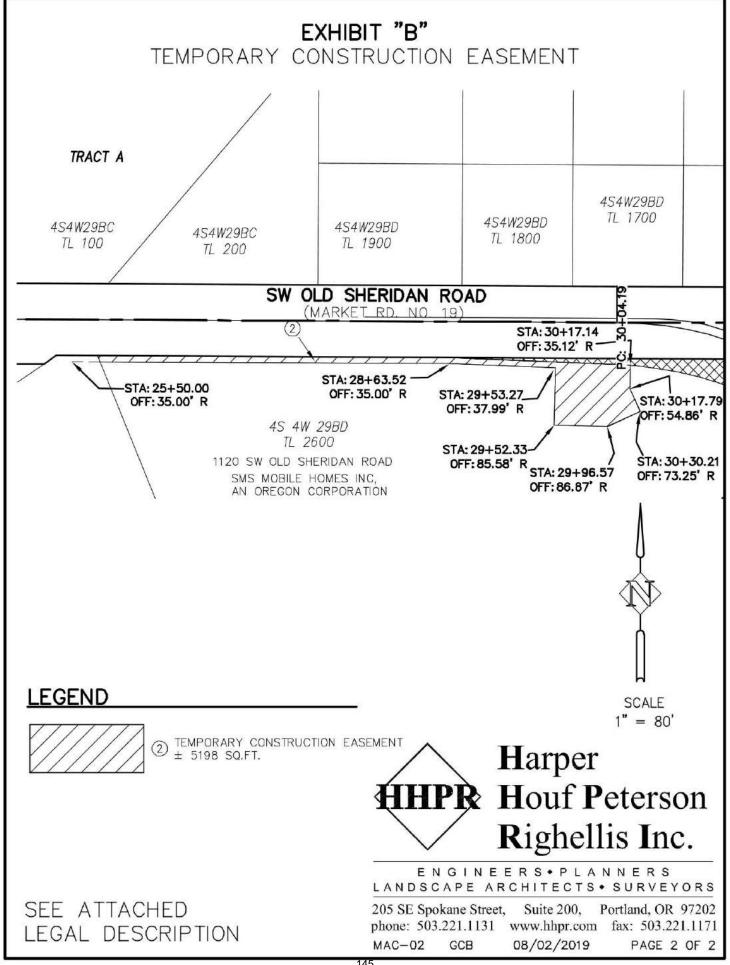
Containing 5,198 square feet, more or less

PROFESSIONAL LAND SURVEYOR

OREGON
JULY 10, 1996
PATRICK M. GAYLORD
2767

Renewed through 6-30-2-21







City of McMinnville
Community Development Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7312
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 13, 2019

TO: Mayor and City Councilors

FROM: Mike Bisset, Community Development Director SUBJECT: McMinnville Airport – Comcast lease extension

Report in Brief: A Resolution approving a lease amendment and extension with Comcast of Oregon II, Inc.

<u>Discussion:</u> Effective January 1, 2014, the City of McMinnville granted a lease to Comcast of Oregon II, Inc. (Comcast) for a 0.95 acre parcel of land at McMinnville Municipal Airport (see attachment 4). The original term of the lease expires on December 31, 2019, and the lease allows for three renewal terms of five years each.

On May, 23, 2019, Comcast submitted a request (see attachment 5) to exercise the first renewal term of five years, extending the lease to December 31, 2024. Additionally, they requested a lease amendment to change the annual lease rate adjustment to a fixed percentage of 2.5% (the current lease is adjusted annually by the Consumer Price Index).

In exchange for the lease rate adjustment amendment, Comcast has agreed to release 20 parking spaces in their leased parking lot for airport use. The areas of parking that will be released to the airport are shown in blue on the attached map (attachment 3).

The McMinnville Airport Commission considered the lease amendment and extension at their July 2, 2019 meeting, and unanimously recommended that the City Council approve the request.

Attachments: 1. Resolution

- 2. Lease Amendment and Extension
- 3. Parking Map
- 4. Executed Comcast lease January 1, 2014
- 5. Lease extension request May 23, 2019

Recommendation: Staff recommends that the City Council adopt the resolution approving a lease amendment and extension with Comcast of Oregon II, Inc.

RESOLUTION NO. 2019 -

A Resolution approving a lease amendment and extension with Comcast of Oregon II, Inc.

RECITALS

Resolution No. 2019 - _____

Effective January 1, 2014, the City of McMinnville granted a lease to Comcast of Oregon II, Inc. for a 0.95 acre parcel of land at McMinnville Municipal Airport;

The original term of the lease expires on December 31, 2019, and the lease allows for three renewal terms of five years each;

On May, 23, 2019, Comcast of Oregon II, Inc. submitted a request to exercise the first renewal term of five years, extending the lease to December 31, 2024;

Additionally, Comcast of Oregon II, Inc. requested a lease amendment to change the annual lease rate adjustment to a fixed percentage of 2.5%;

In exchange for the lease rate adjustment amendment, Comcast of Oregon II, Inc. has agreed to release 20 parking spaces in their leased parking lot for airport use.

The McMinnville Airport Commission considered the lease amendment and extension at their July 2, 2019 meeting, and unanimously recommended that the City Council approve the request.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF McMINNVILLE, as follows:

- 1. That the lease amendment and extension with Comcast of Oregon II, Inc. is hereby approved, and the City Manager is authorized to sign the lease documents.
- 2. This Resolution shall take effect immediately upon passage.

Adopted by the City Council of the City of McMinnville at a regular meeting held the <u>13th</u> day of August 2019 by the following votes:

Ayes:	
Nayes:	
Approved this 13th day of August 201	9.
•	
Approved as to form:	MAYOR
CITY ATTORNEY	

LEASE AMENDMENT and EXTENSION

This lease amendment is entered into on this _____ day of June, 2019 by and between the City of McMinnville, a municipal corporation of the State of Oregon (Lessor), and Comcast of Oregon II, Inc. (Lessee).

RECITALS:

The Lessor and Lessee are parties to a lease agreement entered into on January 1, 2014, for the "FBO-C" property located at the McMinnville Municipal Airport described in Exhibit A to that lease (Premises).

The parties mutually desire to amend the terms of the lease, to reduce the size of the parking lot area included in the leased premises, and to fix the rate of annual (non-renewal year) rent increases at 2.5%

In addition, the original term of the Lease will expire on December 31, 2019, and the Lessee has provided Lessor with written notice exercising Lessee's right to extend the lease for one additional period of five (5) years, as amended herein.

NOW THEREFORE, the Parties agree as follows:

- 1. Section 2.4 of the lease is amended as follows:
- 2.4 Lease Payment Increase Calculation. Except for the first year of any renewal period, the lease payments will be adjusted increased each year of the original term and any renewal terms by 2.5% being increased by the Consumer Price Index (CPI-W) Portland, Oregon for the first half of the year preceding the increase (e.g. CPI-W for January 1, 2014- will be used for the increase effective January 1, 2015). Notwithstanding the use of the CPI-W, the minimum increase will not be less than two percent (2%) and the maximum increase will not be greater than ten percent (10%) annually. The lease payment increase in the first year of any renewal period shall be the adjusted lease rate which the Parties negotiate pursuant to subsection 1.3.2 of this lease
 - 2. The area of the parking lot portion of the leased premises is modified to remove portions of the parking lot from use by the lessee, so that the parking spaces may be utilized for parking of motor vehicles by other airport lessees, their employees, agents, and guests. The premises leased by lessee as described and depicted in Exhibits A and B of the original lease are amended by replacing Exhibits A and B of the original lease with Exhibits A and B attached to this lease amendment. In addition, lessor shall have non-exclusive use of the travel portions of the parking lot, as necessary to allow reasonable access to the parking spaces relinquished by this amendment. Lessor will contribute a pro rata share of the cost for snow and ice removal from the parking lot.
 - 3. The term of the above-reference lease agreement is hereby extended, effective January 1, 2020 to December 31, 2024. Two renewal terms will remain at the end of this first renewal term.
 - 4. The lease rate for the first year of the first renewal term will be \$884.73 per month.

CITY OF MCMINNVILLE		LESSEE	
By: Jeff Towery, City Manager	Date	Ву:	Date
By: David Koch, City Attorney	Date	By:	Date

5. All remaining terms and conditions of the Lease remain the same.

Exhibit A

Being a part of the North ½ of the John White D.L.C. No. 83, Northeast 1/4 Section 26, Township 4 South, Range 4 West, Willamette Meridian, Yamhill County, Oregon and being within those certain lands known as McMinnville Municipal Airport and owned by the City of McMinnville and being further described as follows:

Beginning at a point 588.78 feet South 87°56′55" East, 120 feet South 2°03′05" West (Basis of bearing from State of Oregon Highway survey) from the Northeast corner of that tract conveyed by the City of McMinnville to Evergreen Helicopters, Inc. and recorded in Film Volume 85, Page 1250, Deed Records of Yamhill County, Oregon, said point being 60 feet South 2°03′05" West of Three Mile Lane right-of-way, as conveyed to the State of Oregon by deed recorded in Film Volume 230, Page 1743, Deed Records of Yamhill County, Oregon; thence South 2°03′05" West, a distance of 94.90 feet; thence South 87°56′55" East parallel with the south line of said Highway, a distance of 275.0 feet; thence North 2°03′05" East, a distance of 154.90 feet to the South line of said Highway; thence North 87°56′55" West along said Highway south line, a distance of 235.0 feet; thence southwesterly, a distance of 72.11 feet to the Place of Beginning of this description and containing 0.95 acres, more or less. Said tract identified on City records as FBO "C" and as shown on the attached Exhibit "B".

EXCEPTING THEREFROM the following described tract of land.

Beginning at the Southeast corner of the property described above and recorded in Film Volume 281, Page 1028, Deed Records of Yamhill County, Oregon; thence North 87°56′55" West along the south boundary of said property a distance of 117.7 feet to the TRUE POINT OF BEGINNING of this description; thence North 2°03′05" East a distance of 27.5 feet; thence North 87°56′55" West a distance of 102.0 feet; thence South 2°03′05" West a distance of 27.5 feet to the southern boundary of said property; thence South 87°56′55" East 102.0 feet to the TRUE POINT OF BEGINNING of this description. Said tract labeled "A" and as shown on the attached Exhibit "B".

ALSO EXCEPTING THERFROM the following described tract of land.

Beginning at the Southwest corner of the property described above and recorded in Film Volume 281, Page 1028, Deed Records of Yamhill County, Oregon; thence North 2°03'05" East a distance of 17.9' to the TRUE POINT OF BEGINNING of this description; thence South 87°56'55" East 32.6'; thence North 2°03'05" East a distance of 76.9 feet; thence North 87°56'55" West a distance of 32.6 feet to most westerly Northwest corner of said property; thence South 2°03'05" West a distance of 76.9 feet to the TRUE POINT OF BEGINNING of this description. Said tract labeled "B" and as shown on the attached Exhibit "B".

FURTHER EXCEPTING THERFROM the following described tract of land.

Beginning at the Northeast corner of the property described above and recorded in Film Volume 281, Page 1028, Deed Records of Yamhill County, Oregon; thence North 87°56′55" West a distance of 116.4 feet to the TRUE POINT OF BEGINNING of this description; thence South 2°03′05" West 26.9 feet; thence North 87°56′55" West a distance of 105.5 feet; thence North 2°03′05" East a distance of 26.9 feet to the northern boundary of said property; thence South 87°56′55" East a distance of 105.5 feet to the TRUE POINT OF BEGINNING of this description. Said tract labeled "C" and as shown on the attached Exhibit "B".



LEASE

This lease, dated January 1, 2014, is by and between the City of McMinnville, a municipal corporation of the State of Oregon, hereinafter referred to as the "Lessor," and Comcast of Oregon II, Inc., an Oregon corporation, f/k/a TCl Cablevision of Oregon, Inc., hereinafter referred to as the "Tenant," collectively, the "Parties."

Lessor leases to Tenant and Tenant leases from Lessor a parcel of land comprising 0.95 acres, hereinafter referred to as the "Premises," described in Exhibit A and depicted in Exhibit B as FBO "C." Exhibits A and B are attached and incorporated into this lease by this reference. This lease covers the land only. The Premises are currently improved with a building which is the property of the Tenant.

Section 1. Occupancy

- 1.1 Original Term. This lease shall be effective commencing January 1, 2014 and shall continue through December 31, 2019 (hereinafter "the original term"). The lease may be renewed, pursuant to subsection 1.3 below, for up to three renewal terms of five years each (hereinafter "the renewal term(s)").
- 1.2 <u>Possession.</u> Tenant is in possession of the Premises as a month-to-month holdover tenant under the terms of a previous lease dated March 5, 1991 (the "Prior Lease") (effective January 29, 1993, Tenant assumed the Prior Lease between Lessor and Cascade Sierra Investment, Inc., which Prior Lease commenced February 15, 1991 and expired February 14, 2011). Tenant's holdover under the Prior Lease shall be deemed terminated January 1, 2014, on which date the term of this Lease shall commence.
- 1.3 Renewal Terms. Provided Tenant is not in default in the performance of any terms or conditions of this lease beyond the expiration of the applicable cure period, and subject to the terms below, Tenant will have the option to extend this lease for three renewal terms of five years each. The first five year renewal term will commence with the termination of the original term, the second and third five year renewal terms will commence at the termination of the preceding renewal term. The following conditions will apply.
 - 1.3.1 Renewal shall be requested no earlier than one year and no later than six months preceding the termination of the original term or termination of the preceding renewal term, by Tenant giving written notice to Lessor. If not requested within such period and in such manner, the option to renew will be void and this lease will terminate pursuant to Section 11 of this lease.
 - 1.3.2 Within thirty days of the written notice being given pursuant to subsection 15.1 of this lease, the Parties will enter into lease rate

- negotiations. The adjusted lease rate shall reflect market value of the premises, but the increase will not be greater than 7.5 percent of the previous month's rent..
- 1.3.3 The terms and conditions of the lease for each renewal term shall be identical with the original term except for the lease rate, except that Tenant will no longer have the option to renew this lease that has been exercised, and except for modifications made pursuant to the terms of this lease.

Section 2. Lease Payments

- 2.1 <u>Lease Payments</u>. Lease payments will be due monthly on the first day of each month, beginning January 1, 2014. Lessor will not be required to bill Tenant for lease payments to be due.
- 2.2 <u>Initial Lease Payment Amount.</u> The initial lease payment amount under this lease will be \$750.00 per month.
- 2.3 <u>Lease Payment Increases</u>. The lease payments will be increased once per year for the duration of this lease, including any renewal terms. The initial increase will be effective with the payment for the month of January 2015. Notice of the increased amount will be mailed as provided in Section 15 of this lease no later than December 1 of the year in which the increase will become effective, or as otherwise specified by Tenant in writing at least thirty days prior to the time Tenant wishes the specified directive to be effective.
- 2.4 <u>Lease Payment Increase Calculation.</u> Except for the first year of any renewal period, the lease payments will be adjusted each year of the original term and any renewal terms by being increased by the Consumer Price Index (CPI-W) Portland, Oregon for the first half of the year preceding the increase (e.g. CPI-W for January 1, 2014- will be used for the increase effective January 1, 2015). Notwithstanding the use of the CPI-W, the minimum increase will not be less than two percent (2%) and the maximum increase will not be greater than ten percent (10%) annually. The lease payment increase in the first year of any renewal period shall be the adjusted lease rate which the Parties negotiate pursuant to subsection 1.3.2 of this lease.
- 2.5 <u>Payment Address.</u> Payments will be directed to City of McMinnville, Finance Department, 230 NE Second Street, McMinnville, Oregon 97128. Alternatively, Tenant shall have the right to make payments by ACH direct deposit.
- 2.6 <u>Late Payments.</u> All amounts not paid by Tenant within 10 days of the date when due will bear interest at the rate of nine percent per annum.

Section 3. Taxes

3.1 <u>Taxes.</u> Tenant will pay, when levied, any taxes on the Premises, as well as any taxes upon real and personal property constructed and maintained upon the Premises. It is the intent of the parties that Lessor will not be required to pay any taxes or assessments on the Premises.

Section 4. Use of the Premises

- 4.1 <u>Use.</u> The Tenant may use the Premises for the purposes of operating Tenant's business, and for no other purposes without the prior written approval of the Airport Manager.
- 4.2 <u>Restrictions on Use.</u> The parties agree and acknowledge that the condition and appearance of the Premises are of significant importance to Lessor because the Premises are an integral part of the McMinnville Airport. Therefore:
- 4.2.1 Tenant agrees to conform to all applicable laws and regulations affecting the Premises and the use of the Premises, and to correct, at Tenant's own expense, any failure of compliance created through Tenant's fault or by reason of Tenant's use.
- 4.2.2 Tenant agrees to refrain from any activity or activities that could reasonably be expected to be offensive to other tenants, owners, or users of the McMinnville Airport or that either create or could reasonably be expected to create a nuisance or nuisances.
- 4.2.3 Tenant will not cause or permit any hazardous substances to be spilled, leaked, disposed of, or otherwise released on or under the Premises. Tenant will comply with all environmental laws and exercise the commercially reasonable degree of care in the use, handling, and storage (if any) of hazardous substances and will take all practicable measures to minimize the quantity and toxicity of hazardous substance used, handled, or stored on the Premises. Upon the expiration or termination of this lease, Tenant will remove from the Premises all hazardous substances placed on the Premises by Tenant.
- 4.2.4 Tenant agrees to maintain the sight obscuring fence (at least six feet in height) surrounding the exterior storage area to the east of the building. This fence will be chain link with slats. Tenant agrees to maintain sight obscuring landscaping adjacent to the fence to a standard approved by the Airport Manager.
- 4.2.5 Exterior storage is limited to the east end of the building. One trailer, for the storage of equipment, may be placed on the Premises. This will be placed immediately adjacent to the south side of the building and will be maintained in good condition and appearance.
- 4.2.6 Tenant agrees that there will be no freestanding signs or reader boards erected on the Premises and that any sign, either existing at the time this lease

is executed or installed at a later time, will be in compliance with all City of McMinnville ordinances.

- 4.2.7 Tenant agrees not to use the parking lot for commercial purposes such as the offering of any kind of goods or materials for sale.
- 4.3 <u>Inspections.</u> Lessor will have the right to inspect the Premises at any reasonable time.

Section 5. Transfer of Possession or Control

5.1 <u>Assignment, Sublease, or Other Transfer of Possession or Control of the Premises.</u>
Tenant will not assign this lease, sublease a portion or all of the Premises, encumber this lease or any interest in the Premises or improvements, or in any other manner transfer possession or control of the Premises to any other person without the prior written approval of the Lessor, which approval will not be unreasonably withheld, conditioned, or delayed. Notwithstanding anything to the contrary in this Lease, Tenant may sublet the Premises in whole or in part and/or may assign this Lease to an affiliate, parent, subsidiary or operating division of Tenant, or to any entity acquiring all or substantially all of Tenant's assets or stock or ownership interests, without the necessity of Lessor's consent. No change of equity ownership, partnership interest, or control of Tenant or transfer upon partnership or corporate dissolution of Tenant shall constitute an assignment hereunder.

Section 6. Obligations of the Parties.

- 6.1 <u>Utilities.</u> Lessor is obligated to provide utilities to the Premises. Tenant is entitled to connect to any storm sewers and sanitary sewers, and to water and utility outlets at its sole cost and expense, including charges by Lessor as reimbursement for Tenant's reasonable share of the cost of making such utility services available to the Premises. The Tenant shall pay on a month to month basis for the actual use of the utilities consumed. The Tenant will be responsible for removal of all refuse from the Premises. Lessor hereby grants to Tenant, during the original term and any renewal terms of this lease, the right to install, access and maintain cable (including coaxial and fiber) and telephony wiring and related equipment (including without limitation, an antennae or satellite dish, collectively the "Equipment") necessary to provide broadband communications services (including audio, video, internet, data, telephony interactive communications, and similar services, hereinafter "Broadband Service") to the Premises. All work for the installation and maintenance of the Equipment shall be performed at Tenant's sole cost and expense.
- 6.2 <u>Maintenance</u>. Tenant shall, at its own cost and expense, keep and maintain the Premises and all other improvements in a condition of repair reasonably satisfactory to the Airport Manager. In determining whether or not the Premises are in proper condition, the Airport Manager will take into consideration the appearance and character of other similar improvements at the Airport or other airports in the state which are in

good condition and repair. Normal wear and tear is excluded from these requirements, except to the extent that such wear and tear has resulted in a condition of disrepair. However, it is specifically acknowledged that the condition of repair includes appearance of the Premises and improvements and therefore the condition of paint and other exterior finishes.

6.3 <u>Compliance with Laws.</u> Tenant will comply with all current rules and regulations of the Airport and all applicable laws, ordinances, rules, and regulations of any governmental bodies having jurisdiction over the Airport with respect to Tenant's activities in relation to the use and occupancy of the Premises and of the Airport in general. Tenant will also abide by any reasonable additional rules and regulations from time to time promulgated by Lessor for the Airport. Any act or failure to act by Tenant or by any subtenant, employee, invitee, or agent of Tenant in violation of any such laws, ordinances, rules, and regulations will be deemed a violation of this lease. Tenant will be notified of any rule changes before enforcement action is taken by Lessor in regard to any changed rule.

Section 7. Liability to Third Parties

- 71. <u>Tenant's Indemnification.</u> Tenant agrees to defend, indemnify, and hold Lessor harmless from any claim, loss, liability, cause of action, or suit arising out of or in any way related to any activity of Tenant or Tenant's subtenants, employees, invitees, or agents on the Premises or at the Airport, including the construction and maintenance of improvements on the Premises in the exercise or enjoyment of any rights or privileges granted by this lease, except to the extent such claim, loss, liability, cause of action, or suit (or multiples thereof) arise from the negligence or willful misconduct of Lessor. In the event Tenant or any subtenant, employee, invitee, or agent commits any act or omission that results in a penalty or fine being imposed upon the Airport or Lessor, Tenant agrees to pay such fine or penalty and hold Lessor harmless from costs and expenses in connection therewith.
- 7.2 <u>Liability Insurance</u>. Tenant will procure and maintain throughout the original term of this lease, and any renewal term(s) hereof, at Tenant's cost, public liability and property damage insurance with the combined single limit of not less than \$2,000,000 for bodily injury, death, or property damage in connection with Tenant's use or occupancy of the Premises, or the exercise or enjoyment of rights or privileges granted by this lease. Lessor maintains the right to require Tenant to increase the limits of this coverage from time to time, to an amount deemed by Lessor to be reasonable under the Oregon Tort Claims Act and in view of conditions and circumstances existing at the time of such increase, provided such insurance is available. Tenant will cause Lessor to be named as an additional insured on its liability policy. Tenant will provide Lessor with a certificate of insurance evidencing the required coverage and will provide Lessor with such evidence as Lessor may reasonably require from time to time that the policy remains in force.

7.3 <u>Casualty Insurance</u>. Tenant will bear the expense of any insurance insuring the property of Tenant on the Premises against risks which can be covered by a standard casualty insurance policy with an endorsement for extended coverage.

Section 8, Subordination

8.1 <u>Lessor's/Tenant's Assurance of Subordination</u>. This lease will be subordinate to the provisions of any existing or future agreement between Lessor and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

Section 9. Attorney Fees

9.1 Attorney Fees. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party will be entitled to recover, in addition to costs, such sums as the court may adjudge reasonable as attorney fees, including attorney fees for any related appeals.

Section 10. Nondiscrimination

10.1 <u>Nondiscrimination</u>. The Tenant, for itself, its successors in interest, and assigns, as part of the consideration hereof, does covenant and agree as a covenant running with the land that, in the event facilities are maintained or otherwise operated on the Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant will maintain and operate such facilities and services in compliance with all applicable requirements imposed pursuant to Title 49 CFR, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

The Tenant, for itself, its successors in interest, and assigns, as part of the consideration hereof, does covenant and agree, as a covenant running with the land, that (1) no person on the grounds of race, color, or national origin will be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin will be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination, (3) that the Tenant shall use the Premises in compliance with all other applicable requirements imposed or pursuant to Title 49, CFR, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

Tenant's use of the Premises will comply with all federal, state, and local laws and ordinances applicable to Tenant's use of the Premises, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, ORS 659.425, and all regulations, administrative rules, and amendments established pursuant to those laws, as well as all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

In the event of breach of any of the above which continues beyond the expiration of the notice and cure period provided in subsection 14.1.2, Lessor will have the right to terminate this lease and to reenter and repossess the Premises and hold the same as if this lease had never been made, provided, however, that the Tenant allegedly in breach shall have the right to contest the alleged breach under applicable procedures and any sanctions under or termination of the lease will be withheld pending completion of these procedures.

Section 11. Termination

- 11.1 <u>Improvements.</u> This lease terminates at the end of the original term, or at the end of the last five year renewal term exercised by Tenant, if specifically renewed as provided for in Section 1 of this lease. At the time of the termination at the end of the original term or at the end of the last five year renewal term, as applicable, Tenant shall, within sixty days of the date of termination, return the site to a clean and orderly condition and free of any improvements above ground level, unless Lessor informs the Tenant, in writing, no later than the date of termination, that Tenant is not to remove specific improvements. If Lessor so informs Tenant, the improvements shall be left on the Premises, shall be in clean condition, and shall immediately (as of the date of termination) become the property of the Lessor. If a termination occurs as the result of a default by the Tenant in performance of the terms and conditions of this lease, the termination will be controlled by the provision of Section 14 of this lease.
- 11.2 <u>Right of First Refusal.</u> At the conclusion of the third renewal term, the Tenant will have the right of first refusal to lease or purchase the Premises, should the Lessor make them available to the general public for lease or purchase.

Section 12. Abandonment

12.1 <u>Abandonment of Premises.</u> If Tenant abandons the Premises, Lessor may treat the abandonment as a default under this lease and Lessor may exercise any right(s) it may have under the terms of this lease and law. Notwithstanding the provisions of subsection 14.2, Tenant is not entitled to notice in the event of a default caused by abandonment. Tenant will be deemed to have abandoned the Premises if it fails to occupy the Premises for a period of one year, or if Tenant has indicated it has abandoned the Premises by other acts, words, or conduct.

12.2 <u>Abandonment of Personal Property.</u> Any personal property remaining on the Premises sixty days after a termination of the lease for any reason will be deemed abandoned by Tenant and Lessor may make any disposition of such personal property as it deems appropriate. Lessor may charge Tenant for the reasonable costs incurred in disposing of such personal property.

Section 13. Nonwaiver

13.1 <u>Nonwaiver</u>. Waiver by either party of strict performance of any provision of this lease will not be a waiver of or prejudice the party's right to require strict performance of the same provision, or any other provision, in the future. No act or omission will constitute a waiver of this nonwaiver clause.

Section 14. Default

- 14.1 <u>Default.</u> Time of payment and performance are of the essence. Tenant will be in default under this lease upon the occurrence of any one or more of the following events.
- 14.1.1 Failure of Tenant to pay any lease payments or other charges in full within ten days after the payment becomes due.
- 14.1.2 Except as otherwise provided in this section, the failure of Tenant to comply with any term or condition, to fulfill any obligation, or to cure any violation of this lease within thirty days after Tenant receives written notice from Lessor (pursuant to subsection 15.1 of this lease) specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within thirty days, this provision will be deemed complied with if Tenant begins correction of the default within the thirty day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. Lessor may require, as a part of the cure of any violation by Tenant, reimbursement by Tenant to Lessor of any and all costs and expenses incurred by Lessor by reason of Tenant's violation of this lease.
- 14.1.3 If Tenant cures a deficiency in the manner described in subsection 14.1.2, Tenant's subsequent failure to comply with the same term or condition will constitute a default if it is not cured within ten days after written notice of the specific default is received by Tenant (pursuant to subsection 15.1 of this lease).
- 14.1.4 Tenant will also be in default in the event of its insolvency, an assignment by Tenant for the benefit of creditors, the filing by Tenant of a voluntary petition in bankruptcy, adjudication that Tenant is a bankrupt, the filing of an involuntary petition in bankruptcy and the failure of Tenant to seek a dismissal of the petition within thirty days after the filing, the attachment of or the levy of execution on the leasehold interest and failure of the Tenant to secure a discharge of the attachment or release of

the levy of execution within ten days after such attachment or execution, and failure of Tenant to maintain in effect required insurance coverage.

- 14.2 <u>Remedies on Default.</u> In the event of a default which continues beyond the applicable cure period, this lease may be terminated at the option of the Lessor by notice in writing to Tenant. The notice of termination may be included in a notice of default given under subsection 14.1. If the default arises from abandonment, termination will be automatic and without notice of either default or of termination. If the lease is terminated due to default for any reason, Tenant's liability to Lessor for damages will survive that termination, and the rights and obligations of the parties will be as follows:
- 14.2.1 Tenant will vacate the Premises immediately, remove any property of Tenant, including any fixtures and improvements which Tenant is required to remove at the end of the lease term, perform any cleanup, alterations, or other work required to leave the Premises in the condition required at the end of the lease term, and deliver all keys to Lessor. Notwithstanding the above, Lessor may inform the Tenant, in writing, no later than the date of notice of termination, or, in the case of abandonment, no later than thirty days after abandonment has been established pursuant to Section 12 of this lease, that Tenant is not to remove specific improvements. If Lessor so informs Tenant, the improvements specified shall be left on the Premises, shall be in clean condition, and shall immediately (as of the date of termination for default) become the property of the Lessor. Should Tenant fail to remove Tenant's property as required or to restore the Premises to the condition required, Lessor will have the option, within six months, to remove Tenant's property and/or to restore the Premises. Tenant agrees to pay the reasonable expenses incurred by Lessor.
- 14.2.2 Lessor may re-enter, take possession of the Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages.
- 14.2.3 Following termination for default, Lessor may re-let all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this lease, upon any reasonable terms and conditions, including the granting of rent-free occupancy or other rent concessions, and may make any suitable alterations or refurbish the Premises, or both, or change the character or use of the Premises, but Lessor will not be required to re-let to any tenant which Lessor may reasonably consider objectionable. Tenant shall be responsible for paying Lessor the difference between the lease payment amount under this lease and the lease payment amount at which the Lessor is able to re-let the Premises, if any. This obligation will continue until the termination of the lease term (original term or renewal term) then in effect. Should Lessor lease the Premises at a rate equal to or greater than the lease payment amount under this lease, no payment obligations shall arise.
- 14.2.4 The above remedies will be in addition to and shall not exclude any other remedy available to Lessor under applicable law.

Section 15. Notices

15.1 <u>Notices.</u> Any notice required or permitted under this lease will be deemed given a) when actually delivered if delivery is by personal service, b) three business days after deposit with postage prepaid in the United States mail as registered or certified mail, addressed as follows, or c) one business day after deposit with a nationally recognized overnight courier service, addressed as follows:

To Lessor: City Manager

City of McMinnville 230 NE Second Street McMinnville, OR 97128

To Tenant: Comcast of Oregon II, Inc.

9605 Nimbus Ave Beaverton, OR 97008

Attn: Director of Facilities/Real Estate/Security

With a copy to:

Comcast Cable Communications, LLC One Comcast Center 1701 John F. Kennedy Boulevard Philadelphia, PA 19103-2838 Attention: General Counsel

or to such other address as may be specified from time to time in writing by either of the parties.

Section 16. Succession

16.1 <u>Succession.</u> Subject to the limitations set forth elsewhere in this lease on the transfer of Tenant's interest, this lease will be binding upon and inure to the benefit of the parties and their respective successors and assigns.

Section 17. Casualty and Eminent Domain

17.1 <u>Casualty.</u> If the building is damaged by fire or other casualty so that substantial reconstruction will be required ("substantial reconstruction" will be deemed to be required if the damage to the building equals or exceeds fifty percent of the value of the building), Tenant may terminate this lease on the date set forth in a notice given to the Lessor within 30 days after the damage occurs, such termination date to be not later than 30 days after the date the notice is deemed given. If this lease is so terminated, rent shall be abated as of the date of the termination date so specified.

17.2 Eminent Domain. If, by exercise of the right of eminent domain (a "Taking"), all or a substantial portion of the Premises are taken ("substantial portion of the Premises" will be deemed to have been taken if the Taking equals or exceeds fifty percent of the area of the Premises or if a Taking involves all or a portion of the Premises on which the building is located and the building cannot remain on the Premises due to the Taking), at Tenant's election this lease shall end upon the earlier of the vesting of title in the condemning authority or the taking of possession by the condemning authority (in either case the "Ending Date"). All awards from any Taking shall be allocated between Lessor and Tenant in accordance with applicable law.

Section 18. Miscellaneous

- 18.1 Quiet Enjoyment. Lessor covenants that Lessor has the right and authority to enter into this lease, and that Tenant may peaceably and quietly have, hold, and enjoy the Premises provided that Tenant performs and fulfills all the terms, covenants, and conditions of this lease.
- 18.2 <u>Force Majeure</u>. In the event that Lessor or Tenant is delayed in performing any act because of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, riots and insurrection, acts of the public enemy, wars, earthquakes, hurricanes and other natural disasters, fires, explosions, any act, failure to act, or default of the other party to this lease, or any other reason beyond the control of the performing party, then such performance shall be excused for the period of the delay and the period for the performance of any such act shall be extended for an equivalent period.

City of McMinnville
1/
By: 1 May Flags
By: / / / / / / / / Kent/ Taylor

Kent/L. Taylor City Manager

Lessor:

Tenant: Compast of Oregon II, Inc.

By: /Will

Name: Kevin Harrison Title: VA-Thance

Approved as to Form:

City Attorney

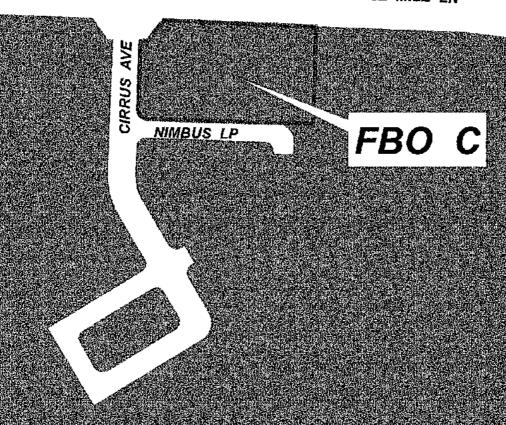
EXHIBIT "A"

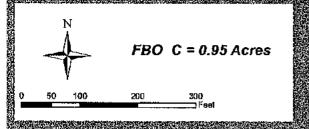
Being a part of the North 1/2 of the John White D.L.C. No. 82, Northeast 1/4 Section 26, Township 4 South, Range 4 West, Willamette Meridian, Yamhill County, Oregon and being within those certain lands known as McMinnville Municipal Airport and owned by the City of McMinnville and being further described as follows:

Beginning at a point 588.78 feet South 87°56'55" East, 120 feet South 2°03'05" West (Basis of bearings from State of Oregon Highway survey) from the Northeast corner of that tract conveyed by the City of McMinnville to Evergreen Helicopters, Inc. and recorded in Film Volume 85, Page 1250, Deed Records of Yamhill County, Oregon, said point being 60 feet South 2°03'05" West of Three Mile Lane right-of-way, as conveyed to the State of Oregon by deed recorded in Film Volume 230, Page 1743, Deed Records of Yamhill County, Oregon; thence South 2°03'05" West, a distance of 94.90 feet; thence South 87°56'55" East parallel with the south line of said Highway, a distance of 275.0 feet; thence North 2°03'05" East, a distance of 154.90 feet to the South line of said Highway; thence North 87°56'55" West along said Highway south line, a distance of 235.0 feet; thence southwesterly, a distance of 72.11 feet to the Place of Beginning of this description and containing 0.95 acres, more or less. Said tract identified on City records as FBO "C" and as shown on the attached Exhibit "B".

EXHIBIT B

THREE MILE LN





RESOLUTION NO. 2019-39

A Resolution accepting the transfer of jurisdiction of a portion of Old Sheridan Road within the City of McMinnville.

RECITALS:

On April 5, 2019, the City of McMinnville indicated its interest in pursuing the transfer of jurisdiction over the following Yamhill County roads or segments of roads located within the City of McMinnville:

Old Sheridan Road from Highway 99W to Cypress Lane.

On May 30, 2019, the Yamhill County Board of Commissioners ("Board") held a duly noticed public hearing to consider the requested transfer. In a unanimous vote, the Board adopted Board Order 19-168 (attached) tendering a formal offer to the City to transfer the noted roads to the City.

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

- 1. That the offer of Yamhill County, Oregon, as contained in Board Order 19-168, dated May 30, 2019 and attached and incorporated into this Resolution as Attachment 1, to surrender and transfer to the City of McMinnville jurisdiction over those portions of the roads listed in the Order, is hereby accepted. The City's acceptance of the offer constitutes acceptance of an offer to transfer jurisdiction under ORS 373.270 with respect to roads inside the city limits.
- 2. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a meeting held the 11th day of June 2019 by the following votes:

Ayes: <u>Drabkin, Garvin, Geary, M</u>	lenke, Peralta, Stassens
Nays:	
Approved this 11th day of June 201	9.
	COUNCIL PRESIDENT
Approved as to form:	
CITY ATTORNEY	

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Order Tendering a Formal)	
Offer Under ORS 373.270 to Transfer to the)	
City of McMinnville Jurisdiction Over the)	BOARD ORDER 19-168
Segment of Old Sheridan Road Between State)	
Highway 99W and Cypress Lane	j	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on May 30, 2019 Commissioners Richard L. "Rick" Olson, Mary Starrett and Casey Kulla being present.

IT APPEARING TO THE BOARD as follows:

A. On April 5, 2019, the City of McMinnville, through its Community Development Director, indicated its interest in pursuing the transfer of jurisdiction over the following segment of County Road located within the City of McMinnville:

Old Sheridan Road (County Road 19) between State Highway 99W and Cypress Lane

- B. The City requested initiation of the transfer process, to facilitate its improvement of the above described road segment with funds included in the City's 2014 Transportation Bond Measure. The proposed limits of the transfer request will allow the City to design, construct and maintain the road segment as a City street.
 - C. ORS 373.270 provides as follows:
 - "373.270 Transferring jurisdiction over county roads within cities. (1) Jurisdiction over a county road within a city may be transferred under this section whenever:
 - (a) The county governing body deems it necessary, expedient or for the best interest of the county to surrender jurisdiction over any county road or portion thereof within the corporate limits of any city; and
 - (b) The governing body of the city deems it necessary or expedient and for the best interests of the city to acquire jurisdiction over the county road or part thereof to the same extent as it has over other public streets and alleys of the city.
 - (2) To initiate a proceeding for the transfer of jurisdiction under this section, the county governing body, upon its own motion or upon the request of the city by its governing body, shall give notice by:

- (a) Posting in three public places in the county, one of which shall be within the limits of the city; or
- (b) Publishing the notice once a week for four successive weeks in some newspaper of general circulation in the county.
- (3) Notice under this section shall give the time and place of hearing and a succinct statement of the proposed action requested and describing the road or portion thereof proposed to be surrendered by the county to the city with convenient certainty.
- (4) At the time and place mentioned in the notice under this section or at such adjournment as it may fix, the county governing body shall hear the matter, consider any objections or testimony offered by any person interested and determine whether it is necessary, expedient or for the best interests of the county to surrender jurisdiction over the county road or portion thereof to the city.
- (5) If a county governing body determines to surrender jurisdiction under this section and initiates action under this section:
- (a) The county governing body shall make an order to that effect and offer to the city to surrender jurisdiction over the county road or portion thereof, and may limit the time for the acceptance of the offer; and
- (b) The city by appropriate municipal legislation may within the time specified accept the county order and offer to surrender jurisdiction under this section.
- (6) If a city governing body determines to initiate action under this section for the surrender of jurisdiction by a county over a county road:
- (a) The city governing body may initiate the action by passage of appropriate municipal legislation that requests surrender and that may set any time or other limitations upon acceptance by the city of the surrender; and
- (b) The county governing body may surrender jurisdiction of the county road without further action by the city if the county governing body adopts an order surrendering the county road that meets the limitations established by the city in its legislation.
- (7) When a city adopts appropriate municipal legislation accepting a county governing body's order under subsection (5) of this section or when a county governing body adopts an order meeting city legislation under subsection (6) of this section:
- (a) The jurisdiction of the county over the county road or portion thereof as a county road, or for its improvement, construction or repair shall cease;

167 Page 2

- (b) The full and absolute jurisdiction over the road for all purposes of repair, construction, improvement and the levying and collection of assessments therefor shall vest in the city; and
- (c) The city shall have the same jurisdiction over the road or portion thereof as by its charter and the laws of the state are given or granted it over any of the public streets and alleys of such city.
- (8) This section is applicable to all county roads, whether acquired by the county or the public by condemnation, defective condemnation and user, user or prescription or in any manner provided by law or in which the easement for road purposes is in the public."
- D. Once the transfer of jurisdiction over the described segment of road is complete, the City of McMinnville will assume full authority over the road segment, and full responsibility for its improvement and repair.
- E. In accordance with the City's request, the county scheduled, noticed and held a public hearing on May 30, 2019, to consider the transfer of jurisdiction over the segment of County Road identified in Finding A, above. The Board accepted testimony to determine whether the requested transfer of jurisdiction is "necessary, expedient or for the best interests of the county," as required by ORS 373.270(4).
- F. Based upon the record of the public hearing and the request of the City of McMinnville, the Board finds that the transfer of jurisdiction over the above described road segment is in the best interest of the county. This formal offer to transfer jurisdiction is made under ORS 373.270(5). The transfer will be effective upon the City's adoption of appropriate municipal legislation accepting the Board's offer. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. Yamhill County hereby offers to transfer to the City of McMinnville, jurisdiction over the following segment of Yamhill County road:

Old Sheridan Road (County Road 19) between State Highway 99W and Cypress Lane

- 2. Upon the City of McMinnville's enactment of appropriate municipal legislation accepting the County's offer to transfer jurisdiction, and in accordance with ORS 373.270(7), the offer shall be deemed accepted with the following effect:
 - (a) The jurisdiction of the County over the subject road segment or for its improvement, construction or repair shall cease;
 - (b) The full and absolute jurisdiction over the subject road segment for all purposes of repair, construction, improvement and the levying and collection of assessments therefor shall vest in the City of McMinnville; and

(c) The City of McMinnville shall have the same jurisdiction over the subject road segment as by its charter and the laws of the state are given or granted it over any of the public streets and alleys of the City.

DONE at McMinnville, Oregon on May 30, 2019.

Senior Assistant County Counsel

LI SAMERA		
ATTEST	YAMHILL COU	JNTY BOARD OF COMMISSIONERS
	/:	
BRIAN VAN BERGEN	190	ud 10)
County Clerk	Chair	RICHARD L. "RICK" OLSON
County Clerk	Çilan ,	Identified B. Ident Observ
		1111
By: aughnat Took		11/1/1/2
Deputy Carolina Rook	Commissioner	MARYSTARRETT
EODY ADDOLUED DV		asmy Killa
FORM APPROVED BY:	<u></u>	CASENVIIIIA
	Commissioner	ĆASEY KULLA
. 2000		
Timothy S. Sadlo		

Accepted by Yamhill County
Board of Commissioners on

5/30/19 by Board Order

#______19-168

Sent via 🔾

City Manager City of McMinnville 230 NE Second Street McMinnville, OR 97128

RE: Lease Agreement dated January 1, 2014 ("Lease") between City of McMinnville ("Lessor"), and Comcast of Oregon II, Inc., an Oregon corporation, f/k/a TCI Cablevision of Oregon, Inc., ("Tenant"), respecting premises of 0.95 acres of land as described in Exhibit A and B in Lease, with an approximate address of 4025 SE Nimbus Loop, McMinnville, OR 97128

Dear Sir or Madam,

In accordance with Section 1.3 of the Lease dated January 1, 2014, Tenant hereby notifies Lessor of its exercise of first renewal option. As such, the Lease shall be extended from January 1, 2020 through and including December 31, 2024 (the "First Renewal Term").

Tenant is currently represented by Cusluman & Wakefield. Please contact Sarah Yslas to finalize discussions regarding the determination market value rent for the Premises. Sarah can be contacted at (303) 312-4215 or sarah yslas@cushwake.com.

Sincerely,

Comcast of Dregon II, Inc.

Бу.

Name:

Rodfigo Lopez
Regional Vice President

Title:



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 13, 2019

TO: Mayor and City Councilors FROM: Tom Schauer, Senior Planner

SUBJECT: Resolution No. 2019-52 – Affordable Housing Task Force Composition

STRATEGIC PRIORITY & GOAL:



ENGAGEMENT & INCLUSION

Create a culture of acceptance & mutual respect that acknowledges differences & strives for equity.

OBJECTIVE/S: Grow City's employees and Boards and Commissions to reflect our community

Report in Brief:

This action is the consideration of Resolution No. 2019-52, a resolution to amend the composition of the Affordable Housing Task Force to add a youth representative.

Background:

City Council created the Affordable Housing Task Force in 2016 by Resolution 2016-20 and amended the composition and scope of charge in in 2018 by Resolution 2018-51.

At its June 26, 2019 meeting, the affordable Housing Task Force voted to recommend a change to its composition to add a youth representative.

Discussion:

The proposal will increase the membership on the Affordable Housing Task Force from nine to ten members with the addition of a youth representative. This will broaden the perspective of viewpoints represented on the task force. The youth perspective is critical in addressing affordable housing needs of youth in the community, including the needs of those youth needing housing in the community as they pursue higher education and/or seek full-time employment in the workforce.

Attachments:

1. Draft Resolution 2019-52

Fiscal Impact:

There is no anticipated fiscal impact.

Alternative Courses of Action:

- 1. APPROVE Resolution No. 2019-52
- 2. **REQUEST** more information.
- 3. **DO NOT APPROVE** Resolution No. 2019-52

Recommendation/Suggested Motion:

As recommended by the Affordable Housing Task Force, staff recommends that the Council approve Resolution No. 2019-52, amending the composition of the Affordable Housing Task force to add a youth representative.

"BASED ON THE RECOMMENDATION OF THE AFFORDABLE HOUSING TASK FORCE, I MOVE TO APPROVE RESOLUTION NO. 2019-52, AMENDING THE COMPOSITION OF THE AFFORDABLE HOUSING TASK FORCE TO ADD A YOUTH REPRESENTATIVE."

RESOLUTION NO. 2019-52

A Resolution amending the composition of the Affordable Housing Task Force.

RECITALS:

After extensive research, the City Council determined in September 2015, the best way to assist Citizens who are experiencing homelessness or who are on the verge of losing their current home was to increase housing availability for low and no-income families. To support this policy, the Council directed the formation of an Affordable Housing Task Force with the task of developing an action plan to meet this focus.

Since that time, the Task Force completed an initial action plan and proposed formal adoption of the Affordable Housing Task Force charter language and the action plan itself.

On April 26, 2016, the City Council created the Affordable Housing Task Force by Resolution 2016-20.

At its August 22, 2018 meeting, the Affordable Housing Task Force voted to recommend changes to its composition and scope.

On September 11, 2018, the City Council amended the composition and scope of charge of the Affordable Housing task Force by Resolution 2018-51.

At its June 26, 2019 meeting, the Affordable Housing Task Force voted to recommend changes to its composition.

The change in composition will add a youth representative to the task force.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, that the provisions governing the composition of the Affordable Housing Task Force, originally established by Resolution 2016-20 and amended by Resolution 2018-51, is hereby amended as provided below:

- 1. The McMinnville Affordable Housing Task Force shall review and recommend to the Council, policies and or amendments to current zoning ordinances, Building Division review processes, System Development Charge fees, street standards and other governmental policies that encourage increased access to and construction of housing for citizens earning 120% or less of McMinnville's median income as defined by the U.S. Department of Housing and Urban Development. In coordination with the City Council, the Affordable Housing Task Force shall review its action plan annually and amend as warranted.
- 2. The McMinnville Affordable Housing Task Force shall consist of nine ten members including two Council members, one citizen at large, two representatives from the building community, one representative from the bank or finance community, one representative from the business community, and two representatives from the nonprofit or housing sector, and one youth representative. Initially, members will be appointed by the Council in the following manner:

- a. Of the initial members of the Task Force who are not Councilors, approximately one third will serve three year terms (a full term), one third will serve two year terms and one third will serve one year terms. These initial members will be appointed by majority vote of the Council in the month following adoption of the Establishing Resolution.
- b. Subsequent members who are not Councilors will be appointed by the Council with advice from the Task Force to serve three year terms.
- c. City Councilor positions will be filled by appointment by the Mayor upon approval of a majority of the City Council.
- d. Initial members will be credited a full year of participation during the year of establishment. Subsequent years of service will be from Jan 1 through December 31.
- 3. The McMinnville Affordable Housing Task Force may establish sub-committees to address certain goals, maximizing the expertise of the greater McMinnville community.
- 4. The McMinnville Affordable Housing Task Force will present an action plan progress report to the Council for their approval by no later than December of each year starting in 2017. Based upon this report, amendments to the adopted action plan (see Exhibit A) may be considered by the City Council.

Adopted by the Common Council of the City of McMinnville at a meeting held the 13th day of August 2019 by the following votes:

Ayes		
Nays:		
Approved this 13th day of A	August 2019.	
	MAYOR	
Ammanad as to forms		
Approved as to form:		
CITY ATTORNEY		

FXHIBIT A

McMinnville Affordable Housing Task Force Action Plan

Immediate/ Short Term Actions (Due date: May 1, 2017)

- 1. Memorialize System Development Charge discounts for affordable housing projects.
- 2. Review recently adopted inclusionary zoning law and, if warranted, draft an inclusionary zoning ordinance and present to the Council for consideration.
- 3. Offer an expedited permit process to builders including affordable housing.
- 4. Research "Cottage Codes" from other jurisdictions and, if warranted, prepare ordinance language for adoption by the Council and for inclusion in McMinnville's zoning ordinance.

Mid-Term (Due date: May 1, 2018)

- 1. Review emergency shelter zoning ordinance provisions and revise as necessary to provide allowance for tiny homes or temporary shelter to residents suffering from homelessness.
- Survey the city for property opportunities (City-owned, County-owned and Non-Profit-owned). Research and evaluate creative programs to leverage these properties for affordable housing (affordable housing exchange, land trusts, etc.)
- 3. Evaluate the impact of a density bonus for developers including affordable housing units.

Long Term (Due date: May 1, 2019)

- 1. Review the City's inventory of surplus lands to assess for possible rezoning to multi-family housing.
- 2. Reach out to local service groups to involve them in neighborhood stabilization programs.
- 3. Conduct or partner with an outside organization to complete a needs assessment in regards to housing for the city of McMinnville.
- 4. Evaluate the possibility and sources for a local match fund for nonprofit builders.



City of McMinnville
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STAFF REPORT

DATE: August 13, 2019

TO: Mayor and City Councilors FROM: Tom Schauer, Senior Planner

SUBJECT: Resolution No. 2019-53 – Appointment to the Affordable Housing Task Force

STRATEGIC PRIORITY & GOAL:



ENGAGEMENT & INCLUSION

Create a culture of acceptance & mutual respect that acknowledges differences & strives for equity.

OBJECTIVE/S: Grow City's employees and Boards and Commissions to reflect our community

Report in Brief:

This action is the consideration of Resolution No. 2019-53, a resolution appointing a volunteer to the Affordable Housing Task Force.

Background:

Without the service of volunteers on city committees, commissions, boards, and task forces, much of the work of the City of McMinnville would not get accomplished.

City Council created the Affordable Housing Task Force in 2016 and amended the composition in 2018. The resolution provides that after the initial appointments, subsequent appointments are to be made by City Council with advice from the Task Force. In August 2018, the Affordable Housing Task Force also authorized the Chair and Co-Chair to make recommendations to City Council on behalf of the task force.

Discussion:

At its June 26, 2019 meeting, the Affordable Housing Task Force recommended the composition of the Task Force be amended to add a youth representative. Therefore, subject to approval of that change (Resolution 2019-52), there would be an appointment to be made to the Task Force to fill that position. Ethan Mackay has begun attending task force meetings and expressed interest in serving on the task force. The committee voted in support of his appointment, and the Chair and Co-Chair recommend his appointment to the new vacancy resulting from the creation of the new youth representative position.

Attachments:

- 1. Resolution 2019-53
- 2. Application from Ethan Mackay

Fiscal Impact:

There is no anticipated fiscal impact.

Alternative Courses of Action:

- 1. APPROVE Resolution No. 2019-53
- 2. **DO NOT APPROVE** Resolution No. 2019-53

Recommendation/Suggested Motion:

Based on the action of Affordable Housing Task Force and the recommendation of the Chair and Co-Chair, staff recommends the Council approve Resolution No. 2019-53, appointing a volunteer to serve on the Affordable Housing Task Force.

"BASED ON THE ACTION OF THE AFFORDABLE HOUSING TASK FORCE AND THE RECOMMENDATION OF THE CHAIR AND CO-CHAIR, I MOVE TO APPROVE RESOLUTION NO. 2019-53, AND THANK OUR VOLUNTEER FOR HIS SERVICE AND COMMITMENT TO THE CITY OF MCMINNVILLE."

RESOLUTION NO. 2019-53

A Resolution appointing a member to the Affordable Housing Task Force.

RECITALS:

The City of McMinnville has several Boards, Committees, Commissions, and Task Forces made up of volunteers; and

The City Council is responsible for making appointments and re-appointments.

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

1.	The City Council appoints the following volunteer to the Affordable Housing Task Force
	(3-year term):

Ethan Mackay (Youth)

new appointment to new position

2. This Resolution and this appointment will take effect immediately

Ethan Mackay will serve the remainder of 2019 and a three year term for the newly created Youth position which begins January 1, 2020 and expires on December 31, 2022.

Adopted by the Common Council of the City or McMinnville at a regular meeting held the 13th day of August, 2019 by the following votes:

Ayes:			
Nays:			

Approved this 13 ⁴⁴ day of August, 2019.			
	MAYOR		
Approved as to form:			
CITY ATTORNEY			



APPLICATION FOR SERVICE ON BOARD OR COMMISSION

Thank you for your interest in serving your community. The information on this form will help the Mayor and City Council learn about the background of persons interested in serving on a particular board or commission.

Name: Ethan Mackay	Home Phone: N/A
Address:_	Cell Phone:
	Work Phone: N/ A
Email:	
Board, Commission or Committee for which y	ou are an applicant:
☐ Advisory Board	
☐ Airport Commission	☐ Landscape Review Committee
☐ Board of Appeals	McMinnville Affordable Housing
☐ Budget Committee	Task Force
☐ Citizens' Advisory Committee	☐ McMinnville Urban Renewal
☐ Historic Landmark Committee	Advisory Committee (MURAC)
	☐ Planning Commission
Ward in which you reside (if applicable): How many years have you lived in McMinnville?	13
Educational and occupational background:	m a homeschooled High
school graduate and I	m a homeschooled High work in the service and
tourism industry,	
	-
Why are you interested in serving? A 5 500	nebody who reavires and ordable hoasing, I am h creating a jointion.
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nc = 2) ar	To Carried at your read,
Date_ 07/24/19 Sig	aned Elmlees



City of McMinnville **Planning Department** 231 NE Fifth Street McMinnville, OR 97128 (503) 434-7311 www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 13, 2019

Mayor and City Councilors TO: FROM: **Chuck Darnell, Senior Planner**

SUBJECT: Ordinance Nos. 5074 - 5077 - CPA 2-19 (Comprehensive Plan Map Amendment),

ZC 2-19 (Zone Change), PDA 1-19 (Planned Development Amendment), and CU 2-

19 (Conditional Use)

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER Guide growth & development strategically, responsively & responsibly to

enhance our unique character.

OBJECTIVE: Strategically plan for short and long-term growth and development that will create enduring value for the community



OBJECTIVE: Collaborate to improve the financial feasibility of diverse housing development opportunities.

Report in Brief:

This action is the consideration of Ordinance Nos. 5074, 5075, 5076, and 5077, ordinances approving the following land use actions:

- 1) Ordinance 5074 Comprehensive Plan Map Amendment Amendment from the current mix of Residential and Commercial designations to Residential only
- 2) Ordinance 5075 Zone Change Rezoning from the current mix of R-1 (Single Family Residential) and EF-80 (Exclusive Farm Use) to R-1 (Single Family Residential) only
- 3) Ordinance 5076 Planned Development Amendment –Amend the existing Planned Development Overlay District created by Ordinance 4633 to remove the subject property from the overlay and reduce the size of the overlay
- 4) Ordinance 5077 Conditional Use Approval of a conditional use permit to expand the existing electrical power substation facility. Section 17.12.020(L) of the MMC identifies "Electrical power substation" as a conditional use in the R-1 zone

Attachments:

Attachment 1: Ordinance No. 5074 including Exhibit A - CPA 2-19 Decision Document Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

The property in question is currently designated on the Comprehensive Plan Map as a mix of Commercial and Residential land. The property is also dually zoned, containing both R-1 (Single Family Residential) zoning and EF-80 (Exclusive Farm Use) zoning that is a remnant County zone from the time the property was annexed into the city limits. A Planned Development Overlay District, created by Ordinance 4633, also covers the portion of the property that is designated on the Comprehensive Plan Map as Commercial.

The applicant, Samuel Justice on behalf of McMinnville Water and Light, is requesting the above described land use actions to bring the property into one Comprehensive Plan Map designation (Residential) and one urban zoning district (R-1 Single Family Residential). The applicant is also requesting the Planned Development Amendment to remove the subject property from the Planned Development Overlay District because the Planned Development is commercial and the proposed zone change would result in the property being residentially zoned. This would effectively reduce the size and change the boundary of the Planned Development Overlay District, but all other provisions of Ordinance 4633 are proposed to remain in effect. Finally, the Conditional Use request would allow for the expansion of the existing Baker Creek Substation that exists on the property, as an "electrical power substation" is a conditional use in the R-1 (Single Family Residential) zone.

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

Background:

These land use requests were considered in a public hearing by the McMinnville Planning Commission on June 27, 2019. Prior to the public hearing, McMinnville Water and Light staff provided some comments on some of the original conditions of approval suggested by staff, which were related to the functionality and safety of the electrical substation facility. Planning Department staff worked with McMinnville Water and Light to revise the conditions of approval to respond to their comments. The revised conditions of approval, along with the comments provided by McMinnville Water and Light, were provided to and considered by the Planning Commission during the public hearing. The Planning Commission incorporated the revisions to the conditions of approval that responded to McMinnville Water and Light's comments and were found to be acceptable to the applicant.

The public hearing was closed at the same meeting, following which the Planning Commission deliberated and then voted to recommend that the Council consider and approve all four of the land use applications, subject to conditions of approval outlined in Ordinance Nos. 5074 – 5077.

The approximate location of the subject site is provided in Figure 1 below:

Attachments:

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19



Figure 1. Vicinity Map

The applicant has provided an overview of the history of the land use decisions related to the subject property. Staff has found the information provided to accurately reflect the relevant background, and excerpted portions are provided below to give context to the request

1. Annexation into City of McMinnville:

- The original substation lot, Tax Lot R4418-00101, was annexed into the City on 9-10-1977 by Ordinance 3881. The lot was approximately 0.26 acres and was co-located on the existing BPA high-voltage transmission easement.
- The Comprehensive Plan Map and Zoning Map from the early 1980s identified the site as being in a Residential Comprehensive Plan Map designation and zoned R-1 (Single Family Residential)

2. Comp Plan Amendment - CPA 2-96:

• In 1996, Ordinance 4633 amended a 12.34 acre portion of a parcel on the Comprehensive Plan Map on the north side of Baker Creek Road from residential to commercial. This

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

amendment split the original substation lot in half for comprehensive plan map purposes between Commercial and Residential.

- Ordinance 4633 also created a Planned Development overlay on the same property, with some conditions related to the form of development and uses.
- Ordinance 4633 did not change the zoning of the site, and the acreage property still retains the county EF-80 zoning (eventually annexed in 2008 – see more below).
- A map showing dimensions of the area proposed to be designated as commercial was included in the 1996 land use application file submitted by the applicant at the time. Part of that map is depicted below in Figure No. 1.



- The southern boundary of the new commercial area (965.95' dimension) extended from the Tax Lot R4418-00100's western boundary to a point that is within and near the center of substation lot (Tax Lot 101 as it existed)
- It is noteworthy that at the time of the 1996 Comp Plan Amendment, Figure No. 1 shows plans for an expanded substation site. (See figure No. 1, above). The expanded substation use was shown within the commercial overlay designation.
- 3. Conditional Use Permit for Baker Creek Substation CU 7-99:
 - In 1999, the city granted MW&L a conditional use permit for the Baker Creek Substation (approval letter with original conditions attached here as Attachment 6).

Attachment 1: Ordinance No. 5074 including Exhibit A - CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

- Findings of fact for that application stated that the subject site was designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential).
- The substation use was reviewed as a conditional use, as a "Utility transmission station" is a conditional use in a residential zone. Section 17.12.020 (a section of the R-1 chapter).
- Construction of the new Baker Creek substation took place in 2000. Electric load was first placed on the substation in January 2001.

4. Lot Line Adjustment

- In 2002 tax lot 101 was expanded by lot line adjustment. [...] In 2002 the subject site was found to be designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential)
- 5. Annexation of Larger Baker Creek North Area:
 - In 2008 the larger acreage surrounding the Baker Creek substation was annexed into the city (approved 7-22-2008 by Ordinance 4895).
- 6. Recent Property Line Adjustment BLA 10-18:
 - In 2019 a lot line adjustment increased the size of the substation lot (Tax Lot 101) by moving the west property line approximately 103' to the west, the north property line to the north, and the east property line approximately 37' to the east. The lot now fronts Baker Creek Road for about 210'.
 - The western property line has now been moved west and toward the area within the overlay zone regulated in 1996 by CPA 2-96.

Discussion:

The decision for these land-use applications is dependent upon whether or not each individual application meets state regulations, the McMinnville Comprehensive Plan, and the McMinnville Municipal Code. The applications can either meet these criteria as proposed, or a condition of approval can be provided that either outlines what needs to occur to meet the criteria or when something needs to occur to meet the criteria. Attached are Ordinance Nos. 5074, 5075, 5076, and 5077, each of which includes a Decision Document that provides the Findings of Fact and Conclusionary Findings for the requested land use action. These Decision Documents outline the legal findings on whether or not the applications meet the applicable criteria and whether or not there are conditions of approval that, if achieved, put the applications in compliance with the criteria.

The specific review criteria for both the Comprehensive Plan Map Amendment and Zone Change in Section 17.74.020 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan:
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;
- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

Attachments:

Attachment 1: Ordinance No. 5074 including Exhibit A - CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

The specific review criteria for Planned Development Amendments in Section 17.74.070 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;
- C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;
- D. The plan can be completed within a reasonable period of time;
- E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
- F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
- G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

The specific review criteria for Conditional Uses in Section 17.74.030 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;
- B. That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;
- C. That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;
- D. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;
- E. The proposal will preserve environmental assets of particular interest to the community;
- F. The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes.

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

The applicant has provided a written narrative and findings to support their requests for a Comprehensive Plan Map Amendment, Zone Change, Planned Development Amendment, and Conditional Use. The narrative and findings are provided in the application materials, and are also reiterated and expanded upon in the Decision Documents for each land use application.

Overall, the Planning Commission concurred with the applicant's arguments. The Planning Commission found that the proposal results in the subject property being simplified and organized in terms of having only one Comprehensive Plan Map designation and one zoning district apply to the property. The request to change the entire property to a Residential Comprehensive Plan Map designation and rezone the property to R-1 (Single Family Residential) allows for uniform planning and development of the subject property, and allows for a single zoning district's standards and regulations to be applied to the site. The zone change to R-1 (Single Family Residential) will also afford the most opportunity for public hearing and notice for the eventual intended use of the site through the Conditional Use review process. In addition, the proposed Comprehensive Plan Map Amendment and Zone Change are supported by the fact that residential land and R-1 zoned land are identified as needed land in the most recently acknowledged Buildable Lands Inventory and McMinnville Buildable Land Needs Analysis and Growth Management Plan.

Following the request to change the entire property to a Residential Comprehensive Plan Map designation and rezone the property to R-1 (Single Family Residential), the requested Planned Development Amendment is warranted given that the existing Planned Development Overlay District is Commercial, and the land use process for the site is now following that required by a Residential designation and R-1 zone. The conditional use permit to allow for the expansion of the existing electrical power substation was reviewed for its proposed location, size, design, and operating characteristics, and together with what was proposed by the applicant, some conditions of approval are recommended by staff to ensure that the expanded electrical power substation site can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood.

Below are some tables summarizing the applications' compliance with the critical review criteria. The Decision Documents for each land use application have the detailed analysis and findings for this compliance:

CPA 2-19 (Comprehensive Plan Map Amendment, Change Designation to Only Residential)

Issue	Notes	Condition to Help Meet Criteria
Consolidate Comprehensive	Existing site has mix of Comp	None
Plan Map designation from a	Plan Map designations,	
mix of Commercial and	which complicates	
Residential to only Residential	development of site	
Reduction in size of	2001 BLI (most recently	None
Commercial land designation	acknowledged) identifies both	
	Residential and Commercial	
	lands as being needed and in	
	deficit. Conversion of portion	
	of site from Commercial to	
	Residential removes small	
	amount of Commercial land	

Attachments:

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

(approx 0.8 acres) and still addresses Residential land	
need	

ZC 2-19 (Zone Change, Rezone to Only R-1 (Single Family Residential) Zone)

Issue	Notes	Condition to Help Meet Criteria
Consolidate zoning of site from a mix of R-1 and EF-80 zones to only R-1 (Single Family Residential)	Existing site has mix of zones, which complicates development of site	None
	Existing EF-80 zoning is remnant county zoning from time of annexation, and code requires rezoning of this county zoning to a city zone prior to development	
Appropriateness of R-1 zoning for the site	Existing site has some R-1 zoning (area of existing substation) and previous reviews were based on R-1 zone	None
	R-1 zone affords most opportunity for public review and notice for intended use (expanded substation)	

PDA 1-19 (Planned Development Amendment, Removal of Property from Ordinance 4633)

Issue	Notes	Condition to Help Meet Criteria
Existing Planned Development	Based on previous requests	
Overlay District is a	to change to Residential	
Commercial PD	Comp Plan designation and	
	R-1 zone, development	
	standards applicable to site	
	no longer consistent with	
	Commercial PD overlay	
Continued applicability of	Request is to remove subject	
existing Planned Development	property from the PD overlay	
Overlay District		
	Approval would reduce the	Condition of Approval #1
	size of the existing PD	
	overlay, but all other	
	regulations and conditions of	
	approval would remain in	
	effect	

Attachments:

Attachment 1: Ordinance No. 5074 including Exhibit A - CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

CU 2-19 (Conditional Use, Allow for Expansion of Existing Electrical Power Substation)

Issue	Notes	Condition to Help Meet Criteria
Right-of-way improvements to Baker Creek Road	Applicant recently dedicated additional ROW to allow for development of Baker Creek Road to TSP standards	
	Development of street will be required at time of building permits	Condition of Approval #2
Timing of right-of-way improvements to Baker Creek Road	Surrounding property also undergoing development review	
	Require coordination of construction of ROW improvements with surrounding developing properties to minimize construction and livability impacts on existing developments	Condition of Approval #3
Compatibility of the electrical power substation with surrounding and abutting land uses	Proposed setbacks of equipment from property lines	
	Require sight-obscuring fencing required around equipment	Condition of Approval #4
	Require landscaping, specific species and varieties to provide adequate screening	
	Require street tree planting in Baker Creek Road ROW	Condition of Approval #5
	Require minimal lighting and standards for treatment of lighting	Condition of Approval #6

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

Attachments:

1. Ordinance No. 5074, including:

Exhibit A – CPA 2-19 Decision Document

2. Ordinance No. 5075, including:

Exhibit A – ZC 2-19 Decision Document

3. Ordinance No. 5076, including:

Exhibit A – PDA 1-19 Decision Document

4. Ordinance No. 5077, including:

Exhibit A – CU 2-19 Decision Document

- 5. CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials
- 6. McMinnville Water and Light Comments on CU 2-19 Conditions of Approval
- 7. Draft Planning Commission Minutes, 6-27-19

Fiscal Impact:

None.

Ordinance No. 5074 Alternative Courses of Action:

- 1. **ADOPT** Ordinance No. 5074 approving CPA 2-19 and adopting the Decision, Findings of Fact and Conclusionary Findings.
- ELECT TO HOLD A PUBLIC HEARING date specific to a future City Council meeting. The 120 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing and meet all necessary noticing requirements, the public hearing would need to be scheduled for the September 10, 2019 City Council meeting.
- 3. **DO NOT ADOPT** Ordinance No. 5074, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5074.

Ordinance No. 5074 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5074 which would approve CPA 2-19 as recommended by the Planning Commission.

"THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5074."

Ordinance No. 5075 Alternative Courses of Action:

- 1. **ADOPT** Ordinance No. 5075 approving ZC 2-19 and adopting the Decision, Findings of Fact and Conclusionary Findings.
- 2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting. The 120 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

and meet all necessary noticing requirements, the public hearing would need to be scheduled for the September 10, 2019 City Council meeting.

3. **DO NOT ADOPT** Ordinance No. 5075, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5075.

Ordinance No. 5075 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5075 which would approve ZC 2-19 as recommended by the Planning Commission.

"THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5075."

Ordinance No. 5076 Alternative Courses of Action:

- 1. **ADOPT** Ordinance No. 5076 approving PDA 1-19 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings.
- ELECT TO HOLD A PUBLIC HEARING date specific to a future City Council meeting. The 120 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing and meet all necessary noticing requirements, the public hearing would need to be scheduled for the September 10, 2019 City Council meeting.
- 3. **DO NOT ADOPT** Ordinance No. 5076, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5076.

Ordinance No. 5076 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5076 which would approve PDA 1-19, subject to conditions of approval as recommended by the Planning Commission.

"THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5076."

Ordinance No. 5077 Alternative Courses of Action:

- 1. **ADOPT** Ordinance No. 5077 approving CU 2-19 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings.
- ELECT TO HOLD A PUBLIC HEARING date specific to a future City Council meeting. The 120
 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing
 and meet all necessary noticing requirements, the public hearing would need to be scheduled for
 the September 10, 2019 City Council meeting.

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

3. **DO NOT ADOPT** Ordinance No. 5077, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5077.

Ordinance No. 5077 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5077 which would approve CU 2-19, subject to conditions of approval as recommended by the Planning Commission.

"THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5077."

CD

Attachment 1: Ordinance No. 5074 including Exhibit A - CPA 2-19 Decision Document

Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document

Attachment 3: Ordinance No. 5076 including Exhibit A - PDA 1-19 Decision Document

Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document

Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials

Attachment 6: McMinnville Water and Light Comments on CU 2-19 Conditions of Approval

Attachment 7: Draft Planning Commission Minutes, 6-27-19

ORDINANCE NO. 5074

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP DESIGNATION OF THE PROPERTY AT 1901 NW BAKER CREEK ROAD FROM A MIXTURE OF COMMERCIAL AND RESIDENTIAL TO ONLY RESIDENTIAL

RECITALS:

The Planning Department received an application (CPA 2-19) from Samuel Justice, on behalf of property owner McMinnville Water and Light, requesting approval of a Comprehensive Plan Map Amendment. The property is currently designated on the Comprehensive Plan Map as a mix of Commercial and Residential land. The requested Comprehensive Plan Map Amendment would result in the property being designated as only Residential on the Comprehensive Plan Map; and

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.; and

A public hearing was held on June 27, 2019 at 6:30 p.m., before the McMinnville Planning Commission after due notice had been provided in the local newspaper on June 18, 2019, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, the application materials and a staff report were presented, and applicant testimony was received; and

The Planning Commission, being fully informed about said requests, found that the requested amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the Comprehensive Plan Map Amendment review criteria listed in Section 17.74.020 of the McMinnville Municipal Code based on the material submitted by the applicant and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

The Planning Commission recommended approval of said Comprehensive Plan Map Amendment to the City Council;

The City Council having received the Planning Commission recommendation and staff report, and having deliberated; and

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

- 1. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit A; and
 - 2. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the	Council this 13 th day of August, 2019, by the following votes:
Ayes:	
Nays:	

	MAYOR
Attest:	Approved as to form:
	_
CITY RECORDER	CITY ATTORNEY



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

503-434-7311 www.mcminnvilleoregon.gov

DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDEMENT FROM A MIX OF RESIDENTIAL AND COMMERCIAL DESIGNATIONS TO RESIDENTIAL ONLY AT 1901 NW BAKER CREEK ROAD

DOCKET: CPA 2-19 (Comprehensive Plan Map Amendment)

REQUEST: Approval to amend the Comprehensive Plan Map designations of a property from

its current mixture of both Commercial and Residential. The requested amendment would designate the entire property as only Residential on the

Comprehensive Plan Map.

LOCATION: 1901 NW Baker Creek Road. The property is described in Instrument No.

201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101,

Section 18, T. 4 S., R. 4 W., W.M.

ZONING: R-1 (Single Family Residential) & EF-80 (Exclusive Farm Use)

APPLICANT: Samuel Justice, on behalf of McMinnville Water and Light

STAFF: Chuck Darnell, Senior Planner

DATE DEEMED

COMPLETE: May 22, 2019

HEARINGS BODY

& ACTION: The McMinnville Planning Commission makes a recommendation for approval or

denial to the City Council.

HEARING DATE

& LOCATION: June 27, 2019, Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY

& ACTION: The McMinnville City Council approves or denies the land-use application.

HEARING DATE

& LOCATION: August 13, 2019, Civic Hall, 200 NE 2nd Street, McMinnville Oregon

PROCEDURE: An application for a Comprehensive Plan Map Amendment is processed in

accordance with the procedures in Section 17.72.120 of the McMinnville Municipal Code. The application is reviewed by the Planning Commission in

accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the McMinnville Municipal Code.

CRITERIA:

The applicable criteria for a Comprehensive Plan Map Amendment are specified in Section 17.74.020 of the McMinnville Municipal Code. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

APPEAL:

The Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision. As specified in Section 17.72.190 of the McMinnville Municipal Code, the City Council's decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 (twenty-one) days of the date written notice of decision is mailed. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal.

COMMENTS:

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; and Oregon Department of Transportation. Their comments are provided in this document.

DECISION

Based on the findings and conclusionary findings, the City Council finds the applicable criteria are satisfied and **APPROVES** the Comprehensive Plan Map Amendment (CPA 2-19).

//////////////////////////////////////	
City Council:Scott Hill, Mayor of McMinnville	Date:
Planning Commission: Roger Hall, Chair of the McMinnville Planning Commission	Date:
Planning Department:	Date:

I. APPLICATION SUMMARY:

The applicant has provided information in their application narrative and findings (attached as Attachment 1) regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current Comprehensive Plan Map Amendment request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

Subject Property & Request

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

The application (CPA 2-19) is a request for a Comprehensive Plan Map Amendment to amend the Comprehensive Plan Map designation of a property from its current mixture of both Commercial and Residential. The requested amendment would designate the entire property as only Residential on the Comprehensive Plan Map. The Comprehensive Plan Map Amendment request was submitted for review concurrently with three other land use applications, as allowed by Section 17.72.070 of the MMC. The requested amendment is being reviewed concurrently with a Zone Change, Planned Development Amendment, and Conditional Use to allow for the existing electrical substation on the site to be expanded.

Excerpts from Land Use Application Narrative and Findings:

In summary, simultaneous applications are made for the following land use actions:

- 1) Comprehensive Plan Map Amendment Amendment from the current mix of Residential and Commercial designations to Residential, only. Applicable review criteria for a Comprehensive Plan Map Amendment are found in Section 17.74.020 of the MMC. [...]
- 2) Zone Change Simultaneously with the plan amendment change to Residential, application is made for Zone Change of the entire parcel from a mix of R-1 and EF-80 to ALL R-1 (Single Family Residential). Applicable review criteria for a Zone Change are the same as those for the Comprehensive Plan Map Amendment, which are in Section 17.74.020 of the MMC. [...]
- 3) Planned Development Amendment Simultaneously application is made to amend the Planned Development overlay created by Ordinance 4633 to remove the subject site from the overlay and reduce the size of the overlay to remove the substation lot (existing tax lot 4418-00101). Applicable review criteria for a Planned Development Amendment are in Section 17.74.070 of the MMC. [...]
- 4) Conditional Use Permit Simultaneously with the other applications, application is made for a conditional use permit to expand the substation facility. Section 17.12.020(L) of the MMC identifies "Electrical power substation" as a conditional use1 in a R-1 zone. The level of review and compatibility of the substation with the future commercial, residential and park uses that will surround this site will be based on the conditional use review criteria in Section 17.74.030 and 17.74.040 of the MMC. [...]

See Vicinity Map (Figure 1), Existing Comprehensive Plan Map (Figure 2), and Proposed Comprehensive Plan Map (Figure 3) below.

Figure 1. Vicinity Map



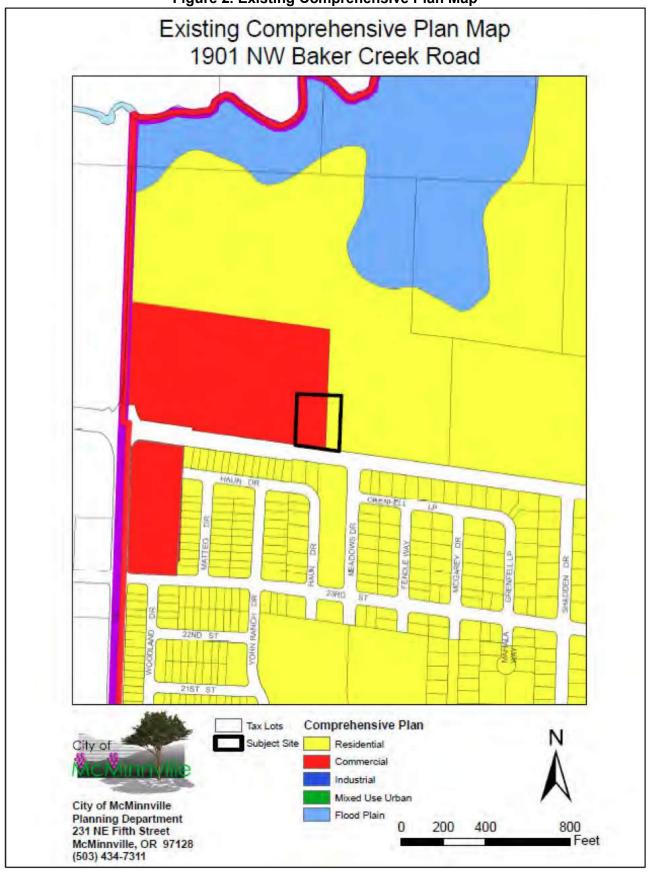


Figure 2. Existing Comprehensive Plan Map

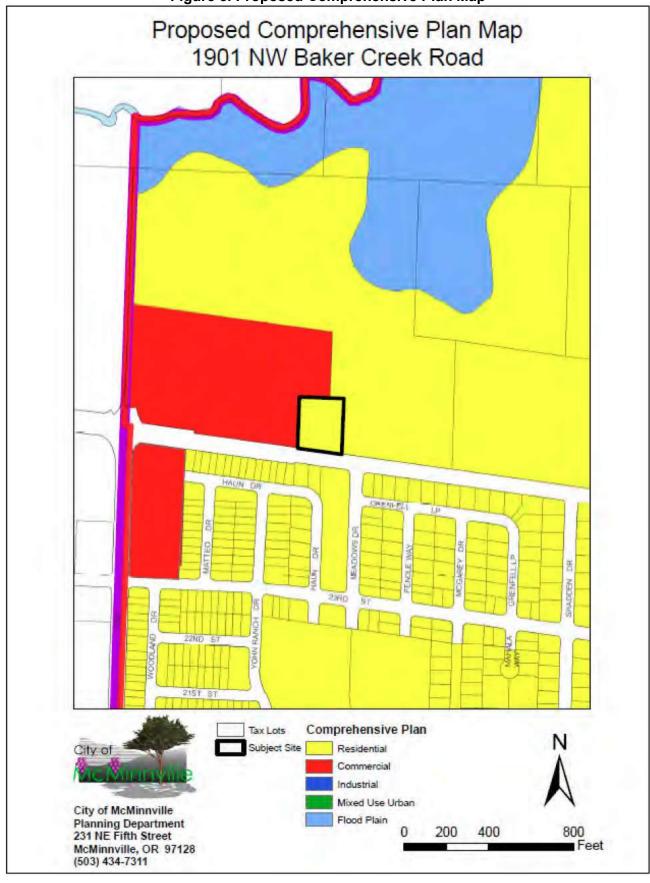


Figure 3. Proposed Comprehensive Plan Map

Background

Excerpts from Land Use Application Narrative and Findings:

1. Annexation into City of McMinnville:

- The original substation lot, Tax Lot R4418-00101, was annexed into the City on 9-10-1977 by Ordinance 3881. The lot was approximately 0.26 acres and was co-located on the existing BPA high-voltage transmission easement.
- The Comprehensive Plan Map and Zoning Map from the early 1980s identified the site as being in a Residential Comprehensive Plan Map designation and zoned R-1 (Single Family Residential)

2. Comp Plan Amendment - CPA 2-96:

- In 1996, Ordinance 4633 amended a 12.34 acre portion of a parcel on the Comprehensive Plan Map on the north side of Baker Creek Road from residential to commercial. This amendment split the original substation lot in half for comprehensive plan map purposes between Commercial and Residential.
 - o Ordinance 4633 also created a Planned Development overlay on the same property, with some conditions related to the form of development and uses.
 - o Ordinance 4633 did not change the zoning of the site, and the acreage property still retains the county EF-80 zoning (eventually annexed in 2008 see more below).
 - A map showing dimensions of the area proposed to be designated as commercial was included in the 1996 land use application file submitted by the applicant at the time. Part of that map is depicted below in Figure No. 1.



- The southern boundary of the new commercial area (965.95' dimension) extended from the Tax Lot R4418-00100's western boundary to a point that is within and near the center of substation lot (Tax Lot 101 as it existed)
- o It is noteworthy that at the time of the 1996 Comp Plan Amendment, Figure No. 1 shows plans for an expanded substation site. (See figure No. 1, above). The expanded substation use was shown within the commercial overlay designation.
- 3. Conditional Use Permit for Baker Creek Substation CU 7-99:
 - In 1999, the city granted MW&L a conditional use permit for the Baker Creek Substation (approval letter with original conditions attached here as Attachment 6).
 - Findings of fact for that application stated that the subject site was designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential).
 - The substation use was reviewed as a conditional use, as a "Utility transmission station" is a conditional use in a residential zone. Section 17.12.020 (a section of the R-1 chapter).
 - Construction of the new Baker Creek substation took place in 2000. Electric load was first placed on the substation in January 2001.

4. Lot Line Adjustment

- In 2002 tax lot 101 was expanded by lot line adjustment. [...] In 2002 the subject site was found to be designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential)
- 5. Annexation of Larger Baker Creek North Area:
 - In 2008 the larger acreage surrounding the Baker Creek substation was annexed into the city (approved 7-22-2008 by Ordinance 4895).
- 6. Recent Property Line Adjustment BLA 10-18:
 - In 2019 a lot line adjustment increased the size of the substation lot (Tax Lot 101) by moving the west property line approximately 103' to the west, the north property line to the north, and the east property line approximately 37' to the east. The lot now fronts Baker Creek Road for about 210'.
 - The western property line has now been moved west and toward the area within the overlay zone regulated in 1996 by CPA 2-96.

Summary of Criteria & Issues

The application (CPA 2-19) is subject to Comprehensive Plan Map Amendment review criteria in Section 17.74.020 of the Zoning Ordinance. Requests to amend the Comprehensive Plan Map are processed in accordance with Section 17.72.120. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The specific review criteria for Comprehensive Plan Map Amendments in Section 17.74.020 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan;
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;
- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

The applicant has provided findings to support the request for a Comprehensive Plan Map Amendment. These will be discussed in detail in Section VII (Conclusionary Findings) below.

II. CONDITIONS:

None.

III. ATTACHMENTS:

1. CPA 2-19 Application and Attachments (on file with the Planning Department)

IV. COMMENTS:

Agency Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments were received:

McMinnville Engineering Department

No comments. At the time of development of the substation, that appropriate public infrastructure improvements will be required.

McMinnville Fire Department

No comments received

McMinnville Water and Light

No comments received

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was also provided in the News Register on Tuesday, June 18, 2019. As of the date of the Planning Commission public hearing on June 27, 2019, no public testimony had been received by the Planning Department.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

- A. The applicant, Samuel Justice on behalf of McMinnville Water and Light, held a neighborhood meeting on March 27, 2019.
- B. The applicant submitted the Comprehensive Plan Map Amendment application (CPA 2-19) on April 26, 2019.
- C. The application was deemed complete on May 22, 2019. Based on that date, the 120 day land use decision time limit expires on September 19, 2019.

D. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas.

Comments received from agencies are addressed in the Decision Document.

- E. Notice of the application and the June 27, 2019 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.72.120 of the Zoning Ordinance on Thursday, June 6, 2019.
- F. Notice of the application and the June 27, 2019 Planning Commission public hearing was published in the News Register on Tuesday, June 18, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
- G. No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.
- H. On June 27, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT – GENERAL FINDINGS

- Location: 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.
- 2. **Size:** Approximately 1.22 acres.
- 3. Comprehensive Plan Map Designation: Mix of Commercial and Residential
- 4. **Zoning:** R-1 (Single Family Residential) & EF-80 (Exclusive Farm Use)
- 5. **Overlay Zones/Special Districts:** Planned Development Overlay District (Ordinance No. 4633)
- 6. **Current Use:** Electrical Substation (Baker Creek Substation)
- 7. Inventoried Significant Resources:
 - a. Historic Resources: None
 - b. Other: None
- 8. **Other Features:** The site is generally flat, with a minor slope to the northwest. There are no significant or distinguishing natural features associated with this property.
- 9. Utilities:
 - a. Water: Water service is available to the subject site.
 - b. **Electric:** Power service is available to the subject site.
 - c. **Sewer:** Sanitary sewer service is available to the subject site.

- d. **Stormwater:** Storm sewer service is available to the subject site.
- e. **Other Services:** Other utility services are available to the subject site. Northwest Natural Gas and Comcast is available to serve the site.
- 10. **Transportation:** The site is adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Comprehensive Plan Map Amendment are specified in Section 17.74.020 of the Zoning Ordinance.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

Comprehensive Plan Volume II:

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, polices, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

- GOAL IV 1: TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF McMINNVILLE'S ECONOMY IN ORDER TO ENHANCE THE GENERAL WELL-BEING OF THE COMMUNITY AND PROVIDE EMPLOYMENT OPPORTUNITIES FOR ITS CITIZENS.
- GOAL IV 2: TO ENCOURAGE THE CONTINUED GROWTH OF McMINNVILLE AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.
- Policy 21.01 The City shall periodically update its economic opportunities analysis to ensure that it has within its urban growth boundary (UGB) a 20-year supply of lands designated for commercial and industrial uses. The City shall provide an adequate number of suitable, serviceable sites in appropriate locations within its UGB. If it should find that it does not have an adequate supply of lands designated for commercial or industrial use it shall take corrective actions which may include, but are not limited to, redesignation of lands for such purposes, or amending the UGB to include lands appropriate for industrial or commercial use. (Ord.4796, October 14, 2003)

APPLICANT'S RESPONSE: The application approval and proposed substation use is consistent with Policy 21.01 in that the application facilitates suitable and serviceable sites for commercial uses in the north and west of McMinnville. While approval of this application(s) would arguably move ~.8 acres of land on the Comprehensive Plan Map and in the applicable zone to residential use from commercial use, the applied-for conditional use (electric substation) would also function to facilitate commercial uses by providing additional electric capacity. Note the Electric System Study, 2015, that indicates fully loaded electric feeders and a need for another substation to serve the north and west of the city. Attachment 4 at page 15, (Table 2-1; 2-7).

Even if the proposal reduces commercial land on the comprehensive plan map by increasing residential land, it has no net effect on available commercial land for actual development. The 1996 Comp Plan amendment establishing the commercial area, also anticipates the expanded substation site. See Diagram on page 2, infra. The substation use serves and enhances adjacent commercial use by providing electric load capacity for development.

While the conclusions of the City's adopted Economic Opportunities Analysis, indicates that there is a need for approximately 36 additional acres of commercial land during the planning period (2013-2033) the proposed substation, even under a residential plan map designation, is consistent with fulfillment of that need. Whether the property is zoned commercial or residential the space will be needed for the utility use. The plan map divides the lot between commercial and residential. The buildable lands inventory identifies both types of land (Comm. and Residential) in short supply. However, the actual use of the property, as an expanded substation will support both commercial and residential development.

Consolidating the entire lot to residential plan map designation will allow for uniform planning while supplying utility (electric) needs for both types of use. The Residential designation and zone is more restrictive for land use purposes and is the better choice. The proposed conditional use (utility substation) of the property in a residential zone supports the immediate area for suitable and serviceable commercial sites. (See map of substation facilities Attachment 1, site plan {surrounding area currently undeveloped}).

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the most recently acknowledged Economic Opportunities Analysis for the City of McMinnville, which was acknowledged in 2013, identified a deficit of commercial land within the McMinnville Urban Growth Boundary. The deficit was identified at an amount of 35.8 acres, as shown in Figure 26 from the Economic Opportunities Analysis below:

Acres by Plan Designation				
	Commercial	Industrial	Total	Comments
Vacant Land Den	nand			Based on 2013-33 jobs forecast
Commercial	164.6	9	164.6	Commercial retail & service need
Industrial	9	145.1	145.1	Manufacturing & related sectors
Institutional	2.2	8.0	10.2	62% of need w/per job method
Totals	166.8	153.2	319.9	Employment land demand
Available Land S	upply			Fully & partially vacant sites
2013 BLI Update	130.9	389.1	520.0	Revised per BLI update 7/13
Surplus/(Deficit)	(35.8)	235.9	200.1	As of 2033 forecast year

In the most recently acknowledged Residential Buildable Lands Inventory, which was prepared in 2001, a need for additional land for housing and residential uses was also identified. That inventory, which was titled the McMinnville Buildable Land Needs Analysis and Growth Management Plan, identified a deficit of 860.6 acres of land for housing in Table 6-3. Therefore, both commercial and residential lands were identified as needed land types in the Economic Opportunities Analysis and Residential Buildable Lands Inventory. The need for residential land was much higher than the need for additional commercial land (over 1,000 acres of residential land compared to 35.8 acres of commercial land). The proposed Comprehensive Plan map amendment would address the residential land deficit identified in the McMinnville Buildable Land Needs Analysis and Growth Management Plan, but would minimally impact the commercial land deficit as only approximately 0.8 acres of additional land would be changed from a Commercial designation to Residential.

The City also recognizes that the use of the property is intended by the current property owner and applicant to be the same regardless of the underlying Comprehensive Plan Map Amendment. The current property owner and applicant, McMinnville Water and Light, intends to expand the existing electrical power substation, and that use would be allowed in either residential or commercial city zoning districts. Section 17.30.020 (C-2 Travel Commercial Zone - Conditional Uses) lists "electrical power substation" as a conditional use. Section 17.33.010 (C-3 General Commercial Zone – Permitted uses) lists "all uses and conditional uses permitted in the C-1 and C-2 zones". Electrical power substations are listed as a conditional use in all residential zones (see Sections 17.12.020(L), 17.15.020(K), 17.18.020(K), and 17.21.020(N)). Therefore, the proposed Comprehensive Plan Map Amendment to Residential, along with the additional land use and development requests required to permit the expansion of the existing electrical power substation, results in a land use designation that will afford the most opportunity for public hearing and notice for the eventual intended use of the site. The land use designation of Residential will also allow for the application of more development (setbacks, structure height, etc.) and conditional use standards than what would be required in the commercial zones for the eventual intended use of the site, which will ensure compatibility of the intended use with surrounding development.

The McMinnville Buildable Land Needs Analysis and Growth Management Plan, in Table 6-3 below, assumed that some residential land would be needed for infrastructure and semi-public services. Given this assumed need and the fact that a portion of the subject property is already designated Residential, the proposed Comprehensive Plan Map Amendment is consistent with Policy 21.01.

Table 6-3. Total additional acres needed in the McMinnville UGB, 2000-2020 Category Needed **Gross Acres** New housing 449.0 250.0 Parks Schools 96.0 1.3 Private Schools 41.6 Religious Government 0.8 Semi-Public Services 19.6 2.3 Infrastructure Total 860.6 Source: City of McMinnville, ECONorthwest

The City also acknowledges that the subject property has two Comprehensive Plan designations, and that the request to consolidate the property into only one designation (as Residential) allows for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation.

- GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALLY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.
- Policy 24.50 The location, type, and amount of commercial activity within the urban growth boundary shall be based on community needs as identified in the Economic Opportunities Analysis. (Ord.4796, October 14, 2003)

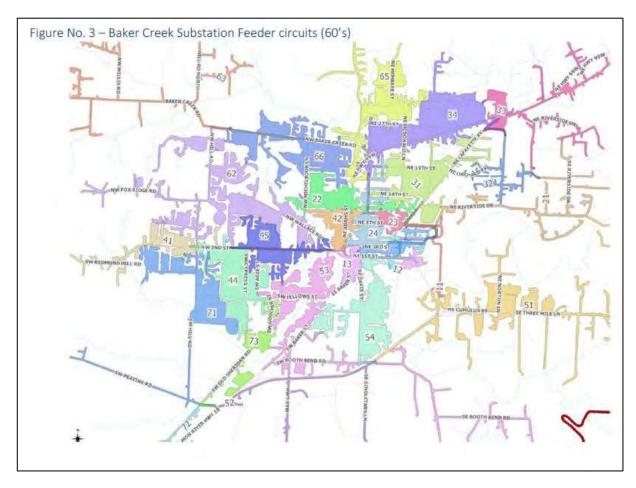
APPLICANT'S RESPONSE: The proposed application is consistent with Goal IV 3 and policy 24.50 in addressing the 2013 Economic needs analysis which describes the need for commercial uses by providing additional electric transmission and distribution infrastructure to allow higher density of site utilization. The Economic needs analysis provides as follows:

"Because much of the recent and anticipated continued demand for commercial uses will come from office-related uses including professional, financial, consumer, and health care service activities, the goal statement and/or implementing policies might also be modified to more explicitly address needs for a broad range of service-related functions including professional, business, financial and medical services. Due to the increasing shortage of commercial land, it can be anticipated that future development may begin to involve more redevelopment sites at higher densities of site utilization than has occurred in the past – as reflected in revised forecasts for higher overall commercial employment densities than previously targeted." McMinnville Economic Opportunities Analysis (Final Draft), 2013, page 72.

The proposed application and substation facility provide for the anticipated higher demand on the electric system in the north and west part of the City and will thereby allow a higher density of site utilization for commercial development. **FINDING: SATISFIED.** While the proposal does reduce the amount of Commercial land within the urban growth boundary, it does so minimally by changing only approximately 0.8 acres of land from a Commercial designation to Residential and also changes to another land type (Residential) that is identified as needed in the most recently acknowledged Residential Buildable Lands Inventory McMinnville Buildable Land Needs Analysis and Growth Management Plan. See findings for Policy 21.01 for more detail. As discussed by the applicant, the designation to Residential and subsequent land use and development applications to allow for the proposed electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary. This will ensure that services are available for future commercial development to maximize efficiency and developability of those other commercial lands in the north and west areas of the urban growth boundary, most notably the Commercial designated property immediately adjacent to the subject site.

Policy 25.00 Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.

APPLICANT'S RESPONSE: The proposed plan amendment, zone change, and conditional use within a residential zone (electric substation) is consistent with this policy as providing for electric services prior to the subsequent commercial development and being supportive of nearby commercial development in areas served by Baker Creek Substation feeders (60's).



"Based on the best available growth forecasts and information on growth areas, feeders 31, 34, 62, and 65 are all likely to see load growth. These are heavily loaded feeders

served by heavily loaded substation transformers with limited or no ability to transfer existing load to lightly loaded substations. A majority of the available MW&L transformer and circuit capacity is at East McMinnville #2 and Gormley substations; without major circuit reconfigurations, this capacity cannot be utilized for load growth on the north and west sides of town. If load develops in these areas as expected, single contingency criteria may not be met during peak events for transformer outages at these locations. It is recommended that MW&L be prepared for one of the following options as load growth occurs: * * * * Expand Baker Creek Substation and add new transformer."

Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen. Attachment 4, page 15 (Table 2-1; 2-7).

Locating the substation prior to build out of commercial development is orderly and advantageous to the commercial development. The new substation will provide a reliable base of power for development of various sizes. The placement now, prior to other development, allows surrounding future commercial development to place and scale itself in light of the known substation use.

The predicted need for additional substation capacity to serve commercial growth is further supported factually by figure No. 6 (below), showing anticipated housing units within the effected "feeder" areas on the north and west sides of town.

According to the 2015 study, expansion of the Baker Creek Substation is one of three alternatives available to MW&L to provide for increase electric load in the north and west McMinnville and will not require the cost of "major circuit reconfigurations" and is the only alternative not involving constructing an entirely new substation facility to support both anticipated commercial and high-density residential development.

FINDING: SATISFIED. The City concurs with the applicant's responses, particularly in the fact that the proposed Comprehensive Plan Map Amendment results in the subject property having only one Comprehensive Plan designation (as Residential) to allow for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation. The change of designation to Residential and subsequent land use and development applications will also allow for the proposed electrical substation expansion. This will ensure that services commensurate with the potential scale of surrounding planned commercial development can be made available prior to development.

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

Policy 58.00 City land development ordinances shall provide opportunities for development of a variety of housing types and densities.

APPLICANT'S RESPONSE: The most recent Buildable Land Inventory indicates a shortage of residential land. The Residential Buildable Lands Inventory, 2001, identified a need for additional land for housing uses. That inventory, which was titled the McMinnville Residential Land Needs Analysis and Growth Management Plan, identified a deficit of ~860 acres of land for housing in Table 6-3. More specifically, the analysis identified a need of 129 acres of R-1 (Low Density) zoned land. See below Figure No. 4. This application and related applications (Comp Plan Amendment, Zone Change), is consistent with this policy in that it seeks to add residential land to the inventory.

Figure No. 4 - Table 6-2 - Additional Land for Housing; Table 6-3 Total Acres needed.

Table 6-2. Additional land needed for housing in the McMinnville UGB, 2000-2020

Zone	Additional Dwelling Unit Need	Gross Density	Needed Gross Acres	Net Density	Needed Net Acres
R-1	348	2.7	129.0	3.6	95.6
R-2	588	4.9	120.0	6.5	90.4
R-3	653	4.8	136.1	5,5	119.7
R-4	588	9.2	63.9	10.7	55.1
All Other Zones	0	na	na	na	na
Total	2,178	4.8	449.0	5.9	369.1

Source: ECONorthwest, 2000

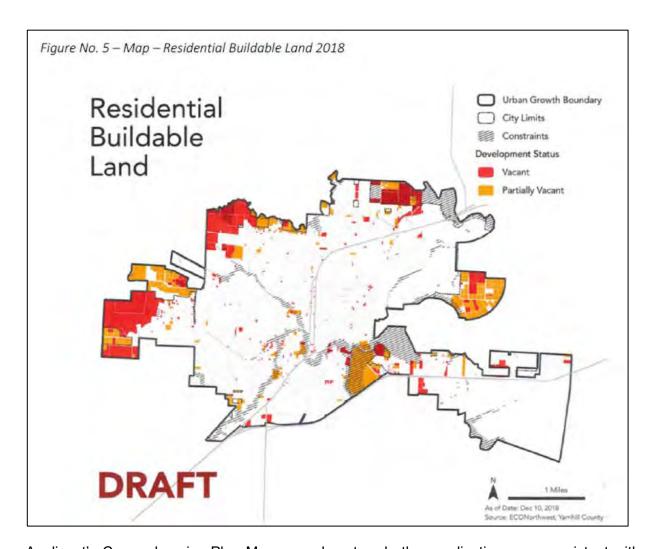
Table 6-3 shows total residential land need from 2000 to 2020. Including parks and schools, we estimate total need for land designated for residential uses at 861 gross acres.

Table 6-3. Total additional acres needed in the McMinnville UGB, 2000-2020

Category	Needed Gross Acres
New housing	449.0
Parks	250.0
Schools	96.0
Private Schools	1.3
Religious	41.6
Government	0.8
Semi-Public Services	19.6
Infrastructure	2.3
Total	860.6

Source: City of McMinnville, ECONorthwest

As demonstrated by Figure No. 5 (below), the available residential land is located in the north and west parts of the city. Note that much of the available residential land in the north-east, is under "constraints."



Applicant's Comprehensive Plan Map amendment and other applications are consistent with this policy, because the slight reduction in commercial land will not meaningfully impact the deficit of commercial land identified in the 2013 Economic Opportunities Analysis and the additional residential land will result in a reduction in the deficit of residential land identified in the 2001 McMinnville Buildable Land Needs Analysis and Growth Management Plan. Therefore, on balance the Comprehensive Plan goals and policies related to the provision of opportunities for the development of a variety of housing types and densities (Policy 58.00) and opportunities for multiple-family developments to encourage lower-cost housing (Policy 59.00) would be satisfied by the proposed Comprehensive Plan Map amendment.

The application(s) is consistent with policy 58.00 in that it(they) provides for the expansion of an existing substation which will provide capacity for a wide range of housing types and densities. The current substation is at near capacity and if no action is taken, variety and expanse of development may be limited. See, Attachment 4, page 15 (Table 2-1; 2-7). (Electric System Study, 2015); See also Memo of Jaime Phillips, Senior Power Analyst, Attachment 5 (Baker Creek substation is at operational load capacity).

FINDING: SATISFIED. The City concurs with the applicant's findings, but notes that the 2018 Buildable Lands Inventory referenced in the applicant's findings has not been acknowledged. Also, the City adds that the most recently acknowledged Economic Opportunities Analysis for the City of McMinnville, which was acknowledged in 2013, identified a deficit of commercial land

within the McMinnville Urban Growth Boundary. The deficit was identified at an amount of 35.8 acres, as shown in Figure 26 from the Economic Opportunities Analysis below:

Acres by Plan Designation				
Commercial Industrial Total (Comments		
Vacant Land Der	nand			Based on 2013-33 jobs forecast
Commercial	164.6	9	164.6	Commercial retail & service need
Industrial	Θ.	145.1	145.1	Manufacturing & related sectors
Institutional	2.2	8.0	10.2	62% of need w/per job method
Totals	166.8	153.2	319.9	Employment land demand
Available Land S	upply			Fully & partially vacant sites
2013 BLI Update	130.9	389.1	520.0	Revised per BLI update 7/13
Surplus/(Deficit)	(35.8)	235.9	200.1	As of 2033 forecast year

In the most recently acknowledged Residential Buildable Lands Inventory, which was prepared in 2001, a need for additional land for housing and residential uses was also identified. That inventory, which was titled the McMinnville Buildable Land Needs Analysis and Growth Management Plan, identified a deficit of 860.6 acres of land for housing in Table 6-3. Therefore, both commercial and residential lands were identified as needed land types in the Economic Opportunities Analysis and Residential Buildable Lands Inventory. The need for residential land was much higher than the need for additional commercial land (over 1,000 acres of residential land compared to 35.8 acres of commercial land). The proposed Comprehensive Plan map amendment would address the residential land deficit identified in the McMinnville Buildable Land Needs Analysis and Growth Management Plan, but would minimally impact the commercial land deficit as only approximately 0.8 acres of additional land would be changed from a Commercial designation to Residential.

The McMinnville Buildable Land Needs Analysis and Growth Management Plan, in Table 6-3 below, assumed that some residential land would be needed for infrastructure and semi-public services. Given this assumed need and the fact that a portion of the subject property is already designated Residential, the proposed Comprehensive Plan Map Amendment is consistent with Policy 21.01.

Table 6-3. Total additional acres needed in the McMinnville UGB, 2000-2020 Category Needed **Gross Acres** New housing 449.0 Parks 250.0 Schools 96.0 Private Schools 1.3 Religious 41.6 Government 0.8 Semi-Public Services 19.6 Infrastructure 2.3

860.6

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 DESIGNS.

Source: City of McMinnville, ECONorthwest

Total

Policy 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.

APPLICANT'S RESPONSE: Approval of the applications meets policy 68.00. Expansion of an existing substation adjacent to existing residential areas, avoids the need to site a new substation in a location not already devoted to the electric energy use. This site makes good use of existing infrastructure and reduces the footprint per transformer. A new transformer in a new location would require additional set back, security fencing and shielding. The amount of land devoted to each transformer can be reduced by siting two transformers side by side.

FINDING: SATISFIED. The City concurs with the applicants findings. The City also acknowledges that the subject property has two Comprehensive Plan designations, and that the request to consolidate the property into only one designation (as Residential) allows for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation. The uniform planning and development of the site with the expansion of an existing substation will also promote a development pattern that is land intensive and energy efficient, as described by the applicant.

- Policy 71.00 The City of McMinnville 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 designated as residential on the Comprehensive Plan Map.
- Policy 71.05 The City of McMinnville shall encourage annexations and rezoning which are consistent with the policies of the Comprehensive Plan so as to achieve a continuous five-year supply of buildable land planned and zoned for all needed housing types. (Ord.4840, January 11, 2006; Ord. 4243, April 5, 1983; Ord. 4218, November 23, 1982)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The most recently acknowledged Economic Opportunities Analysis for the City of McMinnville, which was acknowledged in 2013, identified a deficit of commercial land within the McMinnville Urban Growth Boundary. The deficit was identified at an amount of 35.8 acres, as shown in Figure 26 from the Economic Opportunities Analysis below:

	Acres by Plan Designation			
	Commercial	Industrial	Total	Comments
Vacant Land Dem	and			Based on 2013-33 jobs forecast
Commercial	164.6	9	164.6	Commercial retail & service need
Industrial	9	145.1	145.1	Manufacturing & related sectors
Institutional	2.2	8.0	10.2	62% of need w/per job method
Totals	166.8	153.2	319.9	Employment land demand
Available Land Su	pply			Fully & partially vacant sites
2013 BLI Update	130.9	389.1	520.0	Revised per BLI update 7/13
Surplus/(Deficit)	(35.8)	235.9	200.1	As of 2033 forecast year
Notes: All acreage fig	ures are rounded t	o nearest 1/10th of a	n acre.	
Source: E. D. Hovee	& Company, LLC.			

In the most recently acknowledged Residential Buildable Lands Inventory, which was prepared in 2001, a need for additional land for housing and residential uses was also identified. That inventory, which was titled the McMinnville Buildable Land Needs Analysis and Growth Management Plan, identified a deficit of 860.6 acres of land for housing in Table 6-3. Therefore, both commercial and residential lands were identified as needed land types in the Economic Opportunities Analysis and Residential Buildable Lands Inventory. The need for residential land was much higher than the need for additional commercial land (over 1,000 acres of residential land compared to 35.8 acres of commercial land). The proposed Comprehensive Plan map amendment would address the residential land deficit identified in the McMinnville Buildable Land Needs Analysis and Growth Management Plan, but would minimally impact the commercial land deficit as only approximately 0.8 acres of additional land would be changed from a Commercial designation to Residential.

The McMinnville Buildable Land Needs Analysis and Growth Management Plan, in Table 6-3 below, assumed that some residential land would be needed for infrastructure and semi-public services. Given this assumed need and the fact that a portion of the subject property is already designated Residential, the proposed Comprehensive Plan Map Amendment is consistent with Policies 71.00 and 71.05.

Category	Needed	
	Gross Acres	
New housing	449.0	
Parks	250.0	
Schools	96.0	
Private Schools	1.3	
Religious	41.6	
Government	0.8	
Semi-Public Services	19.6	
Infrastructure	2.3	
Total	860.6	

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.

Streets

- Policy 117.00 The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.
- Policy 118.00 The City of McMinnville shall encourage development of roads that include the following design factors:
 - 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.
 - 2. 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.
 - 3. Consideration given to Complete Streets, in consideration of all modes of transportation (public transit, private vehicle, bike, and foot paths). (Ord.4922, February 23, 2010)
- Policy 119.00 The City of McMinnville shall encourage utilization of existing transportation corridors, wherever possible, before committing new lands.
- Policy 120.00 The City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows.
- Policy 121.00 The City of McMinnville shall discourage the direct access of small-scale residential developments onto major or minor arterial streets and major collector streets.

- Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications.
 - 1. Major, minor arterials.
 - -Access should be controlled, especially on heavy traffic-generating developments.
 - -Designs should minimize impacts on existing neighborhoods.
 - -Sufficient street rights-of-way should be obtained prior to development of adjacent lands.
 - -On-street parking should be limited wherever necessary.
 - -Landscaping should be required along public rights-of-way. (Ord.4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The subject site is currently adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary. Any right-of-way improvements required for the subject site will be required at the time of development.

Public Safety

Policy 132.32.00 The safe, rapid movement of fire, medical, and police vehicles shall be an integral part of the design and operation of the McMinnville transportation system. (Ord. 4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Any right-of-way improvements required for the subject site will be required at the time of development. These required right-of-way improvements will be completed to existing City standards, which are of a design and operation standard that allows for required movements for fire, medical, and police vehicles.

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

- Policy 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.
- Policy 139.00 The City of McMinnville shall extend or allow extension of sanitary sewage collection lines within the framework outlined below:

- 1. Sufficient municipal treatment plant capacities exist to handle maximum flows of effluents.
- 2. Sufficient trunk and main line capacities remain to serve undeveloped land within the projected service areas of those lines.
- 3. Public water service is extended or planned for extension to service the area at the proposed development densities by such time that sanitary sewer services are to be utilized.
- 4. Extensions will implement applicable goals and policies of the comprehensive plan.

Storm Drainage

- Policy 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.
- Policy 143.00 The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage.

Water System

Policy 144.00 The City of McMinnville, through McMinnville Water and Light, shall provide water services for development at urban densities within the McMinnville Urban Growth Boundary.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

- Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:
 - 1. Facilities are placed in locations and in such a manner as to insure compatibility with surrounding land uses.
 - 2. Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.
 - 3. For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized.
 - 4. Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.

Policy 147.00 The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas. The City shall also continue to coordinate with McMinnville Water and Light in making land use decisions.

Water and Sewer – Land Development Criteria

- Policy 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:
 - Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, 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 effluents.
 - 3. Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the 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 waste water quality standards can be adhered to.
 - 5. Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas and in making land-use decisions. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

Police and Fire Protection

Policy 153.00 The City shall continue coordination between the planning and fire departments in evaluating major land use decisions.

Policy 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 annexations, subdivision proposals, and other major land use decisions.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Emergency services departments were provided an opportunity to review the proposal, and no concerns were raised. Any requirements of the Oregon Fire Code or Building Code will be required at the time of development.

Energy Conservation

GOAL VIII 1: TO PROVIDE ADEQUATE ENERGY SUPPLIES, AND THE SYSTEMS NECESSARY TO DISTRIBUTE THAT ENERGY, TO SERVICE THE COMMUNITY AS IT EXPANDS.

Energy Supply Distribution

Policy 171.00 The City of McMinnville shall continue to examine land use decisions in the light of present and projected supplies of electrical, fossil fuel, and other sources of energy.

APPLICANT'S RESPONSE: This application approval is consistent with policy 171.00 in providing additional transformer capacity to move the anticipated demand for electrical energy to neighborhoods and commercial areas in the city. The Electric System Planning Study, 2015, specifically recommends the expansion of the Baker Creek Substation. Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen. Attachment 4, page 15-7 (Figure 2-1; 2-7; Recommendations). This study further explains that McMinnville is experiencing levels of electric load at the current Baker Creek Substation that currently requires shifting load to other facilities. Electric System Planning Study, Attachment 4, at page 53; Table 6-2. Application approval is consistent with an examination of land use decisions in light of future electrical supply as described in the 2015 study.

Current projections indicate that peak load residential load is expected to grow with additional housing being developed on the west side of the City. See Memo, Jaime Phillips, Senior Power Analyst, McMinnville Water and Light (Attachment 5).

Application approval and resulting substation expansion will not impact the supply of electricity or other sources of energy. Until 2028, MW&L's supply is primarily provided by contract with the Bonneville Power Administration. However, approval of the substation expansion will increase the localized ability of MW&L to transmit available electric energy into the growing west and north sections of the city.

FINDING: SATISFIED. The City concurs with applicant's findings, and adds that the City acknowledges that the subject property has two Comprehensive Plan designations, and that the request to consolidate the property into only one designation (as Residential) allows for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation. The City also acknowledges that the designation to Residential and subsequent land use and development applications to allow for the proposed electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary.

Policy 173.00 The City of McMinnville shall coordinate with McMinnville Water and Light and the various private suppliers of energy in this area in making future land use decisions.

APPLICANT'S RESPONSE: Review for approval of this application, and the required neighborhood meeting, and the public hearing process demonstrates coordination between the City and MW&L that is consistent with policy 173.00. The City routinely seeks comment from MW&L prior to land use decisions. MW&L comments on land use applications that appear to impact its utility purposes and facilities. The City's approval of these application demonstrate an effort to coordinate with MW&L. Applicant foresaw the need of the City in its related lot line adjustment (BLA 10-18) transaction, and dedicated real property to widen Baker Creek Road in front of the substation (Attachment 8) and also granted a public utility easement (Attachment 9) during that process. These preemptory conveyances by applicant in anticipation of the City's needs is also consistent with coordination between the City and applicant (Water and Light).

FINDING: SATISFIED. The City concurs with the applicant's findings.

Policy 174.00 The City of McMinnville shall continue to support the long-range planning efforts of McMinnville Water and Light to supply the electrical energy needs of the community.

APPLICANT'S RESPONSE: Approval of this application is consistent with support of MW&L's long-range planning efforts as expressed in Applicant's Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen ("the Study"). See Attachment 4, page 15; Figure 2-1, 2-7 (Recommendations).

The 2015 Electric Systems Planning Study and the MW&L capital plan (as set forth in the MW&L "Light" budget. Attachment 13, p. 15-16) are indicators of long-range planning efforts by MW&L on behalf of the City of McMinnville to supply electrical energy needs of McMinnville. The Study indicates that expansion of the Baker Creek Substation is a recommended alternative to supply needed electrical energy to the north and west part of the city.

The City's extension of public utility easements adjacent to Baker Creek Road (when this is done as a requirement for adjacent development), creating transmission access to the substation, is also evidence of the City's continuing support MW&L long range planning.

Approval of this application will fulfill this policy as the expansion of the Baker Creek Substation follows MW&L's long-range planning efforts to serve the community's energy needs. Serving the community's electric energy needs is also one of Water and Light's primary responsibilities to the City of McMinnville as expressed in the City Charter.

The University of Michigan study (Attachment 14) indicates that consumer demand for electricity to fuel electric vehicles is also likely to increase. The City's approval of these applications is also supportive of serving the long-term needs of the community for electricity as a transportation fuel.

FINDING: SATISFIED. The City concurs with applicant's findings, and adds that the City acknowledges that the subject property has two Comprehensive Plan designations, and that the request to consolidate the property into only one designation (as Residential) allows for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation. The City also acknowledges that the designation to Residential and subsequent land use and development applications to allow for the proposed

electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary.

- Policy 175.00 The City of McMinnville, recognizing McMinnville Water and Light, Northwest Natural Gas, and other private suppliers as the agencies or groups responsible for energy distribution, encourages the extension of energy distribution services within the framework outlined below:
 - 1. Sufficient supplies of energy as determined by McMinnville Water and Light, Northwest Natural Gas, and other groups are available to meet the demands of existing residential, commercial, and industrial consumers.

APPLICANT'S RESPONSE: This application is consistent with policy 175.00 and proposal No. 1 and the most recent Electric System Planning Study (2015) which study indicates that there is a need in the north and west of the city for additional substation capacity, and that the least cost option is the expansion of the Baker Creek substation. See Electric System Planning Study, Attachment 4, page 15, (Figure 2-1;,2-7). The Memo of Jaime Phillips, Attachment 5, indicates that the expanded substation is needed to serve the localized growing electric load in the west side of McMinnville.

By Executive Order (EO) the Oregon Governor has directed state agencies to make electric vehicle charging stations available in newly constructed commercial and residential areas. This EV requirement will increase the electric load in these areas of new construction. The expanded substation facility will serve this expanded load. In part the EO reads:

"The appropriate advisory board(s) and the Department of Business and Consumer Services Building Codes Divisions (BCD) are directed to conduct code amendment of the state building code to require that parking structures for all newly constructed residential and commercial buildings are ready to support the installation of at least a level 2 EV charger by October 1, 2022. " Gov. Brown, EO 17-21, November 6, 2017. Attachment 3.

Additional electric load capacity provided by the expanded substation is consistent with support of providing sufficient supplies of electric energy as demanded by consumers. See Section 51, City Charter of McMinnville (Water and Light Commission specific responsibility includes "electric energy as may be called for, or required by any consumer").

FINDING: SATISFIED. The City concurs with applicant's findings, and adds that the City acknowledges that the subject property has two Comprehensive Plan designations, and that the request to consolidate the property into only one designation (as Residential) allows for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation. The City also acknowledges that the designation to Residential and subsequent land use and development applications to allow for the proposed electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary.

2. Facilities are planned in such a manner as to insure compatibility with surrounding land uses.

APPLICANT'S RESPONSE: Approval of the application is consistent with policy 175.00 and proposal No. 2, in that the planned additional facilities are similar to the existing substation facilities, and along an existing high-voltage electricity transmission easement corridor. Current

land use around the substation is agricultural, park, and residential. A BPA high voltage 60-footwide electric transmission easement runs north to south through the substation parcel. See Map. Attachment 1. The expanded substation use is consistent with the current uses.

MW&L has also developed a landscape plan to make the facility more compatible with the anticipated surrounding park, commercial and residential uses. See MW&L Landscape plan, ATTACHMENT 2.

The surrounding residential and commercial land uses, to an ever increasing degree, rely on electric energy. The electric substation is integral to the MW&L electric system supplying energy to the customers that work and live in the surrounding areas. Electric energy is both compatible and integral to both commercial and residential uses.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the request to consolidate the property into only one designation (as Residential) allows for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation.

The City also recognizes that the use of the property is intended by the current property owner and applicant to be the same regardless of the underlying Comprehensive Plan Map Amendment. The current property owner and applicant, McMinnville Water and Light, intends to expand the existing electrical power substation, and that use would be allowed in either residential or commercial city zoning districts. Section 17.30.020 (C-2 Travel Commercial Zone - Conditional Uses) lists "electrical power substation" as a conditional use. Section 17.33.010 (C-3 General Commercial Zone – Permitted uses) lists "all uses and conditional uses permitted in the C-1 and C-2 zones". Electrical power substations are listed as a conditional use in all residential zones (see Sections 17.12.020(L), 17.15.020(K), 17.18.020(K), and 17.21.020(N)). Therefore, the proposed Comprehensive Plan Map Amendment to Residential, along with the additional land use and development requests required to permit the expansion of the existing electrical power substation, results in a land use designation that will afford the most opportunity for public hearing and notice for the eventual intended use of the site. The land use designation of Residential will also allow for the application of more development (setbacks, structure height, etc.) and conditional use standards than what would be required in the commercial zones for the eventual intended use of the site, which will ensure compatibility of the intended use with surrounding development.

Proposal 32.00 The City of McMinnville should zone, or otherwise regulate, land uses around future energy system-related sites to insure compatibility with the site.

APPLICANT'S RESPONSE: The surrounding uses are currently zoned EF-80, but are anticipated to be zoned residential and commercial. An expanded substation has been evident at this site since the 1996 Comprehensive Plan Amendment (above at page 3). Because the substation is being placed prior to other development, the City may also regulate the incoming surrounding uses to make them compatible with the substation use. This may be done through the use of additional screening, placement of streets, drainage swales, and parking lots.

FINDING: SATISFIED. The request to consolidate the property into only one designation (as Residential) allows for more uniform planning and development of the subject property for uses allowed in the Residential Comprehensive Plan designation. The designation of Residential along with the additional land use and development requests required to permit the expansion of the existing electrical power substation, results in a land use designation that will afford the most opportunity for public hearing and notice for the eventual intended use of the site. The

land use designation of Residential will also allow for the application of more development (setbacks, structure height, etc.) and conditional use standards than what would be required in the commercial zones for the eventual intended use of the site, which will ensure compatibility of the intended use with surrounding development. These development and conditional use standards will be applied to the subject site through the review of subsequent land use and development applications, so that the subject site is designed to ensure compatibility with surrounding land uses, as well as those surrounding land uses being designed in the future to ensure compatibility with the proposed electrical power substation.

- GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.
- GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.
- Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

APPLICANT'S RESPONSE: Goal X1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

Applicant solicited input from neighbors (direct mail Attachment 15; Public Notice Attachment 17) and conducted a neighborhood meeting on March 27, 2019 (See attendee list as Attachment 18). No neighbors attended the meeting and no public comment was gathered.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the process for a Comprehensive Plan Map Amendment provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

McMinnville Zoning Ordinance

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) provide criteria applicable to the request:

Chapter 17.03. General Provisions

<u>17.03.020 Purpose.</u> 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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

17.74.020 Comprehensive Plan Map Amendment and Zone Change - Review Criteria.

An amendment to the official zoning map may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

17.74.020(A). The proposed amendment is consistent with the goals and policies of the Comprehensive Plan;

APPLICANT'S RESPONSE: As discussed in the conclusory findings, the application is consistent with facilitating both commercial and residential development in the north and west of McMinnville at higher densities anticipated to come with future development. Expansion of the existing substation was recommended by the 2015 Electric System Planning Study to address growth in the north and west sectors of the City. The substation expansion is consistent with the city's support of a reliable supply of electric energy, renewable energy, less pollution, and a healthy environment. Expanding the current Baker Creek Substation will be at a lower cost than other alternative. Utility costs are part of housing costs. The lower cost of the proposed expanded substation (relative to other options) will promote the goal of affordable housing.

FINDING: SATISFIED. The City concurs with the applicant's findings, and also refers to the findings provided for the applicable Comprehensive Plan goals and policies in Section VII (Conclusionary Findings) above.

17.74.020(B). The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;

APPLICANT'S RESPONSE: This plan amendment and zone change is orderly and timely in addressing the pattern of current and anticipated residential and commercial growth in the area surrounding the substation as evidenced by the Residential Buildable Lands map and as recommended by the Electric System Planning Study (2015).

Consolidation of the parcel under one Comprehensive Plan Map designation will allow the parcel to be rezoned to R1 and allow an electric substation by conditional use permit. The surrounding neighborhoods are currently under large scale residential development. The consolidation of the plan map designation and related zone change and conditional use permit will facilitate the construction of the needed electric facility infrastructure to support the anticipated residential development.

The expansion is compatible with surrounding uses at it takes advantage of the existing 60-foot wide BPA easement and the expansion will occur before neighboring development which will allow those neighboring uses to deploy effective buffering strategies. Applicant has proposed a

landscaping plan that provides for screening and compatibility with the existing uses and future neighboring use, while minimizing the footprint and providing for the safety and security of this high-voltage facility.

FINDING: SATISFIED. The City concurs with the applicant's findings.

17.74.020(C). Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

APPLICANT'S RESPONSE: The site will not require sewer, or natural gas to operate. Applicant currently serves the site with water and electricity and will continue to serve the site.

The proposed expansion will have a negligible effect on traffic in the area, as the site is already in use as an electric substation. Visits for the expanded facility will take advantage of visits to the site that would otherwise be made and the expansion should not perceptibly increase traffic volume. The applicant has dedicated additional street width to Baker Creek Road to facilitate traffic flow. See Attachment 8, Dedication Deed.

FINDING: SATISFIED. The City concurs with the applicant's findings, and would add that the City provided opportunity for review and comment by city departments, other public and private agencies and utilities, and McMinnville Water and Light to ensure the coordinated provision of utilities and services to the subject site based on the proposed land use request. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. No comments were provided that were in opposition or identified any issues with providing utilities and services to the subject site for the intended use. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

CD

ORDINANCE NO. 5075

AN ORDINANCE AMENDING THE ZONING DESIGNATION OF THE PROPERTY AT 1901 NW BAKER CREEK ROAD FROM A MIXTURE OF R-1 (SINGLE FAMILY RESIDENTIAL) AND EF-80 (EXCLUSIVE FARM USE) TO ONLY R-1 (SINGLE FAMILY RESIDENTIAL)

RECITALS:

The Planning Department received an application (ZC 2-19) from Samuel Justice, on behalf of property owner McMinnville Water and Light, requesting approval of a Zone Change. The property is currently zoned as a mix of R-1 (Single Family Residential) and EF-80 (Exclusive Farm Use). The requested Zone Change would result in the property being zoned only R-1 (Single Family Residential); and

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.; and

A public hearing was held on June 27, 2019 at 6:30 p.m., before the McMinnville Planning Commission after due notice had been provided in the local newspaper on June 18, 2019, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, the application materials and a staff report were presented, and applicant testimony was received; and

The Planning Commission, being fully informed about said requests, found that the requested amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the Zone Change review criteria listed in Section 17.74.020 of the McMinnville Municipal Code based on the material submitted by the applicant and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

The Planning Commission recommended approval of said Zone Change to the City Council;

The City Council having received the Planning Commission recommendation and staff report, and having deliberated; and

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

- 1. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit A; and
 - 2. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the C	ouncil this 13 th day of August, 2019, by the following votes:
Ayes:	
Nays:	

	MAYOR	_
Attest:	Approved as to form:	
CITY RECORDER	CITY ATTORNEY	



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

503-434-7311 www.mcminnvilleoregon.gov

DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A ZONE CHANGE FROM A MIX OF R-1 (SINGLE FAMILY RESIDENTIAL) and EF-80 (EXCLUSIVE FARM USE) TO ONLY R-1 (SINGLE FAMILY RESIDENTIAL) AT 1901 NW BAKER CREEK ROAD

DOCKET: ZC 2-19 (Zone Change)

REQUEST: Approval to amend the zoning designations of a property from its current mixture

of both R-1 (Single Family Residential) zoning and remnant county EF-80 (Exclusive Farm Use) zoning from the time that the property was annexed into the city limits. The requested amendment would rezone the entire property to

only R-1 (Single Family Residential).

LOCATION: 1901 NW Baker Creek Road. The property is described in Instrument No.

201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101,

Section 18, T. 4 S., R. 4 W., W.M.

ZONING: R-1 (Single Family Residential) & EF-80 (Exclusive Farm Use)

APPLICANT: Samuel Justice, on behalf of McMinnville Water and Light

STAFF: Chuck Darnell, Senior Planner

DATE DEEMED

COMPLETE: May 22, 2019

HEARINGS BODY

& ACTION: The McMinnville Planning Commission makes a recommendation for approval or

denial to the City Council.

HEARING DATE

& LOCATION: June 27, 2019, Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY

& ACTION: The McMinnville City Council approves or denies the land-use application.

HEARING DATE

& LOCATION: August 13, 2019, Civic Hall, 200 NE 2nd Street, McMinnville Oregon

PROCEDURE: An application for a Zone Change is processed in accordance with the

procedures in Section 17.72.120 of the McMinnville Municipal Code. The application is reviewed by the Planning Commission in accordance with the

quasi-judicial public hearing procedures specified in Section 17.72.130 of the McMinnville Municipal Code.

CRITERIA:

The applicable criteria for a Zone Change are specified in Section 17.74.020 of the McMinnville Municipal Code. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

APPEAL:

The Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision. As specified in Section 17.72.190 of the McMinnville Municipal Code, the City Council's decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 (twenty-one) days of the date written notice of decision is mailed. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal.

COMMENTS:

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; and Oregon Department of Transportation. Their comments are provided in this document.

DECISION

Based on the findings and conclusionary findings, the City Council finds the applicable criteria are satisfied and **APPROVES** the Zone Change (ZC 2-19).

//////////////////////////////////////	
City Council: Scott Hill, Mayor of McMinnville	Date:
Planning Commission: Roger Hall, Chair of the McMinnville Planning Commission	Date:
Planning Department:	Date:

I. APPLICATION SUMMARY:

The applicant has provided information in their application narrative and findings (attached as Attachment 1) regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current Zone Change request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

Subject Property & Request

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

The application (ZC 2-19) is a request for a Zone Change to rezone a property from its current mixture of both R-1 (Single Family Residential) zoning and remnant county EF-80 (Exclusive Farm Use) zoning from the time that the property was annexed into the city limits. The requested amendment would rezone the entire property to only R-1 (Single Family Residential). The Zone Change request was submitted for review concurrently with three other land use applications, as allowed by Section 17.72.070 of the MMC. The requested amendment is being reviewed concurrently with a Comprehensive Plan Map Amendment, Planned Development Amendment, and Conditional Use to allow for the existing electrical substation on the site to be expanded.

Excerpts from Land Use Application Narrative and Findings:

In summary, simultaneous applications are made for the following land use actions:

- 1) Comprehensive Plan Map Amendment Amendment from the current mix of Residential and Commercial designations to Residential, only. Applicable review criteria for a Comprehensive Plan Map Amendment are found in Section 17.74.020 of the MMC. [...]
- 2) Zone Change Simultaneously with the plan amendment change to Residential, application is made for Zone Change of the entire parcel from a mix of R-1 and EF-80 to ALL R-1 (Single Family Residential). Applicable review criteria for a Zone Change are the same as those for the Comprehensive Plan Map Amendment, which are in Section 17.74.020 of the MMC. [...]
- 3) Planned Development Amendment Simultaneously application is made to amend the Planned Development overlay created by Ordinance 4633 to remove the subject site from the overlay and reduce the size of the overlay to remove the substation lot (existing tax lot 4418-00101). Applicable review criteria for a Planned Development Amendment are in Section 17.74.070 of the MMC. [...]
- 4) Conditional Use Permit Simultaneously with the other applications, application is made for a conditional use permit to expand the substation facility. Section 17.12.020(L) of the MMC identifies "Electrical power substation" as a conditional use1 in a R-1 zone. The level of review and compatibility of the substation with the future commercial, residential and park uses that will surround this site will be based on the conditional use review criteria in Section 17.74.030 and 17.74.040 of the MMC. [...]

See Vicinity Map (Figure 1), Existing Zoning (Figure 2), and Proposed Zoning (Figure 3) below.

Figure 1. Vicinity Map



Figure 2. Existing Zoning

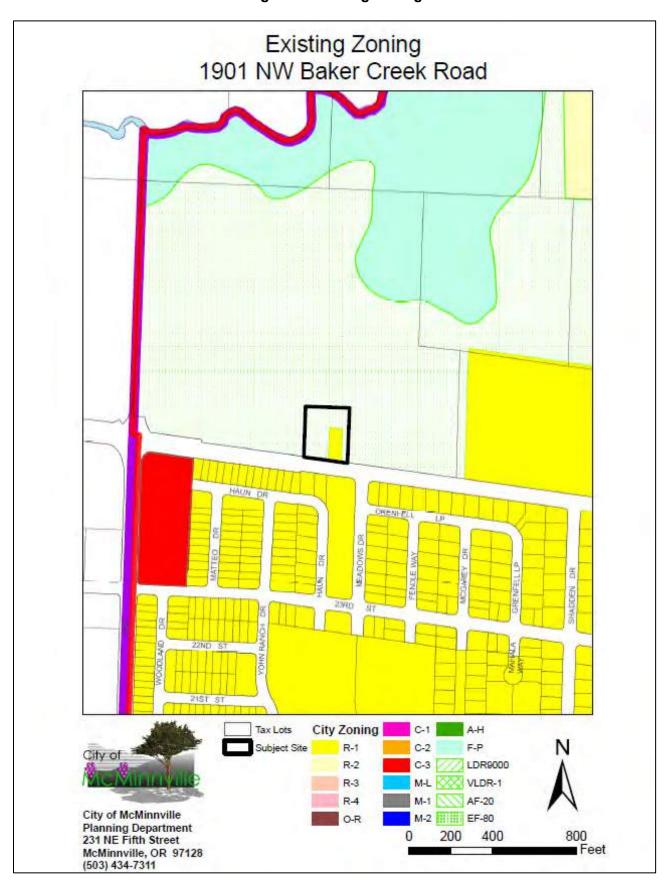
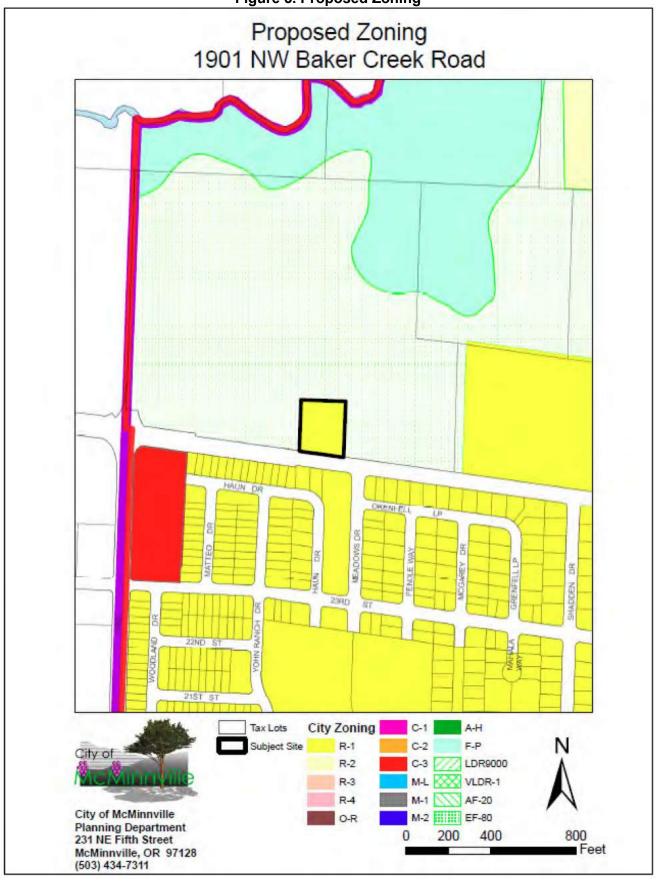


Figure 3. Proposed Zoning



Background

Excerpts from Land Use Application Narrative and Findings:

1. Annexation into City of McMinnville:

- The original substation lot, Tax Lot R4418-00101, was annexed into the City on 9-10-1977 by Ordinance 3881. The lot was approximately 0.26 acres and was co-located on the existing BPA high-voltage transmission easement.
- The Comprehensive Plan Map and Zoning Map from the early 1980s identified the site as being in a Residential Comprehensive Plan Map designation and zoned R-1 (Single Family Residential)

2. Comp Plan Amendment - CPA 2-96:

- In 1996, Ordinance 4633 amended a 12.34 acre portion of a parcel on the Comprehensive Plan Map on the north side of Baker Creek Road from residential to commercial. This amendment split the original substation lot in half for comprehensive plan map purposes between Commercial and Residential.
 - o Ordinance 4633 also created a Planned Development overlay on the same property, with some conditions related to the form of development and uses.
 - o Ordinance 4633 did not change the zoning of the site, and the acreage property still retains the county EF-80 zoning (eventually annexed in 2008 see more below).
 - A map showing dimensions of the area proposed to be designated as commercial was included in the 1996 land use application file submitted by the applicant at the time. Part of that map is depicted below in Figure No. 1.



- The southern boundary of the new commercial area (965.95' dimension) extended from the Tax Lot R4418-00100's western boundary to a point that is within and near the center of substation lot (Tax Lot 101 as it existed)
- o It is noteworthy that at the time of the 1996 Comp Plan Amendment, Figure No. 1 shows plans for an expanded substation site. (See figure No. 1, above). The expanded substation use was shown within the commercial overlay designation.
- 3. Conditional Use Permit for Baker Creek Substation CU 7-99:
 - In 1999, the city granted MW&L a conditional use permit for the Baker Creek Substation (approval letter with original conditions attached here as Attachment 6).
 - Findings of fact for that application stated that the subject site was designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential).
 - The substation use was reviewed as a conditional use, as a "Utility transmission station" is a conditional use in a residential zone. Section 17.12.020 (a section of the R-1 chapter).
 - Construction of the new Baker Creek substation took place in 2000. Electric load was first placed on the substation in January 2001.

4. Lot Line Adjustment

- In 2002 tax lot 101 was expanded by lot line adjustment. [...] In 2002 the subject site was found to be designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential)
- 5. Annexation of Larger Baker Creek North Area:
 - In 2008 the larger acreage surrounding the Baker Creek substation was annexed into the city (approved 7-22-2008 by Ordinance 4895).
- 6. Recent Property Line Adjustment BLA 10-18:
 - In 2019 a lot line adjustment increased the size of the substation lot (Tax Lot 101) by moving the west property line approximately 103' to the west, the north property line to the north, and the east property line approximately 37' to the east. The lot now fronts Baker Creek Road for about 210'.
 - The western property line has now been moved west and toward the area within the overlay zone regulated in 1996 by CPA 2-96.

Summary of Criteria & Issues

The application (ZC 2-19) is subject to Zone Change review criteria in Section 17.74.020 of the Zoning Ordinance. Requests to amend the Comprehensive Plan Map are processed in accordance with Section 17.72.120. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The specific review criteria for Zone Change requests in Section 17.74.020 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan;
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;
- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

The applicant has provided findings to support the request for a Comprehensive Plan Map Amendment. These will be discussed in detail in Section VII (Conclusionary Findings) below.

II. CONDITIONS:

None.

III. ATTACHMENTS:

1. ZC 2-19 Application and Attachments (on file with the Planning Department)

IV. COMMENTS:

Agency Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments were received:

McMinnville Engineering Department

No comments. At the time of development of the substation, that appropriate public infrastructure improvements will be required.

McMinnville Fire Department

No comments received

McMinnville Water and Light

No comments received

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was also provided in the News Register on Tuesday, June 18, 2019. As of the date of the Planning Commission public hearing on June 27, 2019, no public testimony had been received by the Planning Department.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

- A. The applicant, Samuel Justice on behalf of McMinnville Water and Light, held a neighborhood meeting on March 27, 2019.
- B. The applicant submitted the Zone Change application (ZC 2-19) on April 26, 2019.
- C. The application was deemed complete on May 22, 2019. Based on that date, the 120 day land use decision time limit expires on September 19, 2019.

D. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas.

Comments received from agencies are addressed in the Decision Document.

- E. Notice of the application and the June 27, 2019 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.72.120 of the Zoning Ordinance on Thursday, June 6, 2019.
- F. Notice of the application and the June 27, 2019 Planning Commission public hearing was published in the News Register on Tuesday, June 18, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
- G. No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.
- H. On June 27, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT – GENERAL FINDINGS

- Location: 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.
- 2. **Size:** Approximately 1.22 acres.
- 3. **Comprehensive Plan Map Designation:** Mix of Commercial and Residential
- 4. **Zoning:** R-1 (Single Family Residential) & EF-80 (Exclusive Farm Use)
- 5. **Overlay Zones/Special Districts:** Planned Development Overlay District (Ordinance No. 4633)
- 6. **Current Use:** Electrical Substation (Baker Creek Substation)
- 7. Inventoried Significant Resources:
 - a. Historic Resources: None
 - b. Other: None
- 8. **Other Features:** The site is generally flat, with a minor slope to the northwest. There are no significant or distinguishing natural features associated with this property.
- 9. Utilities:
 - a. **Water:** Water service is available to the subject site.
 - b. **Electric:** Power service is available to the subject site.
 - c. **Sewer:** Sanitary sewer service is available to the subject site.
 - d. **Stormwater:** Storm sewer service is available to the subject site.

- e. **Other Services:** Other utility services are available to the subject site. Northwest Natural Gas and Comcast is available to serve the site.
- 10. **Transportation:** The site is adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Zone Change are specified in Section 17.74.020 of the Zoning Ordinance.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

Comprehensive Plan Volume II:

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, polices, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

- **GOAL V 1:** TO PROMOTE DEVELOPMENT OF AFFORDABLE, QUALITY HOUSING FOR ALL CITY RESIDENTS.
- Policy 58.00 City land development ordinances shall provide opportunities for development of a variety of housing types and densities.

APPLICANT'S RESPONSE: The most recent Buildable Land Inventory indicates a shortage of residential land. The Residential Buildable Lands Inventory, 2001, identified a need for additional land for housing uses. That inventory, which was titled the McMinnville Residential Land Needs Analysis and Growth Management Plan, identified a deficit of ~860 acres of land for housing in Table 6-3. More specifically, the analysis identified a need of 129 acres of R-1 (Low Density) zoned land. See below Figure No. 4. This application and related applications (Comp Plan Amendment, Zone Change), is consistent with this policy in that it seeks to add residential land to the inventory.

Figure No. 4 - Table 6-2 - Additional Land for Housing; Table 6-3 Total Acres needed.

Table 6-2. Additional land needed for housing in the McMinnville UGB, 2000-2020

Zone	Additional Dwelling Unit Need	Gross Density	Needed Gross Acres	Net Density	Needed Net Acres
R-1	348	2.7	129.0	3.6	95.6
R-2	588	4.9	120.0	6.5	90.4
R-3	653	4.8	136.1	5,5	119.7
R-4	588	9.2	63.9	10.7	55.1
All Other Zones	0	na	na	na	na
Total	2,178	4.8	449.0	5.9	369.1

Source: ECONorthwest, 2000

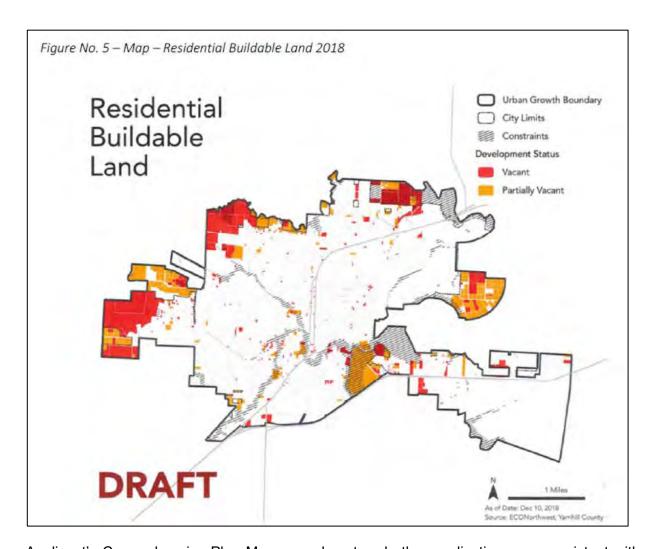
Table 6-3 shows total residential land need from 2000 to 2020. Including parks and schools, we estimate total need for land designated for residential uses at 861 gross acres.

Table 6-3. Total additional acres needed in the McMinnville UGB, 2000-2020

Category	Needed		
	Gross Acres		
New housing	449.0		
Parks	250.0		
Schools	96.0		
Private Schools	1.3		
Religious	41.6		
Government	0.8		
Semi-Public Services	19.6		
Infrastructure	2.3		
Total	860.6		

Source: City of McMinnville, ECONorthwest

As demonstrated by Figure No. 5 (below), the available residential land is located in the north and west parts of the city. Note that much of the available residential land in the north-east, is under "constraints."



Applicant's Comprehensive Plan Map amendment and other applications are consistent with this policy, because the slight reduction in commercial land will not meaningfully impact the deficit of commercial land identified in the 2013 Economic Opportunities Analysis and the additional residential land will result in a reduction in the deficit of residential land identified in the 2001 McMinnville Buildable Land Needs Analysis and Growth Management Plan. Therefore, on balance the Comprehensive Plan goals and policies related to the provision of opportunities for the development of a variety of housing types and densities (Policy 58.00) and opportunities for multiple-family developments to encourage lower-cost housing (Policy 59.00) would be satisfied by the proposed Comprehensive Plan Map amendment.

The application(s) is consistent with policy 58.00 in that it(they) provides for the expansion of an existing substation which will provide capacity for a wide range of housing types and densities. The current substation is at near capacity and if no action is taken, variety and expanse of development may be limited. See, Attachment 4, page 15 (Table 2-1; 2-7). (Electric System Study, 2015); See also Memo of Jaime Phillips, Senior Power Analyst, Attachment 5 (Baker Creek substation is at operational load capacity).

FINDING: SATISFIED. The City concurs with the applicant's findings, but notes that the 2018 Buildable Lands Inventory referenced in the applicant's findings has not been acknowledged. Also, the City adds that the most recently acknowledged Residential Buildable Lands Inventory, which was prepared in 2001, identified a need for additional land for housing and residential uses. That inventory, which was titled the McMinnville Buildable Land Needs Analysis and

Growth Management Plan, identified a deficit of 369.1 acres of land for housing in Table 6-2. Specifically, Table 6-2 identified a deficit of 95.6 acres of R-1 zoned land. The proposed Zone Change to R-1 (Single Family Residential) would address the residential zone land deficit identified in the McMinnville Buildable Land Needs Analysis and Growth Management Plan.

Table 6-2. Additional land needed for housing in the McMinnville UGB, 2000-2020

Zone	Additional Dwelling Unit Need	Gross Density	Needed Gross Acres	Net Density	Needed Net Acres
R-1	348	2.7	129.0	3.6	95.6
R-2	588	4.9	120.0	6.5	90.4
R-3	653	4.8	136.1	5.5	119.7
R-4	588	9.2	63.9	10.7	55.1
All Other Zones	0	na	na	na	na
Total	2,178	4.8	449.0	5.9	369.1

Source: ECONorthwest, 2000

Table 6-3 shows total residential land need from 2000 to 2020. Including parks and schools, we estimate total need for land designated for residential uses at 861 gross acres.

The McMinnville Buildable Land Needs Analysis and Growth Management Plan, in Table 6-3 below, also assumed that some residential land would be needed for infrastructure and semi-public services. Specifically, 19.6 acres were assumed for semi-public services and 2.3 acres were assumed for infrastructure needs. The intended use of the property as an electrical power substation would meet these needed uses that were assumed to have been occurring on residential lands.

Category	Needed
	Gross Acres
New housing	449.0
Parks	250.0
Schools	96.0
Private Schools	1.3
Religious	41.6
Government	0.8
Semi-Public Services	19.6
Infrastructure	2.3
Total	860.6

The City also recognizes that the use of the property is intended by the current property owner and applicant to be the same regardless of the underlying zoning district. The current property owner and applicant, McMinnville Water and Light, intends to expand the existing electrical

power substation, and that use would be allowed in either residential or commercial city zoning districts. Section 17.30.020 (C-2 Travel Commercial Zone – Conditional Uses) lists "electrical power substation" as a conditional use. Section 17.33.010 (C-3 General Commercial Zone – Permitted uses) lists "all uses and conditional uses permitted in the C-1 and C-2 zones". Electrical power substations are listed as a conditional use in all residential zones (see Sections 17.12.020(L), 17.15.020(K), 17.18.020(K), and 17.21.020(N)). Therefore, the proposed Zone Change to R-1 (Single Family Residential), along with the concurrent request to designate the property as Residential on the Comprehensive Plan Map, results in a land use designation and zoning district that will afford the most opportunity for public hearing and notice for the eventual intended use of the site through the Conditional Use review process. The Zone Change to R-1 will also allow for the application of development (setbacks, structure height, etc.) and conditional use standards for the eventual intended use of the site, which will ensure compatibility of the intended use with surrounding development.

The City also acknowledges that the subject property is dually zoned with both R-1 (Single Family Residential) and EF-80 (Exclusive Farm Use), and that the request to consolidate the property into only one zoning district (R-1 Single Family Residential) allows for more uniform planning and development of the subject property. The majority of the subject property retains the EF-80 county zoning from the time that it was annexed into the city limits in 2008. Section 17.09.050 (Annexed areas) states that a "County zoned area annexed to the City shall remain in the County zone classification and shall not be allowed any building permits until the zone is changed to a city zone through the procedures set forth in Chapter 17.72 (Applications and Review Process)". The requested Zone Change is completing that required process to allow for development of the subject property, and given that a portion of the subject property is already zoned R-1 (Single Family Residential), the proposed Zone Change is reasonable.

Policy 59.00 Opportunities for multiple-family and mobile home developments shall be provided in McMinnville to encourage lower-cost renter and owner-occupied housing. Such housing shall be located and developed according to the residential policies in this plan and the land development regulations of the City.

APPLICANT'S RESPONSE: The application is consistent with this policy 59 for the following reasons:

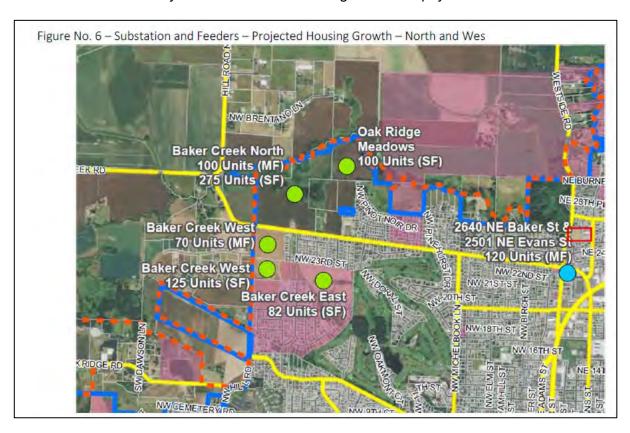
The McMinnville Buildable Lands and Housing Needs Analysis (Housing Needs Analysis) recognizes that housing costs include utilities (as a cost). See the EconNorthwest Housing Needs Analysis at page 12 (Nov. 2018). Households that spend more than 30% of their income on housing and certain utilities are considered to experience cost burden. Cost burden is a concept used by HUD. Utilities included with housing cost include electricity.

Reduced electricity costs makes housing more affordable. "For housing to be considered affordable, a household should pay up to one-third of their income toward rent, leaving money left over for food, utilities, transportation, medicine, and other basic necessities." McMinnville Buildable Land Inventory and Housing Needs Analysis (BLI and Needs), page 28.

Current MW&L electric infrastructure in the north and west of McMinnville is at or near load capacity. See Electric System Planning Study (2015), Attachment 4, page 15; Figure 2-1; 2-7 (recommending expansion of Baker Creek Substation) and at Attachment 4, page 53;

See also, Memo of Jaime Phillips, Senior Power Analyst (Attachment 5). The figure above (map showing Residential Buildable Land) shows that a large portion of residential buildable land is on the north and west side of town.

Expansion of an existing substation as proposed by the application is consistent with providing lower cost renter and owner-occupied housing across the McMinnville rate base (all rate payers). Expansion of the existing substation, takes advantage of existing electric transmission lines, and existing feeder lines. An expansion of an existing facility can be done at lower cost than construction of new substation. See Electric System Planning Study 2015 (three alternatives showing estimate costs). The proposed Baker Creek Substation expansion is the least-cost alternative. MW&L provides electricity to customers at rates established on a cost-of-service. See Memo of Jamie Phillips, Attachment 5. Lower cost of electric infrastructure will mean lower electric utility rates as a cost of housing for all rate payers.



FINDING: SATISFIED. The City concurs with the applicant's findings, but notes that the 2018 Housing Needs Analysis referenced in the applicant's findings has not been acknowledged. As discussed by the applicant, the designation to Residential and subsequent land use and development applications to allow for the proposed electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary.

- 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 DESIGNS.
- Policy 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.

APPLICANT'S RESPONSE: Approval of the applications meets policy 68.00. Expansion of an existing substation adjacent to existing residential areas, avoids the need to site a new substation in a location not already devoted to the electric energy use. This site makes good use of existing infrastructure and reduces the footprint per transformer. A new transformer in a new location would require additional set back, security fencing and shielding. The amount of land devoted to each transformer can be reduced by siting two transformers side by side.

FINDING: SATISFIED. The City concurs with the applicants findings. The City also acknowledges that the subject property is dually zoned, and that the request to consolidate the property into only one zoning district (R-1 Single Family Residential) allows for more uniform planning and development of the subject property for uses allowed in the R-1 zone. The uniform planning and development of the site with the expansion of an existing substation will also promote a development pattern that is land intensive and energy efficient, as described by the applicant.

- Policy 71.00 The City of McMinnville 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 designated as residential on the Comprehensive Plan Map.
- Policy 71.05 The City of McMinnville shall encourage annexations and rezoning which are consistent with the policies of the Comprehensive Plan so as to achieve a continuous five-year supply of buildable land planned and zoned for all needed housing types. (Ord.4840, January 11, 2006; Ord. 4243, April 5, 1983; Ord. 4218, November 23, 1982)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The Zone Change to R-1 (Single Family Residential) is consistent with Policy 71.00 and Policy 71.05, based on the same findings as provided for Policy 58.00 above.

Urban Policies

- Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. 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). (as amended by Ord. 4796, October 14, 2003)
 - 5. Deleted as per Ord. 4796, October 14, 2003.

APPLICANT'S RESPONSE: Approval of these applications (for substation expansion) is consistent with Policy 99.00 because, according to the 2015 Electric System Planning Study, the expansion will provide a more adequate level of electric utility services to the growing residential areas in the northern and western parts of McMinnville. The expansion is an example of the Water and Light Commission's timely and orderly steps to meet the Commission's organic

responsibilities as set forth in the City Charter of 1971. Those responsibilities, in part, are as follows:

[to provide] electric generating plants and system with all necessary plants or facilities of a character and capacity sufficient to furnish to the City of McMinnville * * * electric energy as may be called for, or required by any consumer, * * * *

Section 51, McMinnville Charter, 1971, as amended 1978.

FINDING: SATISFIED. The City concurs with the applicant's findings, and would add that the City provided opportunity for review and comment by city departments, other public and private agencies and utilities, and McMinnville Water and Light to ensure the coordinated provision of utilities and services to the subject site based on the proposed land use request. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. No comments were provided that were in opposition or identified any issues with providing utilities and services to the subject site for the intended use. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

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.

Streets

- Policy 117.00 The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.
- Policy 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.
 - 2. 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.
 - 3. Consideration given to Complete Streets, in consideration of all modes of transportation (public transit, private vehicle, bike, and foot paths). (Ord.4922, February 23, 2010)
- Policy 119.00 The City of McMinnville shall encourage utilization of existing transportation corridors, wherever possible, before committing new lands.
- Policy 120.00 The City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows.

- Policy 121.00 The City of McMinnville shall discourage the direct access of small-scale residential developments onto major or minor arterial streets and major collector streets.
- Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications.
 - 1. Major, minor arterials.
 - -Access should be controlled, especially on heavy traffic-generating developments.
 - -Designs should minimize impacts on existing neighborhoods.
 - -Sufficient street rights-of-way should be obtained prior to development of adjacent lands.
 - -On-street parking should be limited wherever necessary.
 - -Landscaping should be required along public rights-of-way. (Ord.4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The subject site is currently adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary. Any right-of-way improvements required for the subject site will be required at the time of development.

Public Safety

Policy 132.32.00 The safe, rapid movement of fire, medical, and police vehicles shall be an integral part of the design and operation of the McMinnville transportation system. (Ord. 4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Any right-of-way improvements required for the subject site will be required at the time of development. These required right-of-way improvements will be completed to existing City standards, which are of a design and operation standard that allows for required movements for fire, medical, and police vehicles.

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

Policy 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.

- Policy 139.00 The City of McMinnville shall extend or allow extension of sanitary sewage collection lines within the framework outlined below:
 - 1. Sufficient municipal treatment plant capacities exist to handle maximum flows of effluents.
 - 2. Sufficient trunk and main line capacities remain to serve undeveloped land within the projected service areas of those lines.
 - Public water service is extended or planned for extension to service the area at the proposed development densities by such time that sanitary sewer services are to be utilized.
 - 4. Extensions will implement applicable goals and policies of the comprehensive plan.

Storm Drainage

- Policy 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.
- Policy 143.00 The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage.

Water System

Policy 144.00 The City of McMinnville, through McMinnville Water and Light, shall provide water services for development at urban densities within the McMinnville Urban Growth Boundary.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

- Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:
 - 1. Facilities are placed in locations and in such a manner as to insure compatibility with surrounding land uses.
 - 2. Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.
 - 3. For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized.

- 4. Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.
- Policy 147.00 The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas. The City shall also continue to coordinate with McMinnville Water and Light in making land use decisions.

Water and Sewer - Land Development Criteria

- Policy 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:
 - Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, 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 effluents.
 - 3. Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the 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 waste water quality standards can be adhered to.
 - 5. Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas and in making land-use decisions. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

Police and Fire Protection

Policy 153.00 The City shall continue coordination between the planning and fire departments in evaluating major land use decisions.

Policy 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 annexations, subdivision proposals, and other major land use decisions.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Emergency services departments were provided an opportunity to review the proposal, and no concerns were raised. Any requirements of the Oregon Fire Code or Building Code will be required at the time of development.

Energy Conservation

GOAL VIII 1: TO PROVIDE ADEQUATE ENERGY SUPPLIES, AND THE SYSTEMS NECESSARY TO DISTRIBUTE THAT ENERGY, TO SERVICE THE COMMUNITY AS IT EXPANDS.

Energy Supply Distribution

Policy 171.00 The City of McMinnville shall continue to examine land use decisions in the light of present and projected supplies of electrical, fossil fuel, and other sources of energy.

APPLICANT'S RESPONSE: This application approval is consistent with policy 171.00 in providing additional transformer capacity to move the anticipated demand for electrical energy to neighborhoods and commercial areas in the city. The Electric System Planning Study, 2015, specifically recommends the expansion of the Baker Creek Substation. Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen. Attachment 4, page 15-7 (Figure 2-1; 2-7; Recommendations). This study further explains that McMinnville is experiencing levels of electric load at the current Baker Creek Substation that currently requires shifting load to other facilities. Electric System Planning Study, Attachment 4, at page 53; Table 6-2. Application approval is consistent with an examination of land use decisions in light of future electrical supply as described in the 2015 study.

Current projections indicate that peak load residential load is expected to grow with additional housing being developed on the west side of the City. See Memo, Jaime Phillips, Senior Power Analyst, McMinnville Water and Light (Attachment 5).

Application approval and resulting substation expansion will not impact the supply of electricity or other sources of energy. Until 2028, MW&L's supply is primarily provided by contract with the Bonneville Power Administration. However, approval of the substation expansion will increase the localized ability of MW&L to transmit available electric energy into the growing west and north sections of the city.

FINDING: SATISFIED. The City concurs with applicant's findings, and adds that the City acknowledges that the subject property is dually zoned, and that the request to consolidate the property into only one zoning district (R-1 Single Family Residential) allows for more uniform planning and development of the subject property for uses allowed in the R-1 zone. The City also acknowledges that the Zone Change to R-1 and the subsequent land use and development applications to allow for the proposed electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary.

Policy 173.00 The City of McMinnville shall coordinate with McMinnville Water and Light and the various private suppliers of energy in this area in making future land use decisions.

APPLICANT'S RESPONSE: Review for approval of this application, and the required neighborhood meeting, and the public hearing process demonstrates coordination between the City and MW&L that is consistent with policy 173.00. The City routinely seeks comment from MW&L prior to land use decisions. MW&L comments on land use applications that appear to impact its utility purposes and facilities. The City's approval of these application demonstrate an effort to coordinate with MW&L. Applicant foresaw the need of the City in its related lot line adjustment (BLA 10-18) transaction, and dedicated real property to widen Baker Creek Road in front of the substation (Attachment 8) and also granted a public utility easement (Attachment 9) during that process. These preemptory conveyances by applicant in anticipation of the City's needs is also consistent with coordination between the City and applicant (Water and Light).

FINDING: SATISFIED. The City concurs with the applicant's findings.

Policy 174.00 The City of McMinnville shall continue to support the long-range planning efforts of McMinnville Water and Light to supply the electrical energy needs of the community.

APPLICANT'S RESPONSE: Approval of this application is consistent with support of MW&L's long-range planning efforts as expressed in Applicant's Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen ("the Study"). See Attachment 4, page 15; Figure 2-1, 2-7 (Recommendations).

The 2015 Electric Systems Planning Study and the MW&L capital plan (as set forth in the MW&L "Light" budget. Attachment 13, p. 15-16) are indicators of long-range planning efforts by MW&L on behalf of the City of McMinnville to supply electrical energy needs of McMinnville. The Study indicates that expansion of the Baker Creek Substation is a recommended alternative to supply needed electrical energy to the north and west part of the city.

The City's extension of public utility easements adjacent to Baker Creek Road (when this is done as a requirement for adjacent development), creating transmission access to the substation, is also evidence of the City's continuing support MW&L long range planning.

Approval of this application will fulfill this policy as the expansion of the Baker Creek Substation follows MW&L's long-range planning efforts to serve the community's energy needs. Serving the community's electric energy needs is also one of Water and Light's primary responsibilities to the City of McMinnville as expressed in the City Charter.

The University of Michigan study (Attachment 14) indicates that consumer demand for electricity to fuel electric vehicles is also likely to increase. The City's approval of these applications is also supportive of serving the long-term needs of the community for electricity as a transportation fuel.

FINDING: SATISFIED. The City concurs with applicant's findings, and adds that the City acknowledges that the subject property is dually zoned, and that the request to consolidate the property into only one zoning district (R-1 Single Family Residential) allows for more uniform planning and development of the subject property for uses allowed in the R-1 zone. The City also acknowledges that the Zone Change to R-1 and the subsequent land use and development

applications to allow for the proposed electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary.

- Policy 175.00 The City of McMinnville, recognizing McMinnville Water and Light, Northwest Natural Gas, and other private suppliers as the agencies or groups responsible for energy distribution, encourages the extension of energy distribution services within the framework outlined below:
 - 1. Sufficient supplies of energy as determined by McMinnville Water and Light, Northwest Natural Gas, and other groups are available to meet the demands of existing residential, commercial, and industrial consumers.

APPLICANT'S RESPONSE: This application is consistent with policy 175.00 and proposal No. 1 and the most recent Electric System Planning Study (2015) which study indicates that there is a need in the north and west of the city for additional substation capacity, and that the least cost option is the expansion of the Baker Creek substation. See Electric System Planning Study, Attachment 4, page 15, (Figure 2-1;,2-7). The Memo of Jaime Phillips, Attachment 5, indicates that the expanded substation is needed to serve the localized growing electric load in the west side of McMinnville.

By Executive Order (EO) the Oregon Governor has directed state agencies to make electric vehicle charging stations available in newly constructed commercial and residential areas. This EV requirement will increase the electric load in these areas of new construction. The expanded substation facility will serve this expanded load. In part the EO reads:

"The appropriate advisory board(s) and the Department of Business and Consumer Services Building Codes Divisions (BCD) are directed to conduct code amendment of the state building code to require that parking structures for all newly constructed residential and commercial buildings are ready to support the installation of at least a level 2 EV charger by October 1, 2022. " Gov. Brown, EO 17-21, November 6, 2017. Attachment 3.

Additional electric load capacity provided by the expanded substation is consistent with support of providing sufficient supplies of electric energy as demanded by consumers. See Section 51, City Charter of McMinnville (Water and Light Commission specific responsibility includes "electric energy as may be called for, or required by any consumer").

FINDING: SATISFIED. The City concurs with applicant's findings, and adds that the City acknowledges that the subject property is dually zoned, and that the request to consolidate the property into only one zoning district (R-1 Single Family Residential) allows for more uniform planning and development of the subject property for uses allowed in the R-1 zone. The City also acknowledges that the Zone Change to R-1 and the subsequent land use and development applications to allow for the proposed electrical substation expansion will allow for continued planned growth in the north and west areas of the urban growth boundary.

2. Facilities are planned in such a manner as to insure compatibility with surrounding land uses.

APPLICANT'S RESPONSE: Approval of the application is consistent with policy 175.00 and proposal No. 2, in that the planned additional facilities are similar to the existing substation facilities, and along an existing high-voltage electricity transmission easement corridor. Current

land use around the substation is agricultural, park, and residential. A BPA high voltage 60-footwide electric transmission easement runs north to south through the substation parcel. See Map. Attachment 1. The expanded substation use is consistent with the current uses.

MW&L has also developed a landscape plan to make the facility more compatible with the anticipated surrounding park, commercial and residential uses. See MW&L Landscape plan, ATTACHMENT 2.

The surrounding residential and commercial land uses, to an ever increasing degree, rely on electric energy. The electric substation is integral to the MW&L electric system supplying energy to the customers that work and live in the surrounding areas. Electric energy is both compatible and integral to both commercial and residential uses.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the request to consolidate the property into only one zoning district (R-1 Singe Family Residential) allows for more uniform planning and development of the subject property for uses allowed in the R-1 zone.

The City also recognizes that the use of the property is intended by the current property owner and applicant to be the same regardless of the underlying zoning district. The current property owner and applicant, McMinnville Water and Light, intends to expand the existing electrical power substation, and that use would be allowed in either residential or commercial city zoning districts. Section 17.30.020 (C-2 Travel Commercial Zone - Conditional Uses) lists "electrical power substation" as a conditional use. Section 17.33.010 (C-3 General Commercial Zone -Permitted uses) lists "all uses and conditional uses permitted in the C-1 and C-2 zones". Electrical power substations are listed as a conditional use in all residential zones (see Sections 17.12.020(L), 17.15.020(K), 17.18.020(K), and 17.21.020(N)). Therefore, the proposed Zone Change to R-1 (Single Family Residential), along with the concurrent request to designate the property as Residential on the Comprehensive Plan Map, results in a land use designation and zoning district that will afford the most opportunity for public hearing and notice for the eventual intended use of the site through the Conditional Use review process. The Zone Change to R-1 will also allow for the application of development (setbacks, structure height, etc.) and conditional use standards for the eventual intended use of the site, which will ensure compatibility of the intended use with surrounding development.

Proposal 32.00 The City of McMinnville should zone, or otherwise regulate, land uses around future energy system-related sites to insure compatibility with the site.

APPLICANT'S RESPONSE: The surrounding uses are currently zoned EF-80, but are anticipated to be zoned residential and commercial. An expanded substation has been evident at this site since the 1996 Comprehensive Plan Amendment (above at page 3). Because the substation is being placed prior to other development, the City may also regulate the incoming surrounding uses to make them compatible with the substation use. This may be done through the use of additional screening, placement of streets, drainage swales, and parking lots.

FINDING: SATISFIED. The request to consolidate the property into only one zoning district (R-1 Single Family Residential) allows for more uniform planning and development of the subject property for uses allowed in the R-1 zone. The Zone Change to R-1, along with the concurrent request to designate the property as Residential on the Comprehensive Plan Map, results in a land use designation and zoning district that will afford the most opportunity for public hearing and notice for the eventual intended use of the site through the Conditional Use review process. The Zone Change to R-1 will also allow for the application of development (setbacks, structure

height, etc.) and conditional use standards for the eventual intended use of the site, which will ensure compatibility of the intended use with surrounding development. These development and conditional use standards will be applied to the subject site through the review of subsequent land use and development applications, so that the subject site is designed to ensure compatibility with surrounding land uses, as well as those surrounding land uses being designed in the future to ensure compatibility with the proposed electrical power substation.

- GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.
- GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.
- Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

APPLICANT'S RESPONSE: Goal X1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

Applicant solicited input from neighbors (direct mail Attachment 15; Public Notice Attachment 17) and conducted a neighborhood meeting on March 27, 2019 (See attendee list as Attachment 18). No neighbors attended the meeting and no public comment was gathered.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the process for a Zone Change provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

McMinnville Zoning Ordinance

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) provide criteria applicable to the request:

Chapter 17.03. General Provisions

<u>17.03.020 Purpose.</u> 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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

Chapter 17.12 Single-Family Residential Zone

<u>17.12.020 Conditional Uses.</u> In an R-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74: [...]

L. Electrical power substation [..]

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The proposed Zone Change to R-1 (Single Family Residential) will allow for the intended expansion of the existing electrical power substation on the subject site. Electrical power substations are allowed as a conditional use in the R-1 zone.

17.74.020 Comprehensive Plan Map Amendment and Zone Change - Review Criteria.

An amendment to the official zoning map may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

17.74.020(A). The proposed amendment is consistent with the goals and policies of the Comprehensive Plan;

APPLICANT'S RESPONSE: As discussed in the conclusory findings, the application is consistent with facilitating both commercial and residential development in the north and west of McMinnville at higher densities anticipated to come with future development. Expansion of the existing substation was recommended by the 2015 Electric System Planning Study to address growth in the north and west sectors of the City. The substation expansion is consistent with the city's support of a reliable supply of electric energy, renewable energy, less pollution, and a healthy environment. Expanding the current Baker Creek Substation will be at a lower cost than other alternative. Utility costs are part of housing costs. The lower cost of the proposed expanded substation (relative to other options) will promote the goal of affordable housing.

FINDING: SATISFIED. The City concurs with the applicant's findings, and also refers to the findings provided for the applicable Comprehensive Plan goals and policies in Section VII (Conclusionary Findings) above.

17.74.020(B). The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;

APPLICANT'S RESPONSE: This plan amendment and zone change is orderly and timely in addressing the pattern of current and anticipated residential and commercial growth in the area surrounding the substation as evidenced by the Residential Buildable Lands map and as recommended by the Electric System Planning Study (2015).

Consolidation of the parcel under one Comprehensive Plan Map designation will allow the parcel to be rezoned to R1 and allow an electric substation by conditional use permit. The surrounding neighborhoods are currently under large scale residential development. The consolidation of the plan map designation and related zone change and conditional use permit will facilitate the construction of the needed electric facility infrastructure to support the anticipated residential development.

The expansion is compatible with surrounding uses at it takes advantage of the existing 60-foot wide BPA easement and the expansion will occur before neighboring development which will allow those neighboring uses to deploy effective buffering strategies. Applicant has proposed a landscaping plan that provides for screening and compatibility with the existing uses and future neighboring use, while minimizing the footprint and providing for the safety and security of this high-voltage facility.

FINDING: SATISFIED. The City concurs with the applicant's findings.

17.74.020(C). Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

APPLICANT'S RESPONSE: The site will not require sewer, or natural gas to operate. Applicant currently serves the site with water and electricity and will continue to serve the site.

The proposed expansion will have a negligible effect on traffic in the area, as the site is already in use as an electric substation. Visits for the expanded facility will take advantage of visits to the site that would otherwise be made and the expansion should not perceptibly increase traffic volume. The applicant has dedicated additional street width to Baker Creek Road to facilitate traffic flow. See Attachment 8. Dedication Deed.

FINDING: SATISFIED. The City concurs with the applicant's findings, and would add that the City provided opportunity for review and comment by city departments, other public and private agencies and utilities, and McMinnville Water and Light to ensure the coordinated provision of utilities and services to the subject site based on the proposed land use request. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. No comments were provided that were in opposition or identified any issues with providing utilities and services to the subject site for the intended use. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

CD

ORDINANCE NO. 5076

AN ORDINANCE AMENDING AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT TO REMOVE THE PROPERTY AT 1901 NW BAKER CREEK ROAD FROM THE PLANNED DEVELOPMENT OVERLAY DISTRICT

RECITALS:

The Planning Department received an application (PDA 1-19) from Samuel Justice, on behalf of property owner McMinnville Water and Light, requesting approval of a Planned Development Amendment. The property is currently located within a Planned Development Overlay District that was adopted by Ordinance 4633. The requested Planned Development Amendment would result in the subject property being removed from the Planned Development Overlay District, effectively reducing the size and changing the boundary of the existing Planned Development Overlay District; and

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.; and

A public hearing was held on June 27, 2019 at 6:30 p.m., before the McMinnville Planning Commission after due notice had been provided in the local newspaper on June 18, 2019, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, the application materials and a staff report were presented, and applicant testimony was received; and

The Planning Commission, being fully informed about said requests, found that the requested amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the Planned Development Amendment review criteria listed in Section 17.74.070 of the McMinnville Municipal Code based on the material submitted by the applicant and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

The Planning Commission recommended approval with conditions of said Planned Development Amendment to the City Council;

The City Council having received the Planning Commission recommendation and staff report, and having deliberated; and

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

- 1. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit A; and
- 2. That the requested amendment to the existing Planned Development Overlay District is approved, subject to the following condition:
 - 1) That Ordinance 4633 is amended to remove the subject site and property from the Planned Development Overlay District, hereby adjusting the boundary of the

Planned Development Overlay District. All other standards and conditions of approval adopted by Ordinance 4633 remain in effect.

3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 13 th day of	August, 2019, by the following votes:
Ayes:	
Nays:	
	MAYOR
Attest:	Approved as to form:
CITY RECORDER	CITY ATTORNEY



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

503-434-7311 www.mcminnvilleoregon.gov

DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A PLANNED DEVELOPMENT AMENDEMENT TO REMOVE PROPERTY FROM AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT AT 1901 NW BAKER CREEK ROAD

DOCKET: PDA 1-19 (Planned Development Amendment)

REQUEST: Approval to amend an existing Planned Development Overlay District to remove

property from the Overlay District boundary. The original Planned Development

Overlay District was adopted in 1996 by Ordinance 4633.

LOCATION: 1901 NW Baker Creek Road. The property is described in Instrument No.

201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101,

Section 18, T. 4 S., R. 4 W., W.M.

ZONING: R-1 (Single Family Residential)

APPLICANT: Samuel Justice, on behalf of McMinnville Water and Light

STAFF: Chuck Darnell, Senior Planner

DATE DEEMED

COMPLETE: May 22, 2019

HEARINGS BODY

& ACTION: The McMinnville Planning Commission makes a recommendation for approval or

denial to the City Council.

HEARING DATE

& LOCATION: June 27, 2019, Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY

& ACTION: The McMinnville City Council approves or denies the land-use application.

HEARING DATE

& LOCATION: August 13, 2019, Civic Hall, 200 NE 2nd Street, McMinnville Oregon

PROCEDURE: An application for a Planned Development Amendment is processed in

accordance with the procedures in Section 17.72.120 of the McMinnville Municipal Code. The application is reviewed by the Planning Commission in accordance with the quasi-judicial public hearing procedures specified in Section

17.72.130 of the McMinnville Municipal Code.

CRITERIA:

The applicable criteria for a Planned Development Amendment are specified in Section 17.74.070 of the McMinnville Municipal Code. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

APPEAL:

The Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision. As specified in Section 17.72.190 of the McMinnville Municipal Code, the City Council's decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 (twenty-one) days of the date written notice of decision is mailed. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal.

COMMENTS:

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; and Oregon Department of Transportation. Their comments are provided in this document.

DECISION

Based on the findings and conclusionary findings, the City Council finds the applicable criteria are satisfied with conditions and **APPROVES** the Planned Development Amendment (PDA 1-19) **subject to the conditions of approval provided in Section II of this document.**

//////////////////////////////////////	
	///////////////////////////////////////
City Council:	Date:
Scott Hill, Mayor of McMinnville	
Planning Commission:	Date:
Planning Commission: Roger Hall, Chair of the McMinnville Planning Commission	
Planning Department:	Date:
Heather Richards, Planning Director	
, ,	

I. APPLICATION SUMMARY:

The applicant has provided information in their application narrative and findings (attached as Attachment 1) regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current Planned Development Amendment request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

Subject Property & Request

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

The application (PDA 1-19) is a request for a Planned Development Amendment to remove the subject property from an existing Planned Development Overlay District. The requested amendment to remove the subject site is to allow for the expansion of an existing electrical substation. The Planned Development Amendment request was submitted for review concurrently with three other land use applications, as allowed by Section 17.72.070 of the MMC. The requested amendment is being reviewed concurrently with a Comprehensive Plan Map Amendment, Zone Change, and Conditional Use to allow for the existing electrical substation on the site to be expanded.

Excerpts from Land Use Application Narrative and Findings:

In summary, simultaneous applications are made for the following land use actions:

- 1) Comprehensive Plan Map Amendment Amendment from the current mix of Residential and Commercial designations to Residential, only. Applicable review criteria for a Comprehensive Plan Map Amendment are found in Section 17.74.020 of the MMC. [...]
- 2) Zone Change Simultaneously with the plan amendment change to Residential, application is made for Zone Change of the entire parcel from a mix of R-1 and EF-80 to ALL R-1 (Single Family Residential). Applicable review criteria for a Zone Change are the same as those for the Comprehensive Plan Map Amendment, which are in Section 17.74.020 of the MMC. [...]
- 3) Planned Development Amendment Simultaneously application is made to amend the Planned Development overlay created by Ordinance 4633 to remove the subject site from the overlay and reduce the size of the overlay to remove the substation lot (existing tax lot 4418-00101). Applicable review criteria for a Planned Development Amendment are in Section 17.74.070 of the MMC. [...]
- 4) Conditional Use Permit Simultaneously with the other applications, application is made for a conditional use permit to expand the substation facility. Section 17.12.020(L) of the MMC identifies "Electrical power substation" as a conditional use1 in a R-1 zone. The level of review and compatibility of the substation with the future commercial, residential and park uses that will surround this site will be based on the conditional use review criteria in Section 17.74.030 and 17.74.040 of the MMC. [...]

See Vicinity Map (Figure 1), Existing Zoning (Figure 2), and Proposed Zoning (Figure 3) below. Note that the Proposed Zoning is the zoning as proposed should ZC 2-19 be approved.

Figure 1. Vicinity Map



Figure 2. Existing Zoning

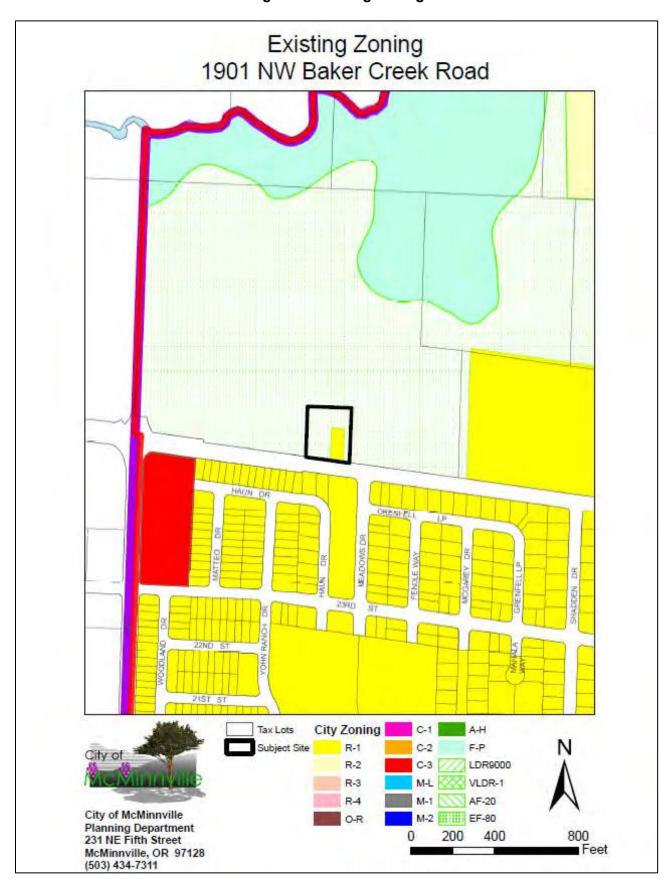
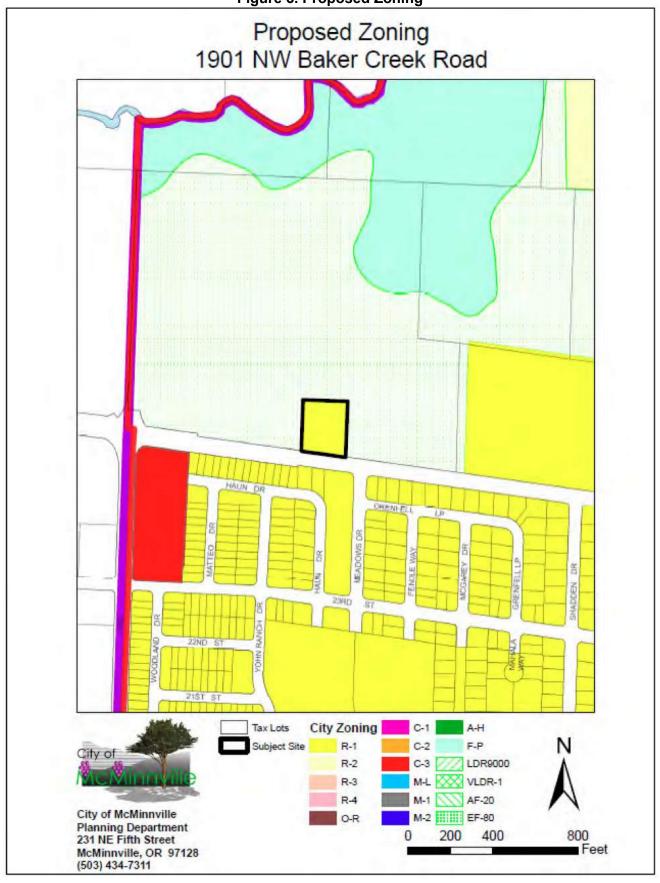


Figure 3. Proposed Zoning



Background

Excerpts from Land Use Application Narrative and Findings:

1. Annexation into City of McMinnville:

- The original substation lot, Tax Lot R4418-00101, was annexed into the City on 9-10-1977 by Ordinance 3881. The lot was approximately 0.26 acres and was co-located on the existing BPA high-voltage transmission easement.
- The Comprehensive Plan Map and Zoning Map from the early 1980s identified the site as being in a Residential Comprehensive Plan Map designation and zoned R-1 (Single Family Residential)

2. Comp Plan Amendment - CPA 2-96:

- In 1996, Ordinance 4633 amended a 12.34 acre portion of a parcel on the Comprehensive Plan Map on the north side of Baker Creek Road from residential to commercial. This amendment split the original substation lot in half for comprehensive plan map purposes between Commercial and Residential.
 - o Ordinance 4633 also created a Planned Development overlay on the same property, with some conditions related to the form of development and uses.
 - o Ordinance 4633 did not change the zoning of the site, and the acreage property still retains the county EF-80 zoning (eventually annexed in 2008 see more below).
 - A map showing dimensions of the area proposed to be designated as commercial was included in the 1996 land use application file submitted by the applicant at the time. Part of that map is depicted below in Figure No. 1.



- The southern boundary of the new commercial area (965.95' dimension) extended from the Tax Lot R4418-00100's western boundary to a point that is within and near the center of substation lot (Tax Lot 101 as it existed)
- o It is noteworthy that at the time of the 1996 Comp Plan Amendment, Figure No. 1 shows plans for an expanded substation site. (See figure No. 1, above). The expanded substation use was shown within the commercial overlay designation.
- 3. Conditional Use Permit for Baker Creek Substation CU 7-99:
 - In 1999, the city granted MW&L a conditional use permit for the Baker Creek Substation (approval letter with original conditions attached here as Attachment 6).
 - Findings of fact for that application stated that the subject site was designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential).
 - The substation use was reviewed as a conditional use, as a "Utility transmission station" is a conditional use in a residential zone. Section 17.12.020 (a section of the R-1 chapter).
 - Construction of the new Baker Creek substation took place in 2000. Electric load was first placed on the substation in January 2001.

4. Lot Line Adjustment

- In 2002 tax lot 101 was expanded by lot line adjustment. [...] In 2002 the subject site was found to be designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential)
- 5. Annexation of Larger Baker Creek North Area:
 - In 2008 the larger acreage surrounding the Baker Creek substation was annexed into the city (approved 7-22-2008 by Ordinance 4895).
- 6. Recent Property Line Adjustment BLA 10-18:
 - In 2019 a lot line adjustment increased the size of the substation lot (Tax Lot 101) by moving the west property line approximately 103' to the west, the north property line to the north, and the east property line approximately 37' to the east. The lot now fronts Baker Creek Road for about 210'.
 - The western property line has now been moved west and toward the area within the overlay zone regulated in 1996 by CPA 2-96.

Summary of Criteria & Issues

The application (PDA 1-19) is subject to Planned Development Amendment review criteria in Section 17.74.070 of the Zoning Ordinance. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The specific review criteria for Planned Development Amendments in Section 17.74.070 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;

- C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;
- D. The plan can be completed within a reasonable period of time;
- E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
- F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
- G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

The applicant has provided findings to support the request for a Planned Development Amendment. These will be discussed in detail in Section VII (Conclusionary Findings) below.

Generally, the purpose of a planned development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the provisions of the zoning ordinance. Further, the purpose of a planned development is to encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach and apply new technology in land development; preserve significant man-made and natural features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces. A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance.

Consideration of a planned development request includes weighing the additional benefits provided to the development and city as a whole through the planned development process that go above and beyond what would be provided through a standard land use application against the applicable zoning requirements. It should be noted in this case that the subject site is already regulated by an existing Planned Development (Ordinance No. 4633), and the request is only to remove the subject property from the Planned Development Overlay District due to the intended use of the property as an expanded electrical substation.

II. CONDITIONS:

1. That Ordinance 4633 is amended to remove the subject site and property from the Planned Development Overlay District, hereby adjusting the boundary of the Planned Development Overlay District. All other standards and conditions of approval adopted by Ordinance 4633 remain in effect.

III. ATTACHMENTS:

- 1. PDA 1-19 Application and Attachments (on file with the Planning Department)
- 2. Ordinance No. 4633 (on file with the Planning Department)

IV. COMMENTS:

Agency Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill

County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments were received:

• McMinnville Engineering Department

No comments. At the time of development of the substation, that appropriate public infrastructure improvements will be required.

McMinnville Fire Department

No comments received

McMinnville Water and Light

No comments received

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was also provided in the News Register on Tuesday, June 18, 2019. As of the date of the Planning Commission public hearing on June 27, 2019, no public testimony had been received by the Planning Department.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

- A. The applicant, Samuel Justice on behalf of McMinnville Water and Light, held a neighborhood meeting on March 27, 2019.
- B. The applicant submitted the Planned Development Amendment application (PDA 1-19) on April 26, 2019.
- C. The application was deemed complete on May 22, 2019. Based on that date, the 120 day land use decision time limit expires on September 19, 2019.
- D. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas.

Comments received from agencies are addressed in the Decision Document.

- E. Notice of the application and the June 27, 2019 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.72.120 of the Zoning Ordinance on Thursday, June 6, 2019.
- F. Notice of the application and the June 27, 2019 Planning Commission public hearing was published in the News Register on Tuesday, June 18, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.

- G. No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.
- H. On June 27, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT – GENERAL FINDINGS

- 1. **Location:** 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.
- 2. Size: Approximately 1.22 acres.
- 3. Comprehensive Plan Map Designation: Residential
- 4. **Zoning:** R-1 (Single Family Residential)
- 5. **Overlay Zones/Special Districts:** Planned Development Overlay District (Ordinance No. 4633)
- 6. **Current Use:** Electrical Substation (Baker Creek Substation)
- 7. Inventoried Significant Resources:
 - a. Historic Resources: None
 - b. Other: None
- 8. **Other Features:** The site is generally flat, with a minor slope to the northwest. There are no significant or distinguishing natural features associated with this property.
- 9. Utilities:
 - a. **Water:** Water service is available to the subject site.
 - b. **Electric:** Power service is available to the subject site.
 - c. **Sewer:** Sanitary sewer service is available to the subject site.
 - d. **Stormwater:** Storm sewer service is available to the subject site.
 - e. **Other Services:** Other utility services are available to the subject site. Northwest Natural Gas and Comcast is available to serve the site.
- 10. **Transportation:** The site is adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Planned Development Amendment are specified in Section 17.74.070 of the Zoning Ordinance.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

Comprehensive Plan Volume II:

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, polices, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

- GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.
- GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.
- Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

APPLICANT'S RESPONSE: Goal X1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

Applicant solicited input from neighbors (direct mail Attachment 15; Public Notice Attachment 17) and conducted a neighborhood meeting on March 27, 2019 (See attendee list as Attachment 18). No neighbors attended the meeting and no public comment was gathered.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the process for a Planned Development Amendment provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

McMinnville Zoning Ordinance

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) provide criteria applicable to the request:

Chapter 17.03. General Provisions

<u>17.03.020 Purpose.</u> 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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

Chapter 17.12 Single-Family Residential Zone

<u>17.12.020 Conditional Uses.</u> In an R-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74: [...]

L. Electrical power substation [..]

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The proposed Zone Change to R-1 (Single Family Residential), as requested concurrently under ZC 2-19, will allow for the intended expansion of the existing electrical power substation on the subject site. Electrical power substations are allowed as a conditional use in the R-1 zone.

Chapter 17.51. Planned Development Overlay

<u>17.74.070.</u> Planned Development Amendment – Review Criteria. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120, and include the following:

- An increase in the amount of land within the subject site;
- An increase in density including the number of housing units;
- A reduction in the amount of open space; or
- Changes to the vehicular system which results in a significant change to the location of streets, shared driveways, parking areas and access.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. While none of the listed changes are specifically applicable, the Planning Director has determined that the proposed Planned Development Amendment, which reduces the size of the Planned Development Overlay District, is considered to be a Major amendment and is therefore subject to Section 17.72.120, as addressed herein. The applicant

has provided a Planned Development Amendment request to be reviewed by the Planning Commission in accordance with Section 17.72.120.

17.74.070. Planned Development Amendment – Review Criteria. [...] An amendment to an existing planned development may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

17.74.070(A). There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;

APPLICANT'S RESPONSE: The application seeks to remove the planned Development Plan Overlay from the 1.22 acre expanded substation site. The overlay will otherwise remain. Currently, about 2/3 (0.8 acres) of the site is subject to the overlay and will create inconsistent development requirements where the overlay was intended for commercial development and the site is being rezoned to residential, with the substation expansion as a conditional use. Removal of the overlay will allow a single standard for review across the entire parcel.

Additional Responses from Applicant (provided in Planned Development Amendment application question responses): The pattern of development is orderly and timely in that the area is largely already residential. An amendment of the Comprehensive Plan Map to residential, from commercial, is consistent with the actual development in the immediate area of the parcel. The area, adjacent to the east (along with half of the existing parcel) and north is residential. The area on the south side of Baker Creek Road is currently under residential development. The area to the west will remain commercial. The substation is also needed to serve the expected commercial uses.

Consolidation of the parcel under one Comprehensive Plan Map designation will allow the parcel to be rezoned to R1 and for application for a conditional use permit to allow an electric substation. The surrounding neighborhoods are currently under large scale residential development. The consolidation of the plan map designation and related zone change and conditional use permit will facilitate the construction of the needed electric facility infrastructure to support the anticipated changes in the neighborhood, those changes being large-scale residential development together with commercial development.

FINDING: SATISFIED. The City concurs with the applicant's findings. The City adds that the request is to remove the subject site and properties from the Planned Development Overlay District, so no other changes would be made to the existing Planned Development or changes to any of the regulations or conditions of approval contained within the Planned Development. Specifically, a condition of approval is included to ensure that all other standards and conditions of approval adopted by Ordinance 4633 in the approval of the original Planned Development Overlay District would remain in effect.

The removal of the subject property from the existing Planned Development Overlay is being requested due to the previous land use approvals that were submitted for concurrent review with the Planned Development Amendment. There are special objectives of the proposed development (that being the development proposed by the Comprehensive Plan Map Amendment, Zone Change, and Conditional Use requests submitted for concurrent review with the Planned Development Amendment) that warrant the amendment of the Planned Development Overlay District to remove the subject site and property. In particular, the proposed development results in the property being designated as Residential on the Comprehensive Plan Map and being zoned R-1 (Single Family Residential) to allow for the expansion of the existing electrical power substation as a conditional use in the R-1 zone. The

existing Planned Development Overlay is a Commercial Planned Development. As the intended development of the site is now through a residential designation and zoning process, the removal of the site from the Commercial Planned Development is warranted and necessary. The special objectives of the proposed development are described by the applicant in the application narrative and supported by findings of fact for those land use application decisions (CPA 2-19, ZC 2-19, and CU 2-19).

17.74.070(B). Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;

APPLICANT'S RESPONSE: See Exhibit 1, Section C, above, for discussion of Goals and Policies. With the concurrent Comprehensive Plan Map amendment, the new substation will be consistent with serving the utility needs of the densely growing and expanding residential use planned for the area surrounding the expanded substation.

FINDING: SATISFIED. The City concurs with the applicant's findings, and also refers to the findings provided for the applicable Comprehensive Plan goals and policies in Section VII (Conclusionary Findings) above. The City also notes that the resulting development (that being the development proposed by the Comprehensive Plan Map Amendment, Zone Change, and Conditional Use requests submitted for concurrent review with the Planned Development Amendment), would not be inconsistent with the Comprehensive Plan goals, policies, and objectives, as described in the findings of fact in the Decision Documents for those land use requests.

17.74.070(C). The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;

APPLICANT'S RESPONSE: Not applicable.

FINDING: SATISFIED. The City concurs with the applicant's findings, given the intended use of the site and the subsequent Conditional Use application that will be reviewed concurrently with this Planned Development Amendment request.

17.74.070(D). The plan can be completed within a reasonable period of time;

APPLICANT'S RESPONSE: The expansion has been planned and needed equipment is already on order and the expansion is in the current MW&L "Light" Budget for Water and Light. Attachment 13, pages 1-2 (pages 15-16 to plan).

FINDING: SATISFIED. The City concurs with the applicant's findings, given the intended use of the site and the subsequent Conditional Use application that will be reviewed concurrently with this Planned Development Amendment request.

17.74.070(E). The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;

APPLICANT'S RESPONSE: The substation site is adjacent to Baker Creek Road and easily accessible.

Additional Responses from Applicant (provided in Planned Development Amendment application question responses): The proposed use will have a negligible effect on traffic in the area, as the site is already in use as an electric substation. Visits and maintenance at the

expanded facility will take advantage of economies of scale in combination with the existing facility. The expansion should not perceptibly increase traffic volume.

FINDING: SATISFIED. The City concurs with the applicant's findings, given the intended use of the site and the subsequent Conditional Use application that will be reviewed concurrently with this Planned Development Amendment request.

17.74.070(F). Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;

APPLICANT'S RESPONSE: The development will serve utility need for proposed growing population densities in the surrounding neighborhoods. The site will use a combination of gravel, paved and landscape surfaces that will minimally impact drainage.

Additional Responses from Applicant (provided in Planned Development Amendment application question responses): The site will not require sewer, or natural gas to operate. The facility is currently served with electricity and water by MW&L and MW&L will continue to serve the site in a like manner. The north and west of the City of McMinnville has the bulk of the buildable land for residential development. MW&L's 2015 Electric System Planning Study recommends expansion of the Baker Creek Substation as the least cost option to address the expansion of the electric system in this area of the City.

FINDING: SATISFIED. The City concurs with the applicant's findings, and would add that the City provided opportunity for review and comment by city departments, other public and private agencies and utilities, and McMinnville Water and Light to ensure the coordinated provision of utilities and services to the subject site based on the proposed land use request. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. No comments were provided that were in opposition or identified any issues with providing utilities and services to the subject site for the intended use. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

17.74.070(G). The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

APPLICANT'S RESPONSE: The expanded substation will have a noise impact of a like-kind to the existing substation facility, which will be partially mitigated by screening (plant and manmade). The expanded facility will be built with additional environmental safety features to protect against water pollutants.

FINDING: SATISFIED. The concurrent request of a Zone Change to the R-1 (Single Family Residential) zone, along with the other concurrent request to designate the property as Residential on the Comprehensive Plan Map, results in a land use designation and zoning district that will afford the most opportunity for public hearing and notice for the eventual intended use of the site through the Conditional Use review process. The Zone Change to R-1 will also allow for the application of development (setbacks, structure height, etc.) and conditional use standards for the eventual intended use of the site (that being an expansion of the existing electrical power substation), which will ensure compatibility of the intended use with surrounding development. These development and conditional use standards will be applied to the subject

	concurrently with this Planned Development Amendment request, so that the subject site is designed to ensure compatibility with surrounding land uses.
CD	

ORDINANCE NO. 5077

AN ORDINANCE APPROVING A CONDITIONAL USE TO ALLOW FOR THE EXPANSION OF AN EXISTING ELECTRICAL POWER SUBSTATION AT 1901 NW BAKER CREEK ROAD

RECITALS:

The Planning Department received an application (CU 2-19) from Samuel Justice, on behalf of property owner McMinnville Water and Light, requesting approval of a Conditional Use to allow for the expansion of an existing electrical power substation. The property is zoned R-1 (Single Family Residential), based on a concurrent land use application for a Zone Change submitted by the applicant, and electrical power substations are listed as a conditional use in Section 17.12.020(L) of the McMinnville Municipal Code; and

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.; and

A public hearing was held on June 27, 2019 at 6:30 p.m., before the McMinnville Planning Commission after due notice had been provided in the local newspaper on June 18, 2019, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, the application materials and a staff report were presented, and applicant testimony was received; and

The Planning Commission, being fully informed about said requests, found that the requested amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the Conditional Use review criteria listed in Section 17.74.030 of the McMinnville Municipal Code based on the material submitted by the applicant and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

The Planning Commission recommended approval with conditions of said Conditional Use to the City Council;

The City Council having received the Planning Commission recommendation and staff report, and having deliberated; and

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

- 1. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit A; and
 - 2. That the requested Conditional Use is approved, subject to the following conditions:
 - 1) That prior to the development of the electrical power substation, the applicant shall submit building permits for all necessary construction activities. The site plan provided with the building permit construction plans shall be consistent with the preliminary site plan provided with the Conditional Use application.
 - 2) That the applicant shall complete right-of-way improvements to the property's frontage along NW Baker Creek Road, as required by the McMinnville

Transportation System Plan and Section 17.53.101 of the McMinnville Municipal Code.

- 3) That the applicant shall coordinate and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with the development of the property surrounding and immediately adjacent to the subject site on the north side of Baker Creek Road. This property is currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision.
 - In the event that the surrounding property does not move forward with development and subdivision in a timely manner, the applicant shall complete the right-of-way improvements by January 15, 2022. If the right-of-way improvements are deferred to a time that is past final building permit inspections, the applicant shall bond for the improvements in accordance with the Engineering Department's requirements for bonding and surety of deferred right-of-way improvements.
- 4) That the applicant shall submit a landscape plan and Landscape Plan Review application to the McMinnville Landscape Review Committee for their review and approval prior to the issuance of building permits for the expansion of the electrical power substation. The landscape plan shall contain the following:
 - a. Perimeter fencing around the entire substation site as identified on the preliminary site plan and preliminary landscape plan provided with the Conditional Use application. The perimeter fencing shall be sightobscuring as proposed in the application narrative. The specific fence materials to be used shall be submitted to the Planning Director for review to ensure that they are compatible with and do not have a detrimental visual impact on surrounding properties.
 - b. White two-railing fencing along the south property line to match the fencing along the south side of Baker Creek Road.
 - c. Shrubs forming a linear row around the perimeter of the entire substation site. The shrubs selected shall be evergreen shrubs to provide year-round vegetation.
 - d. Trees proposed shall be of a species or variety that may grow to a maximum mature canopy height of 25 feet, but not so small that they don't provide visual screening above the top of the fence.

All landscaping on the site shall be installed as approved by the Landscape Review Committee prior to final building permit inspections being completed.

5) That the applicant plant street trees within curbside planting strip within the Baker Creek Road right-of-way in accordance. The proposed street tree plantings shall be included in the landscape plan required in Condition #4 above. The landscape plan shall identify the locations of all street lights, fire hydrants, utility vaults, transformers, and other public and private utilities. All street trees shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and 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 planting areas that may be constrained, additional consideration shall be given to the tree species and other

planting techniques, as determined by the Landscape Review Committee, may be required to allow for the planting of street trees without compromising adjacent infrastructure. 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 which does not meet this standard.

- a. Trees shall be provided with root barrier protection in order to minimize infrastructure and tree root conflicts. The barrier shall be placed on the sidewalk side of the tree and the curb side of the tree. The root barrier protection shall be placed in 10-foot lengths, centered on the tree, and to a depth of eighteen (18) inches. In addition, all trees shall be provided with deep watering tubes to promote deep root growth.
- 6) That the lighting of the substation be limited to lighting that is described on page 7 (Section 1.1.3 Substation Lighting) of the application narrative. Specifically, the substation will include only access and maintenance lighting. The access lighting will be low-intensity and controlled by photo sensors. The maintenance lighting will only be used when required for maintenance or emergency repairs. All lights on the site shall be directed downward and onto the substation site, and shall be shielded to reduce glare and minimize light visible from outside the facility.
- 3. That this Ordinance shall take effect 30 days after its passage by the City Council.

,	3 , , , , , , , , , , , , , , , , , , ,
Ayes:	
Nays:	
	MAYOR
Attest:	Approved as to form:
CITY RECORDER	CITY ATTORNEY

Passed by the Council this 13th day of August, 2019, by the following votes:



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

503-434-7311 www.mcminnvilleoregon.gov

DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A CONDITIONAL USE TO ALLOW FOR THE EXPANSION OF AN EXISTING ELECTRICAL POWER SUBSTATION AT 1901 NW BAKER CREEK ROAD

DOCKET: CU 2-19 (Conditional Use)

REQUEST: Approval of the expansion of the existing electrical power substation, which is

also known as the Baker Creek Substation. Electrical power substations are a

conditional use in the underlying R-1 (Single Family Residential) zone.

LOCATION: 1901 NW Baker Creek Road. The property is described in Instrument No.

201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101,

Section 18, T. 4 S., R. 4 W., W.M.

ZONING: R-1 (Single Family Residential)

APPLICANT: Samuel Justice, on behalf of McMinnville Water and Light

STAFF: Chuck Darnell, Senior Planner

DATE DEEMED

COMPLETE: May 22, 2019

HEARINGS BODY

& ACTION: The McMinnville Planning Commission makes a recommendation for approval or

denial to the City Council.

HEARING DATE

& LOCATION: June 27, 2019, Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY

& ACTION: The McMinnville City Council approves or denies the land-use application.

HEARING DATE

& LOCATION: August 13, 2019, Civic Hall, 200 NE 2nd Street, McMinnville Oregon

PROCEDURE: An application for a Conditional Use is processed in accordance with the

procedures in Section 17.72.120 of the McMinnville Municipal Code. The application is reviewed by the Planning Commission in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the McMinnville Municipal Code. Due to the fact that the Conditional Use application

was submitted concurrently with three other land use applications, the Conditional Use application is subject to the hearing procedure that affords the most opportunity for public hearing and notice, per Section 17.72.070 of the McMinnville Municipal Code. The other land use applications require City Council decision. Therefore, the Planning Commission will provide a recommendation to City Council, who will take final action on the Conditional Use application.

CRITERIA:

The applicable criteria for a Conditional Use are specified in Section 17.74.030 of the McMinnville Municipal Code. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

APPEAL:

The Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision. As specified in Section 17.72.190 of the McMinnville Municipal Code, the City Council's decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 (twenty-one) days of the date written notice of decision is mailed. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal.

COMMENTS:

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; and Oregon Department of Transportation. Their comments are provided in this document.

DECISION

Based on the findings and conclusionary findings, the City Council finds the applicable criteria are satisfied with conditions and **APPROVES** the Conditional Use (CU 2-19) **subject to the conditions of approval provided in Section II of this document.**

DECISION: APPROVAL WITH CONDIT	TIONS
City Council:Scott Hill, Mayor of McMinnville	Date:
Planning Commission: Roger Hall, Chair of the McMinnville Planning Commission	Date:
Planning Department:	Date:

I. APPLICATION SUMMARY:

The applicant has provided information in their application narrative and findings (attached as Attachment 1) regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current Conditional Use request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

Subject Property & Request

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

The application (ZC 2-19) is a request for a Conditional Use to allow for the expansion of an existing electrical power substation. The existing electrical power substation was approved with a Conditional Use permit in 1999 (CU 7-99). The expansion of the existing substation will require additional Conditional Use review, as an electrical power substation is a conditional use in the underlying R-1 (Single Family Residential) zone. The Conditional Use request was submitted for review concurrently with three other land use applications, as allowed by Section 17.72.070 of the MMC. The Conditional Use request is being reviewed concurrently with a Comprehensive Plan Map Amendment, Zone Change, and Planned Development Amendment to allow for the existing electrical substation on the site to be expanded.

Excerpts from Land Use Application Narrative and Findings:

In summary, simultaneous applications are made for the following land use actions:

- 1) Comprehensive Plan Map Amendment Amendment from the current mix of Residential and Commercial designations to Residential, only. Applicable review criteria for a Comprehensive Plan Map Amendment are found in Section 17.74.020 of the MMC. [...]
- 2) Zone Change Simultaneously with the plan amendment change to Residential, application is made for Zone Change of the entire parcel from a mix of R-1 and EF-80 to ALL R-1 (Single Family Residential). Applicable review criteria for a Zone Change are the same as those for the Comprehensive Plan Map Amendment, which are in Section 17.74.020 of the MMC. [...]
- 3) Planned Development Amendment Simultaneously application is made to amend the Planned Development overlay created by Ordinance 4633 to remove the subject site from the overlay and reduce the size of the overlay to remove the substation lot (existing tax lot 4418-00101). Applicable review criteria for a Planned Development Amendment are in Section 17.74.070 of the MMC. [...]
- 4) Conditional Use Permit Simultaneously with the other applications, application is made for a conditional use permit to expand the substation facility. Section 17.12.020(L) of the MMC identifies "Electrical power substation" as a conditional use1 in a R-1 zone. The level of review and compatibility of the substation with the future commercial, residential and park uses that will surround this site will be based on the conditional use review criteria in Section 17.74.030 and 17.74.040 of the MMC. [...]

See Vicinity Map (Figure 1), Existing Zoning (Figure 2), and Proposed Zoning (Figure 3) below. Note that the Proposed Zoning is the zoning as proposed should ZC 2-19 be approved.

Figure 1. Vicinity Map



Figure 2. Existing Zoning

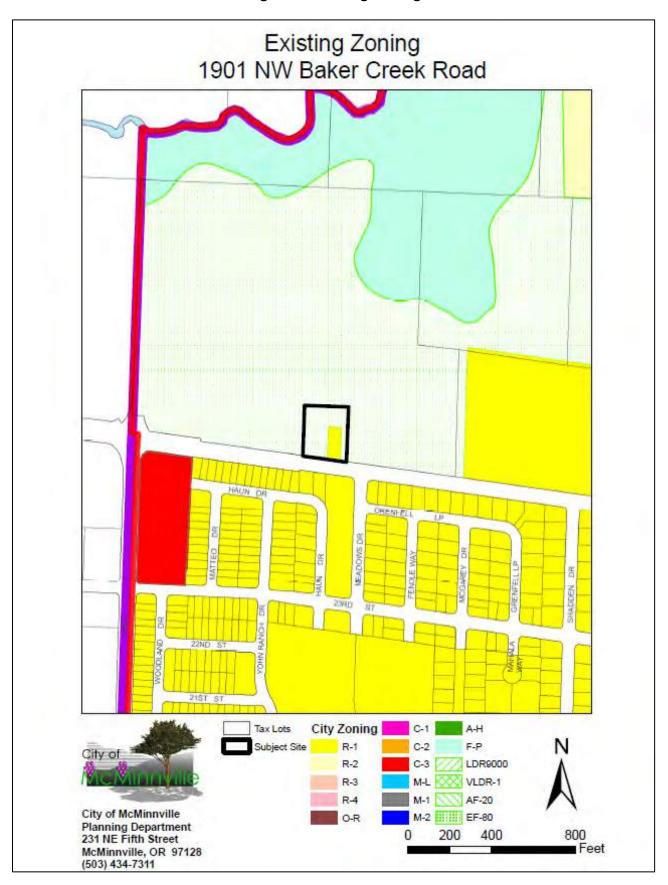
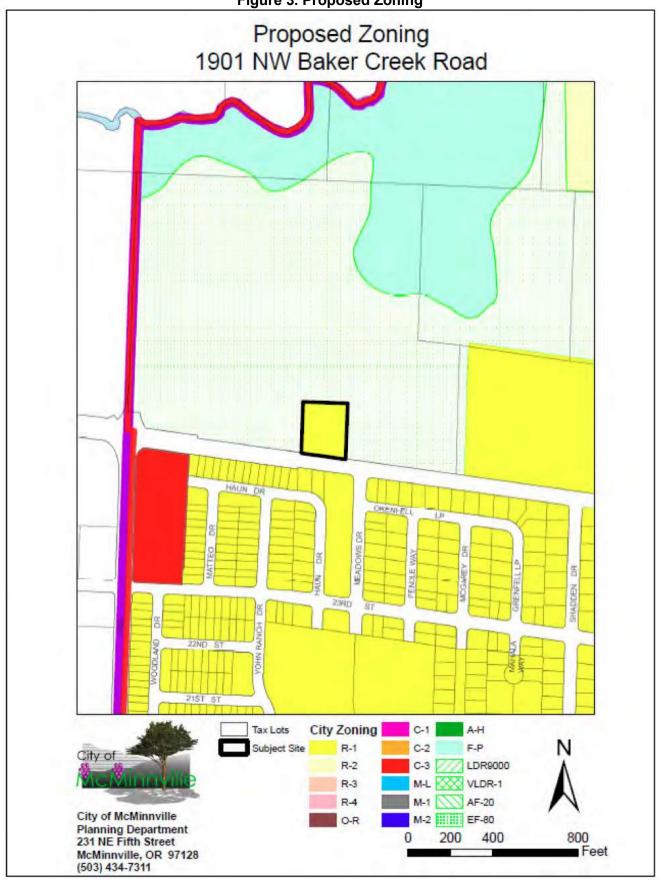


Figure 3. Proposed Zoning



The applicant has provided a detailed description of the proposed expansion of the existing electrical power substation, as well as providing a preliminary site plan and landscape plan for the expansion of the substation.

Excerpts from Land Use Application Narrative and Findings:

1.1 Baker Creek Substation Facilities and Expansion

This section describes the intended construction, operation, and maintenance of an expanded substation, the associated transmission and distribution lines, and the telecommunication system for the Proposed Project.

1.1.1 Substation Description

Currently, MW&L's Baker Creek substation consists of electrical equipment needed to operate the substation, underground distribution circuits leaving the substation, a perimeter fence surrounding the substation equipment with a gate(s) to provide access in and out of the substation. As currently configured, the substation footprint within the fence is approximately 0.26 acres. As expanded, the substation footprint (area contained within the substation perimeter fence) is approximately 0.87 acres. The total area of the expanded substation including a buffer area (area outside the substation perimeter fence) is approximately 1.22 acres.

1.1.1.1 Reasons/Intended use. The substation will be used to transform high voltage electricity to medium voltage electricity, prior to the current being switched onto electric lines for transmission in neighborhoods. The expanded site is needed to host a second transformer and related switchgear to serve the expanding residential and commercial development in northern and western McMinnville.

1.1.2 Substation Equipment

The expansion essentially doubles the existing substation facility. As expanded, the substation will be an unmanned, automated, 115/12 kV substation containing a 115 kV switchrack, **two** 20 MVA 115/12 kV transformers, and **two** 12 kV metalclad switchgears. The substation will be served from two 115 kV transmission source lines. There are four existing 12kV distribution circuits and **four additional** 12 kV distribution circuits will be constructed. The exact location and routing of these proposed circuits have yet to be determined, but will be in a utility easement. These circuits will be designed to meet future electrical demand.

The 115 kV switchrack will be an operating and transfer bus configuration with two line breakers and two sets of group disconnects. The bus-tie position will have one circuit switcher and one set of group disconnects. There is one existing 12 kV metalclad switchgear and there will be one additional new 12 kV metalclad switchgears will be prefabricated metal buildings measuring approximately 12 feet high, 35 feet long, and 15 feet wide to house an operating and transfer bus configuration each with four breakers supplying the underground 12 kV distribution circuits, a bus tie breaker, as well as relay panels, battery and battery charger, AC and DC distribution switchboards, and telecommunications equipment. The substation will be equipped with a substation automation system which includes two remote terminal unit (RTU) racks and equipment panels with system protection and control equipment.

All equipment and structures at the substation will be electrically grounded in accordance with the National Electric Safety Code "NESC" (as adopted by the Oregon Public Utility Commission) and industry standards.

1.1.3 Substation Lighting

The proposed substation will have access and maintenance lighting. The access light will be low-intensity and controlled by photo sensors. Maintenance lights will consist of LED lights located in the switchracks, around the transformer banks, and in areas of the substation where maintenance activity may take place. Maintenance lights will be used only when required for maintenance outages or emergency repairs occurring at night. Maintenance lights will be controlled by a manual switch and will normally be in the off position. The lights will be directed downward and shielded to reduce glare outside the facility.

1.1.4 Substation Landscaping

The substation site will be landscaped following construction. Approximately 25% of the site is designed to be outside the screen fencing and will be available for landscaping. A portion of this includes area in the R.O.W., anticipated for sidewalk and planting strip (~8% of total area). As the surrounding area develops, the substation landscaping in a form as attached as Attachment 2 ("landscape plan") will be implemented consistent with community and city standards, consistent with NESC/OPUC/MW&L safety standard, and as required with approval of the Landscape Review Committee.

1.1.5 Substation Perimeter Features

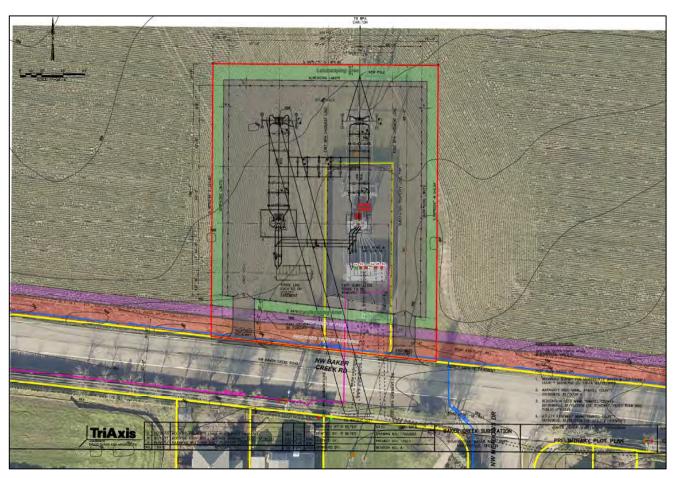
To screen the substation from the public and to secure the facility, the substation will be enclosed on all four sides by a minimum 6 foot high perimeter fence (with one-foot barbed wire atop), with inserted colored slats consistent with the landscape plan. The metal access gate(s) will be approximately 20 feet wide and also a minimum of 6 feet high. All perimeter fences and gates will be fitted with barbed wire for increased security. See Attachment 12 (OPUC substation fencing requirement). Landscape trees will be placed at NESC/OPUC required distances from the fencing.

1.1.6 Site Access

The substation will be accessed by two 20-foot wide asphalt concrete paved driveways connecting to Baker Creek Road. The substation entrance will have locked gates for two-way traffic access to the substation.

See Preliminary Site Plan (Figure 4) and Preliminary Landscape Plan Rendering (Figure 5) below.

Figure 4. Preliminary Site Plan



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Figure 5. Preliminary Landscape Plan Rendering

Background

Excerpts from Land Use Application Narrative and Findings:

1. Annexation into City of McMinnville:

- The original substation lot, Tax Lot R4418-00101, was annexed into the City on 9-10-1977 by Ordinance 3881. The lot was approximately 0.26 acres and was co-located on the existing BPA high-voltage transmission easement.
- The Comprehensive Plan Map and Zoning Map from the early 1980s identified the site as being in a Residential Comprehensive Plan Map designation and zoned R-1 (Single Family Residential)

2. Comp Plan Amendment - CPA 2-96:

- In 1996, Ordinance 4633 amended a 12.34 acre portion of a parcel on the Comprehensive Plan Map on the north side of Baker Creek Road from residential to commercial. This amendment split the original substation lot in half for comprehensive plan map purposes between Commercial and Residential.
 - Ordinance 4633 also created a Planned Development overlay on the same property, with some conditions related to the form of development and uses.
 - Ordinance 4633 did not change the zoning of the site, and the acreage property still retains the county EF-80 zoning (eventually annexed in 2008 – see more below).

 A map showing dimensions of the area proposed to be designated as commercial was included in the 1996 land use application file submitted by the applicant at the time. Part of that map is depicted below in Figure No. 1.



- The southern boundary of the new commercial area (965.95' dimension) extended from the Tax Lot R4418-00100's western boundary to a point that is within and near the center of substation lot (Tax Lot 101 as it existed)
- o It is noteworthy that at the time of the 1996 Comp Plan Amendment, Figure No. 1 shows plans for an expanded substation site. (See figure No. 1, above). The expanded substation use was shown within the commercial overlay designation.
- 3. Conditional Use Permit for Baker Creek Substation CU 7-99:
 - In 1999, the city granted MW&L a conditional use permit for the Baker Creek Substation (approval letter with original conditions attached here as Attachment 6).
 - Findings of fact for that application stated that the subject site was designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential).
 - The substation use was reviewed as a conditional use, as a "Utility transmission station" is a conditional use in a residential zone. Section 17.12.020 (a section of the R-1 chapter).
 - Construction of the new Baker Creek substation took place in 2000. Electric load was first placed on the substation in January 2001.

4. Lot Line Adjustment

In 2002 tax lot 101 was expanded by lot line adjustment. [...] In 2002 the subject site was found to be designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential)

- 5. Annexation of Larger Baker Creek North Area:
 - In 2008 the larger acreage surrounding the Baker Creek substation was annexed into the city (approved 7-22-2008 by Ordinance 4895).
- 6. Recent Property Line Adjustment BLA 10-18:
 - In 2019 a lot line adjustment increased the size of the substation lot (Tax Lot 101) by moving the west property line approximately 103' to the west, the north property line to the north, and the east property line approximately 37' to the east. The lot now fronts Baker Creek Road for about 210'.
 - The western property line has now been moved west and toward the area within the overlay zone regulated in 1996 by CPA 2-96.

Summary of Criteria & Issues

The application (CU 2-19) is subject to the Conditional Use review criteria in Section 17.74.030 of the Zoning Ordinance. Requests to amend the Comprehensive Plan Map are processed in accordance with Section 17.72.120. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The specific review criteria for Conditional Uses in Section 17.74.030 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;
- B. That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;
- C. That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;
- D. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;
- E. The proposal will preserve environmental assets of particular interest to the community;
- F. The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes.

The applicant has provided findings to support the request for a Conditional Use. These will be discussed in detail in Section VII (Conclusionary Findings) below.

II. CONDITIONS:

- 1. That prior to the development of the electrical power substation, the applicant shall submit building permits for all necessary construction activities. The site plan provided with the building permit construction plans shall be consistent with the preliminary site plan provided with the Conditional Use application.
- 2. That the applicant shall complete right-of-way improvements to the property's frontage along NW Baker Creek Road, as required by the McMinnville Transportation System Plan and Section 17.53.101 of the McMinnville Municipal Code.
- 3. That the applicant shall coordinate and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with the development of the property surrounding and immediately adjacent to the subject site on the north side of Baker Creek Road. This property is currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision.
 - In the event that the surrounding property does not move forward with development and subdivision in a timely manner, the applicant shall complete the right-of-way improvements by January 15, 2022. If the right-of-way improvements are deferred to a time that is past final building permit inspections, the applicant shall bond for the improvements in accordance with the Engineering Department's requirements for bonding and surety of deferred right-of-way improvements.
- 4. That the applicant shall submit a landscape plan and Landscape Plan Review application to the McMinnville Landscape Review Committee for their review and approval prior to the issuance of building permits for the expansion of the electrical power substation. The landscape plan shall contain the following:
 - a. Perimeter fencing around the entire substation site as identified on the preliminary site plan and preliminary landscape plan provided with the Conditional Use application. The perimeter fencing shall be sight-obscuring as proposed in the application narrative. The specific fence materials to be used shall be submitted to the Planning Director for review to ensure that they are compatible with and do not have a detrimental visual impact on surrounding properties.
 - b. White two-railing fencing along the south property line to match the fencing along the south side of Baker Creek Road.
 - c. Shrubs forming a linear row around the perimeter of the entire substation site. The shrubs selected shall be evergreen shrubs to provide year-round vegetation.
 - d. Trees proposed shall be of a species or variety that may grow to a maximum mature canopy height of 25 feet, but not so small that they don't provide visual screening above the top of the fence.

All landscaping on the site shall be installed as approved by the Landscape Review Committee prior to final building permit inspections being completed.

5. That the applicant plant street trees within curbside planting strip within the Baker Creek Road right-of-way in accordance. The proposed street tree plantings shall be included in the landscape plan required in Condition #4 above. The landscape plan shall identify the locations of all street lights, fire hydrants, utility vaults, transformers, and other public and private utilities. All street trees shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and 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 planting areas that may be constrained, additional consideration shall be given to the tree species and other planting techniques, as determined by the Landscape Review Committee, may be required to allow for the planting of street trees without compromising adjacent infrastructure. 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 which does not meet this standard.

- a. Trees shall be provided with root barrier protection in order to minimize infrastructure and tree root conflicts. The barrier shall be placed on the sidewalk side of the tree and the curb side of the tree. The root barrier protection shall be placed in 10-foot lengths, centered on the tree, and to a depth of eighteen (18) inches. In addition, all trees shall be provided with deep watering tubes to promote deep root growth.
- 6. That the lighting of the substation be limited to lighting that is described on page 7 (Section 1.1.3 Substation Lighting) of the application narrative. Specifically, the substation will include only access and maintenance lighting. The access lighting will be low-intensity and controlled by photo sensors. The maintenance lighting will only be used when required for maintenance or emergency repairs. All lights on the site shall be directed downward and onto the substation site, and shall be shielded to reduce glare and minimize light visible from outside the facility.

III. ATTACHMENTS:

- 1. CU 2-19 Application and Attachments (on file with the Planning Department)
- 2. McMinnville Water and Light Letter on CU 2-19 Conditions of Approval (on file with the Planning Department)

IV. COMMENTS:

Agency Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments were received:

McMinnville Engineering Department

No comments. At the time of development of the substation, that appropriate public infrastructure improvements will be required.

McMinnville Fire Department

No comments received

McMinnville Water and Light

See Attachment #2 above.

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was also provided in the News Register on Tuesday, June 18, 2019. As of the date of the Planning Commission public hearing on June 27, 2019, no public testimony had been received by the Planning Department.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

- A. The applicant, Samuel Justice on behalf of McMinnville Water and Light, held a neighborhood meeting on March 27, 2019.
- B. The applicant submitted the Conditional Use application (CU 2-19) on April 26, 2019.
- C. The application was deemed complete on May 22, 2019. Based on that date, the 120 day land use decision time limit expires on September 19, 2019.
- D. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas.
 - Comments received from agencies are addressed in the Decision Document.
- E. Notice of the application and the June 27, 2019 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.72.120 of the Zoning Ordinance on Thursday, June 6, 2019.
- F. Notice of the application and the June 27, 2019 Planning Commission public hearing was published in the News Register on Tuesday, June 18, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
- G. No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.
- H. On June 27, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT – GENERAL FINDINGS

- Location: 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.
- 2. **Size:** Approximately 1.22 acres.
- 3. **Comprehensive Plan Map Designation:** Residential
- 4. **Zoning:** R-1 (Single Family Residential)

- 5. Overlay Zones/Special Districts: None.
- 6. **Current Use:** Electrical Substation (Baker Creek Substation)
- 7. Inventoried Significant Resources:
 - a. Historic Resources: None
 - b. Other: None
- 8. **Other Features:** The site is generally flat, with a minor slope to the northwest. There are no significant or distinguishing natural features associated with this property.
- Utilities:
 - a. Water: Water service is available to the subject site.
 - b. **Electric:** Power service is available to the subject site.
 - c. **Sewer:** Sanitary sewer service is available to the subject site.
 - d. **Stormwater:** Storm sewer service is available to the subject site.
 - e. **Other Services:** Other utility services are available to the subject site. Northwest Natural Gas and Comcast is available to serve the site.
- 10. **Transportation:** The site is adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Conditional Use are specified in Section 17.74.030 of the Zoning Ordinance.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

Comprehensive Plan Volume II:

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, polices, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

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.

Streets

Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications.

- 1. Major, minor arterials.
 - -Access should be controlled, especially on heavy traffic-generating developments.
 - -Designs should minimize impacts on existing neighborhoods.
 - -Sufficient street rights-of-way should be obtained prior to development of adjacent lands.
 - -On-street parking should be limited wherever necessary.
 - -Landscaping should be required along public rights-of-way. (Ord.4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION #2. The subject site is currently adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary. A condition of approval is included to require that, at the time of development and building permit for the expanded electrical power substation, right-of-way improvements will be required to the standards required for a minor arterial in the McMinnville Transportation System Plan.

Growth Management

Policy 132.29.00 The construction of transportation facilities in the McMinnville planning area shall be timed to coincide with community needs, and shall be implemented so as to minimize impacts on existing development. Prioritization of improvements should consider the City's level of service standards. (Ord. 4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION #3. The subject site is adjacent to and surrounded by other properties on the north side of Baker Creek Road that are currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision. In order to minimize impacts on existing development in the surrounding area, a condition of approval is included to require that the applicant coordinate with the surrounding property owner and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with adjacent subdivision development. This will ensure that Baker Creek Road corridor improvements are completed concurrently, which will result in a more consistent right-of-way facility for the use of the public and also minimize the timing and amount of reconstruction impacts on Baker Creek Road for residents in existing development in the surrounding area. However, in the event that the surrounding property not move forward with development or subdivision in a timely manner, the condition of approval requires that the right-of-way improvements be completed by January 15,

2022. This is the date that was already agreed upon between the applicant and the owner of the surrounding property that is currently undergoing development review (as documented in purchase agreement) in regards to coordinated improvement of the Baker Creek Road right-of-way. If the right-of-way improvements are extended out past final building permit inspections, the applicant shall bond for the improvements in accordance with the Engineering Department's requirements for bonding and surety of deferred right-of-way improvements.

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

- Policy 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.
- Policy 139.00 The City of McMinnville shall extend or allow extension of sanitary sewage collection lines within the framework outlined below:
 - 1. Sufficient municipal treatment plant capacities exist to handle maximum flows of effluents.
 - 2. Sufficient trunk and main line capacities remain to serve undeveloped land within the projected service areas of those lines.
 - 3. Public water service is extended or planned for extension to service the area at the proposed development densities by such time that sanitary sewer services are to be utilized.
 - 4. Extensions will implement applicable goals and policies of the comprehensive plan.

Storm Drainage

- Policy 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.
- Policy 143.00 The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage.

Water System

Policy 144.00 The City of McMinnville, through McMinnville Water and Light, shall provide water services for development at urban densities within the McMinnville Urban Growth Boundary.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. At the time of development and building permits for the expansion of the electrical power substation, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well, as described in more detail in the findings for Policy 122.00 and Policy 132.29.00 above.

- Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:
 - 1. Facilities are placed in locations and in such a manner as to insure compatibility with surrounding land uses.
 - 2. Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.
 - 3. For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized.
 - 4. Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.
- Policy 147.00 The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas. The City shall also continue to coordinate with McMinnville Water and Light in making land use decisions.

Water and Sewer – Land Development Criteria

- Policy 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:
 - Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, 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 effluents.
 - 3. Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the 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 waste water quality standards can be adhered to.
 - 5. Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to ensure the coordinated provision of utilities to developing areas and in making land-use decisions. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well, as described in more detail in the findings for Policy 122.00 and Policy 132.29.00 above.

Energy Conservation

GOAL VIII 1: TO PROVIDE ADEQUATE ENERGY SUPPLIES, AND THE SYSTEMS NECESSARY TO DISTRIBUTE THAT ENERGY, TO SERVICE THE COMMUNITY AS IT EXPANDS.

Energy Supply Distribution

Policy 171.00 The City of McMinnville shall continue to examine land use decisions in the light of present and projected supplies of electrical, fossil fuel, and other sources of energy.

APPLICANT'S RESPONSE: This application approval is consistent with policy 171.00 in providing additional transformer capacity to move the anticipated demand for electrical energy to neighborhoods and commercial areas in the city. The Electric System Planning Study, 2015, specifically recommends the expansion of the Baker Creek Substation. Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen. Attachment 4, page 15-7 (Figure 2-1; 2-7; Recommendations). This study further explains that McMinnville is experiencing levels of electric load at the current Baker Creek Substation that currently requires shifting load to other facilities. Electric System Planning Study, Attachment 4, at page 53; Table 6-2. Application approval is consistent with an examination of land use decisions in light of future electrical supply as described in the 2015 study.

Current projections indicate that peak load residential load is expected to grow with additional housing being developed on the west side of the City. See Memo, Jaime Phillips, Senior Power Analyst, McMinnville Water and Light (Attachment 5).

Application approval and resulting substation expansion will not impact the supply of electricity or other sources of energy. Until 2028, MW&L's supply is primarily provided by contract with the Bonneville Power Administration. However, approval of the substation expansion will increase the localized ability of MW&L to transmit available electric energy into the growing west and north sections of the city.

FINDING: SATISFIED. The City concurs with the applicant's findings.

Policy 173.00 The City of McMinnville shall coordinate with McMinnville Water and Light and the various private suppliers of energy in this area in making future land use decisions.

APPLICANT'S RESPONSE: Review for approval of this application, and the required neighborhood meeting, and the public hearing process demonstrates coordination between the City and MW&L that is consistent with policy 173.00. The City routinely seeks comment from MW&L prior to land use decisions. MW&L comments on land use applications that appear to impact its utility purposes and facilities. The City's approval of these application demonstrate an effort to coordinate with MW&L. Applicant foresaw the need of the City in its related lot line adjustment (BLA 10-18) transaction, and dedicated real property to widen Baker Creek Road in front of the substation (Attachment 8) and also granted a public utility easement (Attachment 9) during that process. These preemptory conveyances by applicant in anticipation of the City's needs is also consistent with coordination between the City and applicant (Water and Light).

FINDING: SATISFIED. The City concurs with the applicant's findings.

- Policy 175.00 The City of McMinnville, recognizing McMinnville Water and Light, Northwest Natural Gas, and other private suppliers as the agencies or groups responsible for energy distribution, encourages the extension of energy distribution services within the framework outlined below:
 - 2. Facilities are planned in such a manner as to insure compatibility with surrounding land uses.

APPLICANT'S RESPONSE: Approval of the application is consistent with policy 175.00 and proposal No. 2, in that the planned additional facilities are similar to the existing substation facilities, and along an existing high-voltage electricity transmission easement corridor. Current land use around the substation is agricultural, park, and residential. A BPA high voltage 60-footwide electric transmission easement runs north to south through the substation parcel. See Map. Attachment 1. The expanded substation use is consistent with the current uses.

MW&L has also developed a landscape plan to make the facility more compatible with the anticipated surrounding park, commercial and residential uses. See MW&L Landscape plan, ATTACHMENT 2.

The surrounding residential and commercial land uses, to an ever increasing degree, rely on electric energy. The electric substation is integral to the MW&L electric system supplying energy to the customers that work and live in the surrounding areas. Electric energy is both compatible and integral to both commercial and residential uses.

FINDING: SATISFIED. The City concurs with the applicant's findings. However, the City adds that the electrical power substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below, ensure that the proposed facility is planned in a manner as to be compatible with future surrounding land uses guided for both commercial and residential uses.

Policy 176.00 The City of McMinnville shall carefully consider the environmental impacts of the location and design of energy system facilities to minimize or eliminate adverse effects on residential, farm, and natural areas.

APPLICANT'S RESPONSE: This application and approval is consistent with this goal in that the application is supported by the site plan (Attachment 1) and landscape plan (Attachment 2) by TriaAxis Engineering. Design standards of the expanded facility take into account state of the art environmental protections for the expanded facility.

The expanded facility will include environmental protections. The protection (relating to the proposed new equipment) will include a secondary containment structure to catch oil that might leak from the new transformer. MW&L also maintains a current engineer-certified Spill, Prevention, Control and Countermeasures Plan. It is also noted that the Baker Creek substation is at a significant and safe distance from the nearest stream (Baker Creek), some 1,300 feet.

The applicant has identified four hazardous conditions that can occur at a power substation. The first one is the release of mineral oil from electrical equipment. To ensure that equipment failure does not occur due to the release of oil, the equipment has automatic monitoring systems to notify MW&L 24 hours a day if mineral oil is released. In addition, MW&L has designed the new substation with an oil catch basin. Any spills will be cleaned up and reported to appropriate agencies. The second identified hazard is called an arc flash. An arc flash is an electrical explosion or discharge that results from a low impedance connection through the air to ground or another piece of equipment in an electrical system. The applicant proposes to install equipment to minimize the hazards with potential arc flashes. The third hazard is catastrophic failure, which is caused when an electrical power transformer fails and the mineral oil is ignited. The system is designed to allow the transformer to burn until it self-extinguishes.

The substation is designed with separation between equipment to ensure that if a transformer ignites, neighboring pieces of equipment should not be involved in the fire. The final hazard is the potential for individuals trespassing on the property. The substation is high-voltage. The proposed substation will upgrade the security measures at the site to preclude trespass. These measures include:

- a. A new security fence with mini-mesh (small chain link) metal and topped with barbed wire.
- b. Landscaping which reduces areas where intruders may hide behind screening from MW&L personnel or patrolling law enforcement. See Attachment 2, ("landscape plan"); See OPUC, Substation Security, Attachment 12.
- c. Locks on all gates.
- d. Future installation of onsite closed circuit television to monitor unauthorized access and theft related incidents from offsite.
- e. The control enclosure will also have an electronic card credential reader and a monitored
- f. Animal guarding will be installed at key locations around the station to prevent electrocution of small animals and birds that might come near the medium and high voltage equipment.

The applicant has considered the hazardous conditions that can be created by the proposed facility and has designed the substation to limit or prevent hazardous conditions that could affect the surrounding property owners. The required criterion to approve the application are met.

FINDING: SATISFIED. The City concurs with the applicant's findings, specifically that environmental impacts of the proposed facility on surrounding residential, farm, and natural areas has been considered in the design of the site. The City also adds that the electrical power

substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below, ensure that the proposed facility is compatible with future surrounding land uses guided for both commercial and residential uses.

Proposal 31.00 The City of McMinnville should require energy system facility sites to be compatible in appearance with surrounding land uses either through landscaping or other screening methods.

APPLICANT'S RESPONSE: Applicant's landscape plan (Attachment 2) and review by Landscape Review Committee is consistent with Proposal 31.00. Applicant will also site the facility in a safe manner consistent with NESC (National Electric Safety Code) and Oregon Public Utility Commission rules that provide for the safety and security of substations, also making the facility compatible with neighboring uses.

FINDING: SATISFIED. The City concurs with the applicant's findings. However, the City adds that the electrical power substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below (some of which specifically being related to landscaping and screening methods), ensure that the proposed facility is compatible with future surrounding land uses guided for both commercial and residential uses.

Proposal 34.00 Proposed extensions of energy system facilities should be coordinated with the extension of other facilities (sewer and water, telephone lines, storm drainage, etc.) where necessary to insure provision of full urban services to developable areas within the urban growth boundary.

APPLICANT'S RESPONSE: This approval is consistent with Proposal 34.00 in that the application is taking place prior to, or concurrently with surrounding development. The land for the expansion of the substation was purchased from the adjacent developer, Baker Creek Development, LLC (BCD). An expanded substation was foreseen in the 1996 Planned Development Overlay. As part of the recent transaction, BCD contracted with the applicant to require the applicant to dedicate additional R.O.W. to the City of McMinnville, and to grant a 10-foot-wide Public Utility Easement across the applicant's frontage on Baker Creek Road for public utility use (by Applicant and other utilities) (Appendices 8 & 9). In addition, as part of the transaction, BCD granted to Applicant additional "bump out" utility easements (Attachment 7) on the adjacent property west of the Applicant's parcel-electric substation for electric utility vaults. These "bump out" easements were acquired by Applicant (MW&L) in addition to the PUE spaces in part to allow more intensive electric utility development on the parcel without conflict with other utilities using the PUE space.

FINDING: SATISFIED. The City concurs with the applicant's findings.

Proposal 35.00 Construction of facilities that could have an adverse effect on natural areas, farmlands, and residential areas should be altered in such a manner as to minimize or eliminate these impacts.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The City concurs with the applicant's findings, specifically that potential adverse impacts of the proposed facility on surrounding residential, farm, and natural areas has been considered in the design of the site. The City also adds that the electrical power substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below, ensure that the proposed facility is compatible with future surrounding land uses guided for both commercial and residential uses.

- GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.
- GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.
- Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

APPLICANT'S RESPONSE: Goal X1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

Applicant solicited input from neighbors (direct mail Attachment 15; Public Notice Attachment 17) and conducted a neighborhood meeting on March 27, 2019 (See attendee list as Attachment 18). No neighbors attended the meeting and no public comment was gathered.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the process for a Conditional Use review provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

McMinnville Zoning Ordinance

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) provide criteria applicable to the request:

Chapter 17.03. General Provisions

<u>17.03.020 Purpose.</u> 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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

Chapter 17.12 Single-Family Residential Zone

<u>17.12.020 Conditional Uses.</u> In an R-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74: [...]

L. Electrical power substation [..]

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The subject site was recently rezoned to only R-1 (Single Family Residential), which will allow for the intended expansion of the existing electrical power substation on the subject site. Electrical power substations are allowed as a conditional use in the R-1 zone.

Chapter 17.57 Landscaping

17.57.040 Specific uses requiring landscaping. [...]

B. Utility substations, subject to the landscaping requirements of commercial uses. [...]

APPLICANT'S RESPONSE: Applicant has provided a landscaping plan (Attachment 2) that is capable of review by landscaping committee. The approval and the individual applications can be made subject to required Landscape Review Committee approval for issuance of required building permits.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits.

17.57.070 Area Determination—Planning factors.

17.57.070(A)(2). Landscaping shall be accomplished within the following ranges: [...] Commercial, at least seven percent of the gross area. This may be reduced to not less than five percent upon approval of the review committee. (The gross area to be landscaped may only be reduced by the review committee if there is a showing by the applicant that the intent and purpose of this chapter and subsection B of this section are met.)

APPLICANT'S RESPONSE: As indicated by the map showing the substation landscape plan (Attachment 2) there is at least 7% of the gross surface area outside of the facility fencing

available for landscaping. As a utility substation, the development will be subject to commercial landscape requirements, as reviewed by the Landscape Review Committee.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B). The following factors shall be considered by the applicant when planning the landscaping in order to accomplish the purpose set out in Section 17.57.010. The Landscape Review Committee shall have the authority to deny an application for failure to comply with any or all of these conditions:

17.57.070(B)(1). Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon.

APPLICANT'S RESPONSE: The proposed utility use is of a character that currently exists on the site adjacent to residential uses. The proposed expansion and planned improvements to landscaping will make the facility more compatible with surrounding and abutting properties (than it would be without the expansion) and will be of a nature and character that is appropriate to support affordable housing.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(2). Screening the proposed use by sight-obscuring, evergreen plantings, shade trees, fences, or combinations of plantings and screens.

APPLICANT'S RESPONSE: The approval will give consideration to sight-obscuring features. These features may utilize continuous fence, colored slats, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view. Complete obscurification of the facility is not practical where overhead transmission lines rise above adjacent park facilities and connect to the facility by way of towers. Security of the facility also requires line of sight into the facility grounds. Switching gear is also of a height that cannot be practically, completely obscured. However, a combination of street trees, shrubs, decorative and slat-filled-fencing (Attachment 2) can visually temper the appearance and adequately blend the facility into the landscape of the neighborhood.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(3). The retention of existing trees and natural areas that may be incorporated in the development of the project. The existing grade should be preserved to the maximum practical degree. Existing trees shall be provided with a watering area equal to at least one-half the crown area.

APPLICANT'S RESPONSE: There are no existing trees and the grade of the overall property will not be altered by the expansion.

FINDING: SATISFIED. Staff concurs with the applicant's findings.

17.57.070(B)(4). The development and use of islands and plantings therein to break up parking areas.

APPLICANT'S RESPONSE: Parking for intermittent visits to the facility can easily be accommodated by parking along the 96-foot wide right of way. The facility will also provide (See Attachment 1, site plan) for ample onsite parking within the gates for service vehicles. The design has room for vehicles inside the fence around the perimeter of the facility.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(5). The use of suitable street trees in the development of new subdivisions, shopping centers and like developments. Certain trees shall be prohibited in parking areas: poplar, willow, fruit, nut, birch, conifer, and ailanthus.

APPLICANT'S RESPONSE: Applicant will provide suitable trees in planting strip consistent with City standards and OPUC rules.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(6). Suitable watering facilities or irrigation systems must be included in or near all planted areas:

APPLICANT'S RESPONSE: Irrigation facilities will be provided under the terms of approval to facilitate required landscaping.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(C). All landscaping approved through the Landscape Review Committee shall be continually maintained, including necessary watering, weeding, pruning, mowing, and replacement. Minor changes

in the landscape plan, such as like-for-like replacement of plants, shall be allowed, as long as they do not alter the character and aesthetics of the original plan. It shall be the Planning Director's decision as to what constitutes a major or minor change. Major changes to the landscape plan shall be reviewed and approved by the Landscape Review Committee.

APPLICANT'S RESPONSE: Applicant's landscape plan demonstrates that applicant is fully capable of complying with this proposal. The site is currently served with water for irrigation.

FINDING: SATISFIED. Staff concurs with the applicant's findings.

17.57.090 Credit for work in public right-of-way. The review committee may grant an applicant credit for landscaping done in the public right-of-way provided that if at any time in the future the right-of-way is needed for public use, any landscaping removed from the right-of-way must be replaced on the subject site. The review committee shall consider the need for future use of the right-of-way for street or utility purposes before granting credit under this section.

APPLICANT'S RESPONSE: No such credit is required, but the applicant will take into the account the development of future right-of-way along the boundaries of the substation and will stage the landscaping development in coordination with the surrounding development.

FINDING: SATISFIED WITH CONDITION #3. Staff concurs with the applicant's findings, and adds that a condition of approval is included to require that the applicant coordinate with the surrounding property owner and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with adjacent subdivision development. This coordination is consistent with the applicant's response above, and the condition of approval is described in more detail in the finding for Policy 132.29.00 above.

Chapter 17.58 Trees

<u>17.58.080 Street Tree Planting—When Required.</u> All new multi-family development, commercial or industrial development, subdivisions, partitions, or parking lots fronting on a public roadway which has a designated curb-side planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 17.58.090.

APPLICANT'S RESPONSE: MW&L will comply with tree planting requirement in planting strip along street frontage.

FINDING: SATISFIED WITH CONDITION #4 AND #5. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. That landscape plan shall include proposed street tree planting for the Baker Creek Road right-of-way adjacent to the subject site. The Landscape Review Committee shall review and make more specific findings for the applicable street tree plan review criteria and street tree planting standards at the time of their review.

Chapter 17.74 Review Criteria

17.74.030. Authorization to Grant or Deny Conditional Use.

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this chapter. In the case of a use existing prior to the effective date of this

ordinance and classified in this ordinance as a conditional use, a change in the use or in lot area, or an alteration of any structure shall conform to the requirements for conditional uses. In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

17.74.030(A). The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;

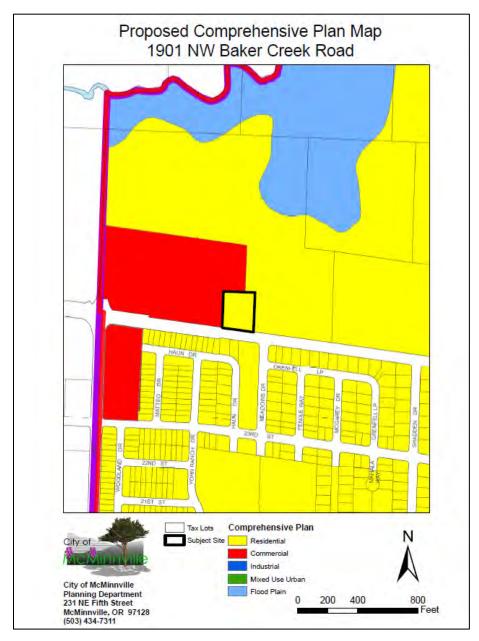
APPLICANT'S RESPONSE: See this Exhibit 1, Section C above (Goals and Policies) for findings.

FINDING: SATISFIED. The City concurs with the applicant's findings, and also refers to the findings provided for the applicable Comprehensive Plan goals and policies in Section VII (Conclusionary Findings) above.

17.74.030(B). That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;

APPLICANT'S RESPONSE: The location and size of the expanded substation is reasonably suited to the development of abutting properties. The footprint is large enough to accommodate the safety AND maintenance needs of this high-voltage facility, while at the same time providing for the required buffering to adjacent uses. The expanded facility will cause an imperceptible increase in maintenance traffic compared to the existing facility. The relative small size of the site footprint will preserve ground for needed residential development in the neighborhood. The design allows for the continuation of NW Meadows across Baker Creek Road, from south to north along the eastern side of the substation. The facility takes advantage of, and abuts the existing BPA electric easement. The expanded facility meets this criteria.

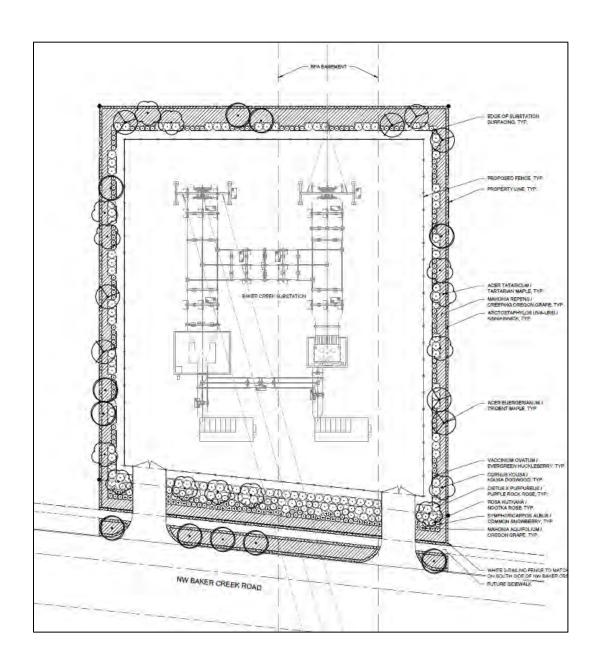
FINDING: SATISFIED WITH CONDITIONS #4, #5, AND #6. The City concurs with the applicant's findings. The City adds that the property immediately adjacent to the substation site is currently undeveloped and vacant. The surrounding properties on the north side of Baker Creek Road are currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision. These land use applications have not yet been approved so the specific uses are not yet know. However, the property immediately to the west and northwest is guided for Commercial land use on the Comprehensive Plan Map, and the property to the east and northeast is guided for Residential land use on the Comprehensive Plan Map. The existing Comprehensive Plan Map (as proposed under the concurrent Comprehensive Plan Map Amendment request (CPA 2-19)) is shown below:



The location and size of the site for the expanded electrical power substation have been planned to allow for continued growth and development of the surrounding property. The applicant is proposing to place the new substation equipment to the west of the existing equipment on the site, which will allow for NW Meadows Drive (designated as a minor collector street in the Transportation System Plan to the south of Baker Creek Road) to continue to the north across Baker Creek Road to serve the eventual residential uses in that area. The equipment will also be located on the subject site within a fenced area that is surrounded by a landscape planting area. The new equipment within that fenced area will be placed approximately 50 feet from the west property line, 40 feet from the south property line, and 50 feet from the north property line. The siting of the equipment at these distances from the property lines will provide for compatibility and minimal impact on the livability or appropriate development of abutting properties. In addition, as part of the recently completed property line adjustment (BLA 10-18), the eastern property line was shifted to the east by approximately 37 feet. This will increase the space and separation between the existing equipment on the site and the adjacent property to the east. The property to the east will most likely consist of an extension of the BPA Trail that

exists to the south of Baker Creek Road and an extension of NW Meadows Drive, and this additional space will provide for better buffering between the trail and public spaces and the substation equipment.

As discussed above, the design of the site will include a sight-obscuring fence surrounding the equipment and a landscaping area surrounding the perimeter of the sight-obscuring fence. The fence is described by the applicant as being a six foot high fence with one-foot barbed wire placed atop the fence. The applicant has provided documentation that Rule 110 of the National Electrical Safety Code (NESC) requires this height of fence and the barbed wire atop the fence. The sigh-obscuring fence is more specifically described as being a fence with colored slats inserted in the fence. The landscaping will placed around the perimeter of the fence, in a planting space that is 10 feet wide on the west, south, and east sides of the site, and 15 feet on the north side of the site. Within the landscaping area, the applicant is proposing a combination of trees, shrubs, and groundcover. The trees are proposed to be spaced throughout the perimeter of the site, somewhat grouped together at points. Trees are also proposed within the planting strip along Baker Creek Road on the south side of the subject site. Shrubs are proposed to be in a continuous row along the entire perimeter, and groundcover shrubs are proposed to fill out the remainder of the landscape area. The landscaping area on the south side of the site, which is adjacent to the Baker Creek Road public right-of-way, is proposed to be more densely planted, which will provide for better compatibility with the public sidewalk along Baker Creek Road. The landscape plan and landscape plan rendering can be seen below:





The applicant has stated that the landscaping was designed to meet NESC and McMinnville Water and Light safety and visibility standards. The shrubs that are proposed are a variety of evergreen shrubs and roses that will provide for year-round screening of the substation site. The shrubs that were previously around the existing facility's fence were a continuous row of arborvitae, which had caused security and visibility issues for McMinnville Water and Light staff. The proposed combination of different evergreen shrubs were chosen to deter potential unwanted access to the fenced area and decrease security concerns. There are also portions of the subject site that are subject to the existing BPA easement that limits the height of landscaping within the easement and underneath the overhead power lines. Therefore, there are no trees proposed to be located within the width of the BPA easement.

To ensure that the landscaping provides adequate buffering of the site from surrounding properties, a condition of approval has been included to require that the fencing be provided as proposed in the preliminary site plan and landscape plan. However, the condition of approval requires that the specific fence materials to be used be submitted to the Planning Director for review to ensure that they are compatible with and do not have a detrimental visual impact on surrounding properties. The condition of approval also requires that the shrubs proposed around the entire perimeter of the site be evergreen shrubs that include year-round vegetation for continuous screening. The condition of approval also includes that the tree species and varieties be of a species and variety that grow to a mature canopy height of no more than 25 feet, but that the species are also not so small that they don't provide visual screening above the top of the fence. The Landscape Review Committee will be responsible for ensuring that the specific tree and shrub species proposed will meet these minimum requirements during their review of the landscape plan at the time of building permit submittal. The fencing and landscaping area, along with the specific requirements of this condition of approval, will ensure

that the expansion of the electrical power substation will be compatible with and have minimal impact on the livability or appropriate development of abutting properties.

The applicant has also stated that lighting of the electrical power substation will be limited to maintenance and access lighting. A condition of approval is included to require that the lighting of the substation be as described in the applicant's narrative, specifically to be low-intensity, controlled by photo sensors, maintenance lighting only being used when required for maintenance or emergency repairs, being directed downwards, and being shielded to reduce glare outside of the facility. This condition of approval will ensure that the expansion of the electrical power substation will be compatible with and have minimal impact on the livability or appropriate development of abutting properties.

17.74.030(C). That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;

APPLICANT'S RESPONSE: The electric substation will positively impact livability, value and appropriate development of abutting properties of the surrounding area, as compared to other permitted development, by facilitating the expanded electric load demand caused by dense residential development and expected commercial development. As explained by the Memo of Jaime Phillips, Attachment 5, failure to expand the substation in light of the growth of permitted residential and commercial uses would likely lead to degraded electric service in the west McMinnville electric service areas.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the location, site, design, and operations of the substation facility will not cause any significant adverse impact on the livability, value, or appropriate development of abutting properties, based on the description of the location, site, design, and operations and the additional conditions of approval described in the finding for 17.74.030(B) above.

17.74.030(D). The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;

APPLICANT'S RESPONSE: By its nature, an electric substation is of a utilitarian design. However, the design of the expanded substation will be symmetrical and otherwise geometrically pleasing. Landscaping will be created to buffer and screen the facility, if not entirely obscuring the facility from outside view. In fact, Water and Light being a consumerowned utility, the neighbors and passers-by may take some pleasure in seeing the fruits of their investment in this consumer-owned facility.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the location, site, design, and operations of the substation facility will be as attractive as the nature of the use and its setting warrant, based on the description of the location, site, design, and operations and the additional conditions of approval described in the finding for 17.74.030(B) above.

17.74.030(E). The proposal will preserve environmental assets of particular interest to the community;

APPLICANT'S RESPONSE: No particular environmental assets appear on the site.

FINDING: SATISFIED. The City concurs with the applicant's findings.

17.74.030(F). The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes.

APPLICANT'S RESPONSE: The intended expansion is described in the Electric System Planning Study of 2015 and in the MW&L "Light" Budget (Attachment 13, p. 1-2 {p. 15-16}). The applicant has a well-established municipal utility purpose as described in the McMinnville Charter of 1971, as amended in 1978. The activities of the applicant are directed by the City of McMinnville, acting by and through its Water and Light Commission, a five-member board made up of the mayor and four appointed commissioners. The utility sets rates on a cost-of-service basis at public hearings and is prohibited by state law and its own policies from acting for speculative investment purposes.

FINDING: SATISFIED. The City concurs with the applicant's findings.

17.74.040. Placing Conditions on a Conditional Use Permit.

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions which it finds necessary to avoid a detrimental environmental impact and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include, but need not be limited to, the following:

- A. Limiting the manner in which the use is conducted including restrictions on the time a certain activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor;
- B. Establishing a special yard or other open space, lot area, or dimension;
- C. Limiting the height, size, or location of a building or other structure;
- D. Designating the size, number, location and nature of vehicle access points;
- E. Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way;
- F. Designating the size, location, screening, drainage, surfacing, or other improvement of a parking area or truck loading area;
- G. Limiting or otherwise designating the number, size, location, height and lighting of signs;
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding;
- I. Requiring diking, screening, landscaping, or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance;
- J. Designating the size, height, location, and materials for a fence;
- K. Protecting and preserving existing trees, vegetation, water resource, wildlife habitat, or other significant natural resource;
- L. Such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the intent and purposes set forth in this ordinance.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The applicant did provide suggested conditions of approval on Page 32 and 33 of the application narrative. However, those exact conditions of approval are not included in the City's decision on the conditional use application. The conditions of approval included are described in more detail above, and are specifically focused on the construction of right-of-way improvements in a timely manner with surrounding land uses, designating the size and materials for fencing and landscaping to ensure screening of the subject site, and limiting the type of lighting on the site to that described by the applicant in the application narrative.

Based on the application as proposed and submitted, together with the conditions of approval, the proposal avoids detrimental environmental impact, allow for the development of the City in an orderly and efficient manner, and protect the best interest of the surrounding area and the community as a whole.

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Planning Department

231 NE Fifth Street o McMinnville, OR 97128 (503) 434-7311 Office o (503) 474-4955 Fax www.mcminnvilleoregon.gov

CPA 2-19	
Office Use Only:	
File No.519-19-00018	7- Pina
Date Received 46019	
Fee 5,447.00	\$5,447.00
Receipt No. 200478	
Received by	

Comprehensive Plan Map Amendment/ Zone Change Application

Applicant Information Applicant is: X Property Owner □ Contract Buyer □ Option Holder The City of McMinnville, acting by and through its Applicant Name Water and Light Commission (McMinnville Water & Light)	□ Agent □ Other	
Contact Name Samuel R. Justice, General Counsel	Phone 503-435-3110	
(If different than above) Address_ 855 NE Marsh Lane, PO Box 638		
City, State, Zip_McMinnville, Oregon, 97128	3	
Contact Email_srj@mc-power.com	_	
Property Owner Name(Same as above) (If different than above) Contact Name Address	PhonePhone	
City, State, Zip	<u></u>	
Contact Email	<u>-</u>	
Site Location and Description (If metes and bounds description, indicate on separate sheet) Property Address1901 NW Baker Creek Road, McMinnville, OR 971	28	
	Site Area_1.22 acres	
Assessor Map No. R4 W T4S - 18 - 00101 Total		
Assessor Map No. <u>R4 W T4S - 18 - 00101</u> Total SubdivisionBlock		

	is request is for a: Comprehensive Plan Amendment Zone Change
1.	What, in detail, are you asking for? State the reason(s) for the request and the intended use(s) of the property.
	See attached Exhibit 1, Section B "Intended Use of the Property" for an explanation and reasons.
2.	Show in detail, by citing specific goals and policies, how your request is consistent with applicable
	goals and policies of the McMinnville Comprehensive Plan (Vol. 2)
	See the attached Exhibit 1, Section C - "Goals and Policies" for detailed showing.
3.	If your request is subject to the provisions of a planned development overlay, show, in detail, how the request conforms to the requirements of the overlay.
	As a contemporaneous application, MW&L is seeking to amend the planned development overlated to remove the overlay from the parcel. Therefore, if approved, the overlay will not apply.
	See Exhibit 1, Section D.1. answer to question No. 3, for additional explanation.

	
No P	lanned Development is sought.
See	attached Exhibit 1, Section D.1 answer to Question No. 4 for explanation.
	attached Exhibit 1, deaton b.1 answer to adostron no. 4 for explanation.
Conside how the	ring the pattern of development in the area and surrounding land uses, show, in deproposed amendment is orderly and timely.
See Ex	chibit 1, Section D.1. , for answer to Question No. 5.
	
	e any changes in the neighborhood or surrounding area which might support or war est
See Ex	hibit 1, Section D.1, for answer to Question No. 6.

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	See Exhibit 1, Section D.1, for answer to Question No. 7.
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- 0	rescribe, in detail, how the proposed use will affect traffic in the area. What is the expected trip eneration?
-	See Exhibit 1, Section D. 1, for answer to Question No. 8.
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ad	dition to this completed application, the applicant must provide the following:
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Planning Department

231 NE Fifth Street o McMinnville, OR 97128 (503) 434-7311 Office o (503) 474-4955 Fax www.mcminnvilleoregon.gov

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Office Use Only:	
File No.569-19-00188	-Plna
Date Received 4/2019	5
Fee \$3759.00	\$3,759.00
Receipt No. 200479	
Received by	

Comprehensive Plan Map Amendment/ Zone Change Application

Applicant is: X Property Owner Contract Buyer Option Holder The City of McMinnville, acting by and through its Water and Light Commission (McMinnville Water & Light)	□ Agent □ Other Phone 503-472-6158	
Applicant Name_Samuel R. Justice, General Counsel	Phone 503-435-3110	
(If different than above)	_ Priorie	
Address 855 NE Marsh Lane, PO Box 638	-	
City, State, Zip McMinnville, Oregon, 97128	<u>.</u>	
Contact Email_srj@mc-power.com	-	
Property Owner Information		
Property Owner Name (Same as above) (If different than above)	Phone	
Contact Name	Phone	
Address		
City, State, Zip		
Contact Email	2	
Site Location and Description (If metes and bounds description, indicate on separate sheet)		
Property Address1901 NW Baker Creek Road, McMinnville, OR 9712	8 — -	
Assessor Map No. R4 W T4S - 18 - 00101Total	Site Area 1.22 acres	
SubdivisionBlock_	Lot	

Th	is request is for a:
	☐ Comprehensive Plan Amendment ☐ Zone Change
1.	What, in detail, are you asking for? State the reason(s) for the request and the intended use(s) of the property.
	See attached Exhibit 1, Section B "Intended Uses of the Property" for an explanation and reasons.
2.	Show in detail, by citing specific goals and policies, how your request is consistent with applicable goals and policies of the McMinnville Comprehensive Plan (Vol. 2).
	See the attached Exhibit 1, Section C - "Goals and Policies"
3.	If your request is subject to the provisions of a planned development overlay, show, in detail, how the request conforms to the requirements of the overlay.
	As a contemporaneous application, MW&L is seeking to amend the planned development overla
	to remove the overlay from the parcel. Therefore, if approved, the overlay will not apply.
	See Exhibit 1, Section D.1, Question No. 3 for additional explanation.

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No Plani	ned Development	is sought.				
See atta	ched Exhibit 1, S	ection D.1, Qu	estion No. 4, f	or additional a	nswer.	

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See Exhib	t 1, Section D.1,	Question No. 5	, for answer.			
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See Exhib	t 1, Section D.1,	Question No. 6	6, for answer.	<u></u>	<u> </u>	

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Describe, in detail, how the proposed use will a generation?	affect traffic in the area. What is the expected trip
See Exhibit 1, Section D. 1, Question No. 8,	
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Planning Department

231 NE Fifth Street o McMinnville, OR 97128 (503) 434-7311 Office o (503) 474-4955 Fax www.mcminnvilleoregon.gov

PDA 1-	19
Office Use C	enly:
File No.56	1-19-000189-4 LING
Date Receive	ed 4/26/19 \$2,736.75
Fee 273	36.75
Receipt No.	200H8D
Received by_	K

Planned Development Amendment Application

Applicant Information	
Applicant is: ☑ Property Owner ☐ Contract Buyer ☐ C The City of McMinnville, acting by and thro Applicant Name and Light Commission (McMinnville Water	ugh its Water
Contact Name_Samuel R. Justice, General Counsel	Phone_503-435-3110
(if different than above) Address 855 NE Marsh Lane, PO Box 638	
City, State, Zip_McMinnville, Oregon 97128	
Contact Emailsrj@mc-power.com	
Property Owner Information	
Property Owner Name (same) (If different Ihan above)	Phone
Contact Name	Phone
Address	
City, State, Zip	
Contact Email	
Site Location and Description (If metes and bounds description, indicate on separate sheet)	ill- OD 07420
Property Address_1901 NW Baker Creek Road, McMi	nnville, OR 97128
Assessor Map No. R4 W T4S - 18 - 00101	Total Site Area_ 1.22 Acres
Subdivision	BlockLot
Comprehensive Plan Designation Commercial/Resider	itial Zoning Designation EF-80 / R-1

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See	Exhibit 1, Section B. for explanation of the the reason for the amendment a	nd planned
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how pals	n detail, by citing specific goals and policies, how your request is consistent and policies of the McMinnville Comprehensive Plan (Volume II): See Attached Exhibit 1, Section C, "Goals and Policies".	t with applic
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			neighborhood or surrounding area which migh at Section D.2 (4) for answer.

	See attached Exhibit 1, at Section D.2 (5) for answer.
	Describe, in detail, how the proposed use will affect traffic in the area. What is the expected trip
	generation?See attached Exhibit 1, at Section D.2 (6) for answer.
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Planning Department

231 NE Fifth Street o McMinnville, OR 97128 (503) 434-7311 Office o (503) 474-4955 Fax www.mcminnvilleoregon.gov

CU 2-19	
Office Use Only:	
File No. 519-19-000 F	10-ping
Date Received 4/2019	
Fee 82325.W	\$2,325.00
Receipt No. 200481	16. 14.
Received by	

Conditional Use Application

Applicant Information Applicant is: ☑ Property Owner ☐ Contract Buyer ☐ Option Holder	□ Agent □ Other		
The City of McMinnville, acting by and through its Applicant Name Water and Light Commission (McMinnville Water & Light	Phone 503-472-6158		
Contact Name_Samuel R. Justice, General Counsel (If different than above)	Phone_503-435-3110		
Address PO Box 638, 855 NE Marsh Ln.			
City, State, ZipMcMinnville, OR 97128			
Contact Emailsrj@mc-power.com			
Property Owner Information			
Property Owner Name (same as above) (If different than above)	Phone		
Contact Name			
Address			
City, State, Zip			
Contact Email			
Site Legation and Description			
Site Location and Description (If metes and bounds description, indicate on separate sheet)			
Property Address 1901 NW Baker Creek Road, McMinnville, O	R 97128		
Assessor Map No. R4 W T4S -18 -00101 Total Si	te Area_ 1.22 acres		

1.	State nature of the request in detail:
	See Exhibit 1, Section B, "Intended Use of the Property."
2.	Describe in detail how the request will be consistent with the McMinnville Comprehensive Plan and the objectives of the zoning ordinance:
	See Exhibit 1, Section C, Goals and Policies
3.	Describe how the location size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with, and have minimum impact on, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development:
	See Exhibit 1, Section D. 3, Question No. 3.
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	See Exhibit 1, Section D.3, Question No. 6.
7.	Explain how the development and use of the land as proposed has no inappropriate purpose, such as to artificially alter property values for speculative purposes:
	See Exhibit 1, Section D.3, Question No. 7.
n	addition to this completed application, the applicant must provide the following:
	A site plan* (drawn to scale, with a north arrow, legible, and of a reproducible size), clearly showing existing and proposed features within, and adjacent to, the subject site, such as: Access; lot and street lines with dimensions; distances from property lines to structures;
	structures and other proposed and existing improvements; north direction arrow; and
	structures and other proposed and existing improvements; north direction arrow; and significant features (slope, vegetation, adjacent development, drainage, etc.). *See Attachment 1. "site plan."
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A. HISTORY OF APPLICATION PROPERTY

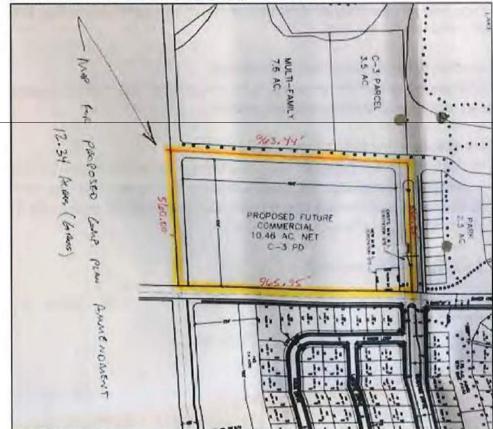
1. Annexation into City of McMinnville:

- The original substation lot, Tax Lot R4418-00101, was annexed into the City on 9-10-1977 by Ordinance 3881. The lot was approximately 0.26 acres and was co-located on the existing BPA high-voltage transmission easement.
- The Comprehensive Plan Map and Zoning Map from the early 1980s identified the site as being in a Residential Comprehensive Plan Map designation and zoned R-1 (Single Family Residential)

2. Comp Plan Amendment - CPA 2-96:

- In 1996, Ordinance 4633 amended a 12.34 acre portion of a parcel on the Comprehensive Plan Map on the north side of Baker Creek Road from residential to commercial. This amendment split the original substation lot in half for comprehensive plan map purposes between Commercial and Residential.
 - Ordinance 4633 also created a Planned Development overlay on the same property, with some conditions related to the form of development and uses.
 - Ordinance 4633 did not change the zoning of the site, and the acreage property still retains the county EF-80 zoning (eventually annexed in 2008 – see more below).
 - A map showing dimensions of the area proposed to be designated as commercial was included in the 1996 land use application file submitted by the applicant at the time. Part of that map is depicted below in Figure No. 1.
- 2 EXHIBIT 1 Answers to Questions (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

Figure No. 1 – 1996 Commercial – Planned Development Overlay



- The southern boundary of the new commercial area (965.95' dimension) extended from the Tax Lot R4418-00100's western boundary to a point that is within and near the center of substation lot (Tax Lot 101 as it existed).
- o It is noteworthy that at the time of the 1996 Comp Plan Amendment, Figure No. 1 shows plans for an expanded substation site. (See figure No. 1, above). The expanded substation use was shown within the commercial overlay designation.

3. Conditional Use Permit for Baker Creek Substation - CU 7-99:

- In 1999, the city granted MW&L a conditional use permit for the Baker Creek Substation (approval letter with original conditions attached here as Attachment 6).
- Findings of fact for that application stated that the subject site was designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential).
- The substation use was reviewed as a conditional use, as a "Utility transmission station" is a conditional use in a residential zone. Section 17.12.020 (a section of the R-1 chapter).
- Construction of the new Baker Creek substation took place in 2000. Electric load was first placed on the substation in January 2001.

4. Lot Line Adjustment

In 2002 tax lot 101 was expanded by lot line adjustment. (BLA ___-02). In 2002 the subject site was found to be designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential)

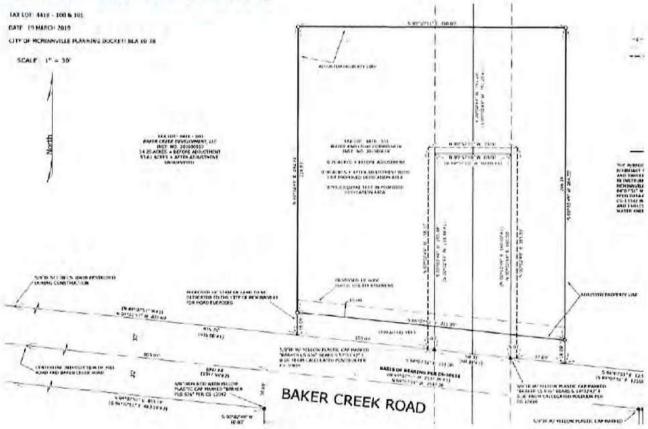
5. Annexation of Larger Baker Creek North Area:

 In 2008 the larger acreage surrounding the Baker Creek substation was annexed into the city (approved 7-22-2008 by Ordinance 4895).

6. Recent Property Line Adjustment - BLA 10-18:

In 2019 a lot line adjustment increased the size of the substation lot (Tax Lot 101) by
moving the west property line approximately 103' to the west, the north property line
to the north, and the east property line approximately 37' to the east. The lot now
fronts Baker Creek Road for about 210'.

Figure No. 2 – Substation Expansion Map



- The western property line has now been moved west and toward the area within the overlay zoned regulated in 1996 by CPA 2-96.
- 4 EXHIBIT 1 Answers to Questions (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

In summary, simultaneous applications are made for the following land use actions:

- Comprehensive Plan Map Amendment Amendment from the current mix of Residential and Commercial designations to Residential, only. Applicable review criteria for a Comprehensive Plan Map Amendment are found in Section 17.74.020 of the MMC. Findings for Comprehensive Plan Goals and Policies are provided (Per Section 17.74.020(A)) below in Section C of this Exhibit.
- 2) Zone Change Simultaneously with the plan amendment change to Residential, application is made for Zone Change of the entire parcel from a mix of R-1 and EF-80 to ALL R-1 (Single Family Residential). Applicable review criteria for a Zone Change are the same as those for the Comprehensive Plan Map Amendment, which are in Section 17.74.020 of the MMC. Findings for Comprehensive Plan Goals and Policies are also provided (Per Section 17.74.020(A)) in the application narrative, Section C, below.
- 3) Planned Development Amendment Simultaneously application is made to amend the Planned Development overlay created by Ordinance 4633 to remove the subject site from the overlay and reduce the size of the overlay to remove the substation lot (existing tax lot 4418-00101). Applicable review criteria for a Planned Development Amendment are in Section 17.74.070 of the MMC. The criteria are addressed below in section D.2 of this exhibit.
- 4) Conditional Use Permit Simultaneously with the other applications, application is made for a conditional use permit to expand the substation facility. Section 17.12.020(L) of the MMC identifies "Electrical power substation" as a conditional use¹ in a R-1 zone. The level of review and compatibility of the substation with the future commercial, residential and park uses that will surround this site will be based on the conditional use review criteria in Section 17.74.030 and 17.74.040 of the MMC. The criteria are addressed in section D.3 of this exhibit.

B. INTENDED USE OF THE PROPERTY.

1. PROJECT DESCRIPTION SUMMARY

This section addresses the application question: What, in detail, are you asking for? State the reason(s) for the request and the intended use(s) of the property.

1.1 Baker Creek Substation Facilities and Expansion

This section describes the intended construction, operation, and maintenance of an expanded substation, the associated transmission and distribution lines, and the telecommunication system for the Proposed Project.

¹ Electric Substations are only a permitted use in McMinnville's Industrial zones. Strictly limiting substations to industrial zones would create inefficiencies in delivery of electric service to residential and commercial zones.

^{5 -} EXHIBIT 1 - Answers to Questions (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

1.1.1 Substation Description

Currently, MW&L's Baker Creek substation consists of electrical equipment needed to operate the substation, underground distribution circuits leaving the substation, a perimeter fence surrounding the substation equipment with a gate(s) to provide access in and out of the substation. As currently configured, the substation footprint within the fence is approximately 0.26 acres. As expanded, the substation footprint (area contained within the substation perimeter fence) is approximately 0.87 acres. The total area of the expanded substation including a buffer area (area outside the substation perimeter fence) is approximately 1.22 acres.

1.1.1.1 Reasons/Intended use. The substation will be used to transform high voltage electricity to medium voltage electricity, prior to the current being switched onto electric lines for transmission in neighborhoods. The expanded site is needed to host a second transformer and related switchgear to serve the expanding residential and commercial development in northern and western McMinnville.

1.1.2 Substation Equipment

The expansion essentially doubles the existing substation facility. As expanded, the substation will be an unmanned, automated, 115/12 kV substation containing a 115 kV switchrack, two 20 MVA 115/12 kV transformers, and two 12 kV metalclad switchgears. The substation will be served from two 115 kV transmission source lines. There are four existing 12kV distribution circuits and four additional 12 kV distribution circuits will be constructed. The exact location and routing of these proposed circuits have yet to be determined, but will be in a utility easement. These circuits will be designed to meet future electrical demand.

The 115 kV switchrack will be an operating and transfer bus configuration with two line breakers and two sets of group disconnects. The bus-tie position will have one circuit switcher and one set of group disconnects. There is one existing 12 kV metalclad switchgear and there will be one additional new 12 kV metalclad switchgear. The two 12 kV metalclad switchgears will be prefabricated metal buildings measuring approximately 12 feet high, 35 feet long, and 15 feet wide to house an operating and transfer bus configuration each with four breakers supplying the underground 12 kV distribution circuits, a bus tie breaker, as well as relay panels, battery and battery charger, AC and DC distribution switchboards, and telecommunications equipment. The substation will be equipped with a substation automation system which includes two remote terminal unit (RTU) racks and equipment panels with system protection and control equipment.

All equipment and structures at the substation will be electrically grounded in accordance with the National Electric Safety Code "NESC" (as adopted by the Oregon Public Utility Commission) and industry standards.

1.1.3 Substation Lighting

The proposed substation will have access and maintenance lighting. The access light will be low-intensity and controlled by photo sensors. Maintenance lights will consist of LED lights located in the switchracks, around the transformer banks, and in areas of the substation where maintenance activity may take place. Maintenance lights will be used only when required for maintenance outages or emergency repairs occurring at night. Maintenance lights will be controlled by a manual switch and will normally be in the off position. The lights will be directed downward and shielded to reduce glare outside the facility.

1.1.4 Substation Landscaping

The substation site will be landscaped following construction. Approximately 25% of the site is designed to be outside the screen fencing and will be available for landscaping. A portion of this includes area in the R.O.W., anticipated for sidewalk and planting strip (~8% of total area). As the surrounding area develops, the substation landscaping in a form as attached as **Attachment 2** ("landscape plan") will be implemented consistent with community and city standards, consistent with NESC/OPUC/MW&L safety standard, and as required with approval of the Landscape Review Committee.

1.1.5 Substation Perimeter Features

To screen the substation from the public and to secure the facility, the substation will be enclosed on all four sides by a minimum 6 foot high perimeter fence (with one-foot barbed wire atop), with inserted colored slats consistent with the landscape plan. The metal access gate(s) will be approximately 20 feet wide and also a minimum of 6 feet high. All perimeter fences and gates will be fitted with barbed wire for increased security. See Attachment 12 (OPUC substation fencing requirement). Landscape trees will be placed at NESC/OPUC required distances from the fencing.

1.1.6 Site Access

The substation will be accessed by two 20-foot wide asphalt concrete paved driveways connecting to Baker Creek Road. The substation entrance will have locked gates for two-way traffic access to the substation.

C. GOALS AND POLICIES

Show in detail, by citing specific goals and policies, how your request is consistent with applicable goals and policies of the McMinnville Comprehensive Plan (Vol. 2).

PROPOSED CONCLUSORY FINDINGS:

1. COMMERCIAL DEVELOPMENT

GOAL IV 2: TO ENCOURAGE THE CONTINUED GROWTH OF McMINNVILLE AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.

21.01 The City shall periodically update its economic opportunities analysis to ensure that it has within its urban growth boundary (UGB) a 20-year supply of lands designated for commercial and industrial uses. The City shall provide an adequate number of <u>suitable</u>, <u>serviceable sites in appropriate locations</u> within its UGB. If it should find that it does not have an adequate supply of lands designated for commercial or industrial use it shall take corrective actions which may include, but are not limited to, re-designation of lands for such purposes, or amending the UGB to include lands appropriate for industrial or commercial use. (Ord.4796, October 14, 2003) (emphasis added).

FINDING: The application approval and proposed substation use is consistent with Policy 21.01 in that the application facilitates suitable and serviceable sites for commercial uses in the north and west of McMinnville. While approval of this application(s) would arguably move ~.8 acres of land on the Comprehensive Plan Map and in the applicable zone to residential use from commercial use, the applied-for conditional use (electric substation) would also function to facilitate commercial uses by providing additional electric capacity. Note the Electric System Study, 2015, that indicates fully loaded electric feeders and a need for another substation to serve the north and west of the city. **Attachment 4** at page 15, (Table 2-1; 2-7).

Even if the proposal reduces commercial land on the comprehensive plan map by increasing residential land, it has no net effect on available commercial land for actual development. The 1996 Comp Plan amendment establishing the commercial area, also anticipates the expanded substation site. See Diagram on page 2, infra. The substation use serves and enhances adjacent commercial use by providing electric load capacity for development.

While the conclusions of the City's adopted Economic Opportunities Analysis, indicates that there is a need for approximately 36 additional acres of commercial land during the planning period (2013-2033) the proposed substation, even under a residential plan map designation, is consistent with fulfillment of that need. Whether the property is zoned commercial or

residential the space will be needed for the utility use. The plan map divides the lot between commercial and residential. The buildable lands inventory identifies both types of land (Comm. and Residential) in short supply. However, the actual use of the property, as an expanded substation will support both commercial and residential development. Consolidating the entire lot to residential plan map designation will allow for uniform planning while supplying utility (electric) needs for both types of use. The Residential designation and zone is more restrictive for land use purposes and is the better choice. The proposed conditional use (utility substation) of the property in a residential zone supports the immediate area for suitable and serviceable commercial sites. (See map of substation facilities Attachment 1, site plan (surrounding area currently undeveloped)).

GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALLY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.

Locational Policies:

24.50 The location, type, and amount of commercial activity within the urban growth boundary shall be based on community needs as identified in the <u>Economic Opportunities</u> Analysis. (Ord.4796, October 14, 2003)

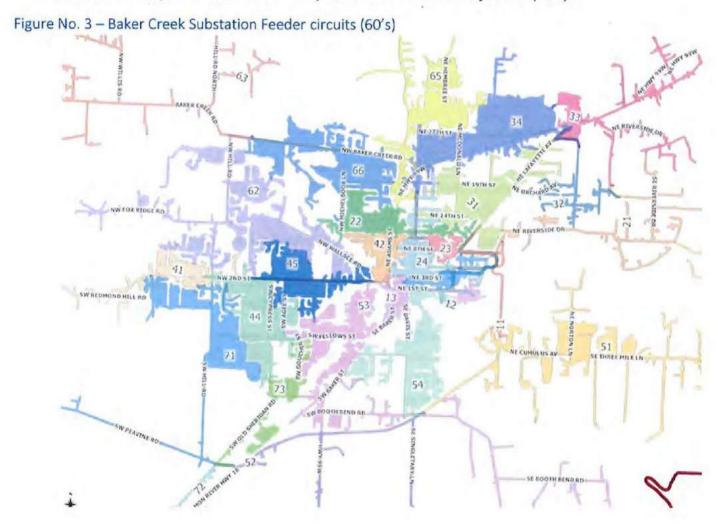
FINDING: The proposed application is consistent with Goal IV 3 and policy 24.50 in addressing the 2013 Economic needs analysis which describes the need for commercial uses by providing additional electric transmission and distribution infrastructure to allow higher density of site utilization. The Economic needs analysis provides as follows:

"Because much of the recent and anticipated continued demand for commercial uses will come from office-related uses including professional, financial, consumer, and health care service activities, the goal statement and/or implementing policies might also be modified to more explicitly address needs for a broad range of service-related functions including professional, business, financial and medical services. Due to the increasing shortage of commercial land, it can be anticipated that future development may begin to involve more redevelopment sites at higher densities of site utilization than has occurred in the past — as reflected in revised forecasts for higher overall commercial employment densities than previously targeted." McMinnville Economic Opportunities Analysis (Final Draft), 2013, page 72.

The proposed application and substation facility provide for the anticipated higher demand on the electric system in the north and west part of the City and will thereby allow a higher density of site utilization for commercial development.

25.00 Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.

FINDINGS: The proposed plan amendment, zone change, and conditional use within a residential zone (electric substation) is consistent with this policy as providing for electric services prior to the subsequent commercial development and being supportive of nearby commercial development in areas served by Baker Creek Substation feeders (60's).



10 - EXHIBIT 1 - Answers to **Questions** (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

"Based on the best available growth forecasts and information on growth areas, feeders 31, 34, 62, and 65 are all likely to see load growth. These are heavily loaded feeders served by heavily loaded substation transformers with limited or no ability to transfer existing load to lightly loaded substations. A majority of the available MW&L transformer and circuit capacity is at East McMinnville #2 and Gormley substations; without major circuit reconfigurations, this capacity cannot be utilized for load growth on the north and west sides of town. If load develops in these areas as expected, single contingency criteria may not be met during peak events for transformer outages at these locations. It is recommended that MW&L be prepared for one of the following options as load growth occurs: * * * * Expand Baker Creek Substation and add new transformer."

Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen. Attachment 4, page 15 (Table 2-1; 2-7).

Locating the substation prior to build out of commercial development is orderly and advantageous to the commercial development. The new substation will provide a reliable base of power for development of various sizes. The placement now, prior to other development, allows surrounding future commercial development to place and scale itself in light of the known substation use.

The predicted need for additional substation capacity to serve commercial growth is further supported factually by **figure No. 6** (below), showing anticipated housing units within the effected "feeder" areas on the north and west sides of town.

According to the 2015 study, expansion of the Baker Creek Substation is one of three alternatives available to MW&L to provide for increase electric load in the north and west McMinnville and will not require the cost of "major circuit reconfigurations" and is the only alternative not involving constructing an entirely new substation facility to support both anticipated commercial and high-density residential development.

HOUSING OPPORTUNITIES.

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

General Housing Policies:

58.00 City land development ordinances shall provide opportunities for development of a variety of housing types and densities.

FINDINGS: The most recent Buildable Land Inventory indicates a shortage of residential land. The Residential Buildable Lands Inventory, 2001, identified a need for additional land for housing uses. That inventory, which was titled the McMinnville Residential Land Needs

Analysis and Growth Management Plan, identified a deficit of ~860 acres of land for housing in Table 6-3. More specifically, the analysis identified a need of 129 acres of R-1 (Low Density) zoned land. See below Figure No. 4. This application and related applications (Comp Plan Amendment, Zone Change), is consistent with this policy in that it seeks to add residential land to the inventory.

Figure No. 4 - Table 6-2 - Additional Land for Housing; Table 6-3 Total Acres needed.

Table 6-2. Additional land needed for housing in the McMinnville UGB, 2000-2020

Zone	Additional Dwelling Unit Need	Gross Density	Needed Gross Acres	Net Density	Needed Net Acres
R-1	348	2,7	129.0	3.6	95.6
R-2	588	4.9	120.0	6.5	90.4
R-3	653	4.8	136.1	5.5	119.7
R-4	588	9.2	63,9	10.7	55.1
All Other Zones	0	na	na	na	na
Total	2,178	4.8	449.0	5.9	369.1

Source: ECONorthwest, 2000

Table 6-3 shows total residential land need from 2000 to 2020. Including parks and schools, we estimate total need for land designated for residential uses at 861 gross acres.

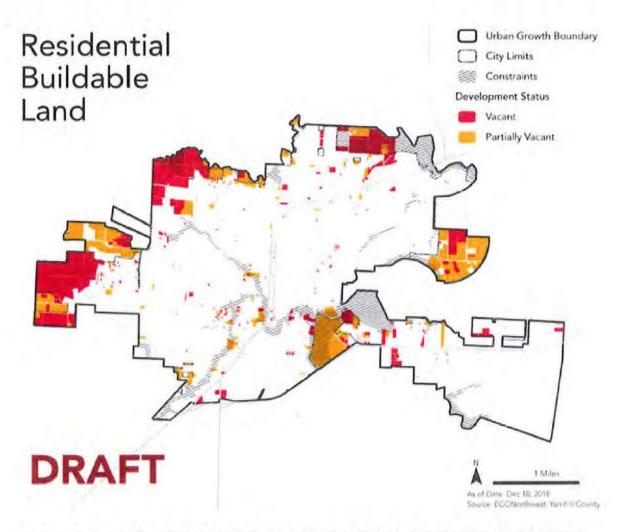
Table 6-3. Total additional acres needed in the McMinnville UGB, 2000-2020

Category	Needed Gross Acres
New housing	449.0
Parks	250.0
Schools	96.0
Private Schools	1.3
Religious	41.6
Government	8.0
Semi-Public Services	19.6
Infrastructure	2.3
Total	860.6

Source: City of McMinnville, ECONorthwest

FINDING: As demonstrated by Figure No. 5 (below), the available residential land is located in the north and west parts of the city. Note that much of the available residential land in the north-east, is under "constraints."

Figure No. 5 – Map – Residential Buildable Land 2018



Applicant's Comprehensive Plan Map amendment and other applications are consistent with this policy, because the slight reduction in commercial land will not meaningfully impact the deficit of commercial land identified in the 2013 Economic Opportunities Analysis and the additional residential land will result in a reduction in the deficit of residential land identified in the 2001 McMinnville Buildable Land Needs Analysis and Growth Management Plan. Therefore, on balance the Comprehensive Plan goals and policies related to the provision of opportunities for the development of a variety of housing types and densities (Policy 58.00) and opportunities for multiple-family

developments to encourage lower-cost housing (Policy 59.00) would be satisfied by the proposed Comprehensive Plan Map amendment.

The application(s) is consistent with policy 58.00 in that it(they) provides for the expansion of an existing substation which will provide capacity for a wide range of housing types and densities. The current substation is at near capacity and if no action is taken, variety and expanse of development may be limited. See, Attachment 4, page 15 (Table 2-1; 2-7). (Electric System Study, 2015); See also Memo of Jaime Phillips, Senior Power Analyst, Attachment 5 (Baker Creek substation is at operational load capacity).

59.00 Opportunities for multiple-family and mobile home developments shall be provided in McMinnville to encourage lower-cost renter and owner-occupied housing. Such housing shall be located and developed according to the residential policies in this plan and the land development regulations of the City.

FINDING: The application is consistent with this policy 59 for the following reasons:

The McMinnville Buildable Lands and Housing Needs Analysis (Housing Needs Analysis) recognizes that housing costs include utilities (as a cost). See the EconNorthwest Housing Needs Analysis at page 12 (Nov. 2018). Households that spend more than 30% of their income on housing and certain utilities are considered to experience cost burden. Cost burden is a concept used by HUD. Utilities included with housing cost include electricity. Reduced electricity costs makes housing more affordable.

"For housing to be considered affordable, a household should pay up to one-third of their income toward rent, leaving money left over for food, utilities, transportation, medicine, and other basic necessities." <u>McMinnville Buildable Land Inventory and Housing Needs</u>
<u>Analysis</u> (BLI and Needs), page 28.

Current MW&L electric infrastructure in the north and west of McMinnville is at or near load capacity. <u>See</u> Electric System Planning Study (2015), Attachment 4, page 15; Figure 2-1; 2-7 (recommending expansion of Baker Creek Substation) and at Attachment 4, page 53; <u>See also</u>, Memo of Jaime Phillips, Senior Power Analyst (Attachment 5). The figure above (map showing Residential Buildable Land) shows that a large portion of residential buildable land is on the north and west side of town.

Expansion of an <u>existing</u> substation as proposed by the application is consistent with providing lower cost renter and owner-occupied housing across the McMinnville rate base (all rate payers). Expansion of the existing substation, takes advantage of existing electric transmission lines, and existing feeder lines. An expansion of an existing facility can be

done at lower cost than construction of new substation. <u>See Electric System Planning Study 2015</u> (three alternatives showing estimate costs). The proposed Baker Creek Substation expansion is the least-cost alternative. MW&L provides electricity to customers at rates established on a cost-of-service. <u>See Memo of Jamie Phillips</u>, **Attachment 5**. Lower cost of electric infrastructure will mean lower electric utility rates as a cost of housing for all rate payers.



Figure No. 6 – Substation and Feeders – Projected Housing Growth – North and Wes

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

FINDING: Approval of the applications meets policy 68.00. Expansion of an existing substation adjacent to existing residential areas, avoids the need to site a new substation in a location not already devoted to the electric energy use. This site makes good use of existing infrastructure and reduces the footprint per transformer. A new transformer in a new location would require additional set back, security fencing and shielding. The amount of land devoted to each transformer can be reduced by siting two transformers side by side.

Urban Policies:

99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan.

FINDING: Approval of these applications (for substation expansion) is consistent with Policy 99.00 because, according to the 2015 Electric System Planning Study, the expansion will provide a more adequate level of electric utility services to the growing residential areas in the northern and western parts of McMinnville. The expansion is an example of the Water and Light Commission's timely and orderly steps to meet the Commission's organic responsibilities as set forth in the City Charter of 1971. Those responsibilities, in part, are as follows:

[to provide] electric generating plants and system with all necessary plants or facilities of a character and capacity sufficient to furnish to the City of McMinnville * * * electric energy as may be called for, or required by any consumer, * * * *

Section 51, McMinnville Charter, 1971, as amended 1978.

3. TRANSPORTATION

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.

REGIONAL MOBILITY

132.28.00 A balanced system of transportation facilities and services shall be designed for the McMinnville planning area to accommodate the mobility needs of residents, businesses, and industry. (Ord. 4922, February 23, 2010)

FINDING: Expansion of the proposed substation (as result of this application) is consistent with policy 132.28.00 in accommodating the mobility needs of McMinnville residents through electric vehicles.

The Oregon Governor's EO 17-21 (Attachment 3) directs state agencies to use available state funds "to develop and maintain electric vehicle charging stations with a focus on connecting rural communities, low-income communities, and Oregonians living in multi-family homes, . . . " McMinnville's planned densification of housing, when combined with increased electric demand from electric vehicles will be served by the expanded substation facilities. Expanded electric substation capacity is consistent with low cost residential/energy/utility policies. The proposed plan amendment, zone change, conditional use permit, and amendment to Planned Development overlay will all promote the Governor's EO, and transportation plan supporting development of electric vehicles by providing for sufficient electric load capacity.

TRANSPORTATION SUSTAINABILITY

132.37.00 Through implementation of the TSP and the Comprehensive Plan, the City of McMinnville will, to the extent possible, seek measures that simultaneously help reduce traffic congestion, pollution, crashes and consumer costs, while increasing mobility options for non-drivers, and encouraging a more efficient land use pattern. (Ord. 4922, February 23, 2010)

FINDING: Approval of the application is consistent with policy 132.37.00 by expanding electric capacity and facilitating the use of electric vehicles which will reduce carbon emission by encouraging use of electric energy in all sectors, including transportation.

A 2018 University of Michigan study (RELATIVE COSTS OF DRIVING ELECTRIC AND GASOLINE VEHICLES IN THE INDIVIDUAL U.S. STATES MICHAEL SIVAK BRANDON SCHOETTLE) indicates that currently battery electric vehicles (BEVs) are relatively cost effective in Oregon, and may be expected to be an ever-increasing percentage of the transportation sector in Oregon.

Attachment 14 (at 2018 prices in Oregon, gas vehicles would need to get 76 mph to compete with cost of electricity as fuel).

ENVIRONMENTAL PRESERVATION

132.46.10 Clean Burning Fuels – The City should support the use of clean burning and/or renewable fuels through regional organizations (see U.S. Environmental Protection Agency guides). (Ord. 4922, February 23, 2010)

FINDING: Approval of this application is consistent with policy 132.46.10 by expanding electric substation facility which will facilitate the use of renewable electric fuel for transportation and other uses.

The substation expansion approval is consistent with cleaning burning and renewable fuels. Oregon DEQ notes on its website that "[e]lectrically powered lawn and garden tools produce essentially no pollution from exhaust emissions or through fuel evaporation." <u>See</u> https://www.oregon.gov/deq/aq/Pages/for-Cleaner-Air.aspx

4. ENERGY

GOAL VIII 1: TO PROVIDE ADEQUATE ENERGY SUPPLIES, AND THE SYSTEMS NECESSARY TO DISTRIBUTE THAT ENERGY, TO SERVICE THE COMMUNITY AS IT EXPANDS.

Policies:

171.00 The City of McMinnville shall continue to examine land use decisions in the light of present and projected supplies of electrical, fossil fuel, and other sources of energy.

FINDING: This application approval is consistent with policy 171.00 in providing additional transformer capacity to move the anticipated demand for electrical energy to neighborhoods and commercial areas in the city. The Electric System Planning Study, 2015, specifically

recommends the expansion of the Baker Creek Substation. <u>Electric System Planning Study</u> 2015, <u>Triaxis Engineering Written: Michael Antonishen</u>. **Attachment 4**, page 15-7 (Figure 2-1; 2-7; Recommendations). This study further explains that McMinnville is experiencing levels of electric load at the current Baker Creek Substation that currently requires shifting load to other facilities. Electric System Planning Study, Attachment 4, at page 53; Table 6-2. Application approval is consistent with an examination of land use decisions in light of future electrical supply as described in the 2015 study.

Current projections indicate that peak load residential load is expected to grow with additional housing being developed on the west side of the City. <u>See</u> Memo, Jaime Phillips, Senior Power Analyst, McMinnville Water and Light (**Attachment 5**).

Application approval and resulting substation expansion will not impact the supply of electricity or other sources of energy. Until 2028, MW&L's supply is primarily provided by contract with the Bonneville Power Administration. However, approval of the substation expansion will increase the localized ability of MW&L to transmit available electric energy into the growing west and north sections of the city.

173.00 The City of McMinnville shall coordinate with **McMinnville Water and Light** and the various private suppliers of energy in this area in making future land use decisions.

FINDING: Review for approval of this application, and the required neighborhood meeting, and the public hearing process demonstrates coordination between the City and MW&L that is consistent with policy 173.00. The City routinely seeks comment from MW&L prior to land use decisions. MW&L comments on land use applications that appear to impact its utility purposes and facilities. The City's approval of these application demonstrate an effort to coordinate with MW&L. Applicant foresaw the need of the City in its related lot line adjustment (BLA 10-18) transaction, and dedicated real property to widen Baker Creek Road in front of the substation (Attachment 8) and also granted a public utility easement (Attachment 9) during that process. These preemptory conveyances by applicant in anticipation of the City's needs is also consistent with coordination between the City and applicant (Water and Light).

174.00 The City of McMinnville shall continue to support the long-range planning efforts of McMinnville Water and Light to supply the electrical energy needs of the community.

FINDING: Approval of this application is consistent with support of MW&L's long-range planning efforts as expressed in Applicant's <u>Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen ("the Study")</u>. <u>See Attachment 4</u>, page 15; Figure 2-1, 2-7 (Recommendations).

The 2015 Electric Systems Planning Study and the MW&L capital plan (as set forth in the MW&L "Light" budget. Attachment 13, p. 15-16) are indicators of long-range planning efforts by MW&L on behalf of the City of McMinnville to supply electrical energy needs of McMinnville. The Study indicates that expansion of the Baker Creek Substation is a recommended alternative to supply needed electrical energy to the north and west part of the city.

The City's extension of public utility easements adjacent to Baker Creek Road (when this is done as a requirement for adjacent development), creating transmission access to the substation, is also evidence of the City's continuing support MW&L long range planning.

Approval of this application will fulfill this policy as the expansion of the Baker Creek Substation follows MW&L's long-range planning efforts to serve the community's energy needs. Serving the community's electric energy needs is also one of Water and Light's primary responsibilities to the City of McMinnville as expressed in the City Charter.

The University of Michigan study (**Attachment 14**) indicates that consumer demand for electricity to fuel electric vehicles is also likely to increase. The City's approval of these applications is also supportive of serving the long-term needs of the community for electricity as a transportation fuel.

175.00 The City of McMinnville, recognizing McMinnville Water and Light, Northwest Natural Gas, and other private suppliers as the agencies or groups responsible for energy distribution, encourages the extension of energy distribution services within the framework outlined below:

<u>Proposal 1</u>. Sufficient supplies of energy as determined by McMinnville Water and Light, Northwest Natural Gas, and other groups are available to meet the demands of existing residential, commercial, and industrial consumers.

FINDING: This application is consistent with policy 175.00 and proposal No. 1 and the most recent Electric System Planning Study (2015) which study indicates that there is a need in the north and west of the city for additional substation capacity, and that the least cost option is the expansion of the Baker Creek substation. See Electric System Planning Study, Attachment 4, page 15, (Figure 2-1;,2-7). The Memo of Jaime Phillips, Attachment 5, indicates that the expanded substation is needed to serve the localized growing electric load in the west side of McMinnville.

By <u>Executive Order</u> (EO) the Oregon Governor has directed state agencies to make electric vehicle charging stations available in newly constructed commercial and residential areas. This EV requirement will increase the electric load in these areas of new construction. The expanded substation facility will serve this expanded load. In part the EO reads:

"The appropriate advisory board(s) and the Department of Business and Consumer Services Building Codes Divisions (BCD) are directed to conduct code amendment of the state building code to require that parking structures for all newly constructed residential and commercial buildings are ready to support the installation of at least a level 2 EV charger by October 1, 2022. " Gov. Brown, <u>EO 17-21</u>, November 6, 2017, Attachment 3.

Additional electric load capacity provided by the expanded substation is consistent with support of providing sufficient supplies of electric energy as demanded by consumers. See Section 51, City Charter of McMinnville (Water and Light Commission specific responsibility includes "electric energy as may be called for, or required by any consumer").

Proposal 2. Facilities are planned in such a manner as to insure compatibility with surrounding land uses.

FINDING: Approval of the application is consistent with policy 175.00 and proposal No. 2, in that the planned additional facilities are similar to the existing substation facilities, and along an existing high-voltage electricity transmission easement corridor. Current land use around the substation is agricultural, park, and residential. A BPA high voltage 60-foot-wide electric transmission easement runs north to south through the substation parcel. See Map.

Attachment 1. The expanded substation use is consistent with the current uses.

MW&L has also developed a landscape plan to make the facility more compatible with the anticipated surrounding park, commercial and residential uses. See MW&L Landscape plan, ATTACHMENT 2.

The surrounding residential and commercial land uses, to an ever increasing degree, rely on electric energy. The electric substation is integral to the MW&L electric system supplying energy to the customers that work and live in the surrounding areas. Electric energy is both compatible and integral to both commercial and residential uses.

176.00 The City of McMinnville shall carefully consider the environmental impacts of the location and design of energy system facilities to minimize or eliminate adverse effects on residential, farm, and natural areas.

FINDING: This application and approval is consistent with this goal in that the application is supported by the site plan (Attachment 1) and landscape plan (Attachment 2) by TriaAxis Engineering. Design standards of the expanded facility take into account state of the art environmental protections for the expanded facility.

The expanded facility will include environmental protections. The protection (relating to the proposed new equipment) will include a secondary containment structure to catch oil that might leak from the new transformer. MW&L also maintains a current engineer-certified Spill, Prevention, Control and Countermeasures Plan. It is also noted that the Baker Creek substation is at a significant and safe distance from the nearest stream (Baker Creek), some 1,300 feet.

The applicant has identified four hazardous conditions that can occur at a power substation. The first one is the release of mineral oil from electrical equipment. To ensure that equipment failure does not occur due to the release of oil, the equipment has automatic monitoring systems to notify MW&L 24 hours a day if mineral oil is released. In addition, MW&L has designed the new substation with an oil catch basin. Any spills will be cleaned up and reported to appropriate agencies. The second identified hazard is called an arc flash. An arc flash is an electrical explosion or discharge that results from a low impedance connection through the air to ground or another piece of equipment in an electrical system. The applicant proposes to install equipment to minimize the hazards with potential arc flashes. The third hazard is catastrophic failure, which is caused when an electrical power transformer fails and the mineral oil is ignited. The system is designed to allow the transformer to burn until it selfextinguishes. The substation is designed with separation between equipment to ensure that if a transformer ignites, neighboring pieces of equipment should not be involved in the fire. The final hazard is the potential for individuals trespassing on the property. The substation is highvoltage. The proposed substation will upgrade the security measures at the site to preclude trespass. These measures include:

- 1) A new security fence with mini-mesh (small chain link) metal and topped with barbed wire.
- Landscaping which reduces areas where intruders may hide behind screening from MW&L personnel or patrolling law enforcement. See Attachment 2, ("landscape plan"); See OPUC, Substation Security, Attachment 12.
- Locks on all gates.
- 4) Future installation of onsite closed circuit television to monitor unauthorized access and theft related incidents from offsite.
- The control enclosure will also have an electronic card credential reader and a monitored alarm.
- 6) Animal guarding will be installed at key locations around the station to prevent electrocution of small animals and birds that might come near the medium and high voltage equipment.

The applicant has considered the hazardous conditions that can be created by the proposed facility and has designed the substation to limit or prevent hazardous conditions that could affect the surrounding property owners. The required criterion to approve the application are met.

Proposals:

31.00 The City of McMinnville should require energy system facility sites to be compatible in appearance with surrounding land uses either through landscaping or other screening methods.

FINDING: Applicant's landscape plan (Attachment 2) and review by Landscape Review Committee is consistent with Proposal 31.00. Applicant will also site the facility in a safe manner consistent with NESC(National Electric Safety Code) and Oregon Public Utility Commission rules that provide for the safety and security of substations, also making the facility compatible with neighboring uses.

32.00 The City of McMinnville should zone, or otherwise regulate, **land uses around** future energy system-related sites to ensure compatibility with the site.

FINDING: The surrounding uses are currently zoned EF-80, but are anticipated to be zoned residential and commercial. An expanded substation has been evident at this site since the 1996 Comprehensive Plan Amendment (above at page 3). Because the substation is being placed prior to other development, the City may also regulate the incoming surrounding uses to make them compatible with the substation use. This may be done through the use of additional screening, placement of streets, drainage swales, and parking lots.

34.00 Proposed extensions of energy system facilities should be coordinated with the extension of other facilities (sewer and water, telephone lines, storm drainage, etc.) where necessary to ensure provision of full urban services to developable areas within the urban growth boundary.

FINDING: This approval is consistent with Proposal 34.00 in that the application is taking place prior to, or concurrently with surrounding development. The land for the expansion of the substation was purchased from the adjacent developer, Baker Creek Development, LLC (BCD). An expanded substation was foreseen in the 1996 Planned Development Overlay. As part of the recent transaction, BCD contracted with the applicant to require the applicant to dedicate additional R.O.W. to the City of McMinnville, and to grant a 10-foot-wide Public Utility Easement across the applicant's frontage on Baker Creek Road for public utility use (by Applicant and other utilities) (Appendices 8 & 9). In addition, as part of the transaction, BCD granted to Applicant additional "bump out" utility easements (Attachment 7) on the adjacent property west of the Applicant's parcel-electric substation for electric utility vaults. These

"bump out" easements were acquired by Applicant (MW&L) in addition to the PUE spaces in part to allow more intensive electric utility development on the parcel without conflict with other utilities using the PUE space.

5. CITIZEN INVOLVEMENT

GOAL X1 TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

Policy 188. 00_The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

<u>Finding:</u> Goal X1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

Applicant solicited input from neighbors (direct mail **Attachment 15**; Public Notice **Attachment 17**) and conducted a neighborhood meeting on March 27, 2019 (See attendee list as **Attachment 18**). No neighbors attended the meeting and no public comment was gathered.

- D. CODE CRITERIA: The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:
 - 1. COMP PLAN MAP AND ZONE CHANGE CRITERIA

17.74.020 Comprehensive Plan Map Amendment and Zone Change - Review Criteria.

An amendment to the official zoning map may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

Question No. 1: Intended use (addressed above in detail).

Question No. 2: Consistent with the goals and policies of the Comprehensive Plan;

FINDING: As discussed in the conclusory findings, the application is consistent with facilitating both commercial and residential development in the north and west of McMinnville at higher densities anticipated to come with future development. Expansion of the existing substation was recommended by the 2015 Electric System Planning Study to address growth in the north

and west sectors of the City. The substation expansion is consistent with the city's support of a reliable supply of electric energy, renewable energy, less pollution, and a healthy environment. Expanding the current Baker Creek Substation will be at a lower cost than other alternative. Utility costs are part of housing costs. The lower cost of the proposed expanded substation (relative to other options) will promote the goal of affordable housing. The expansion is compatible with surrounding uses at it takes advantage of the existing 60-foot wide BPA easement and the expansion will occur before neighboring development which will allow those neighboring uses to deploy effective buffering strategies. Applicant has proposed a landscaping plan that provides for screening and compatibility with the existing uses and future neighboring use, while minimizing the footprint and providing for the safety and security of this high-voltage facility.

Question No. 3: Subject to Planned Overlay?

Finding: The combined application seeks to remove the existing planned development overlay. The proposed use will not be subject to a Planned Development overlay.

Question No. 4: Requesting Planned Overlay?

Finding: The applicant does not seek a planned overlay. The applicant seeks removal of existing planned development overlay, by contemporaneous application.

Question No, 5: The proposed amendment is orderly and timely, * * * *

FINDING: This plan amendment and zone change is orderly and timely in addressing the pattern of current and anticipated residential and commercial growth in the area surrounding the substation as evidenced by the Residential Buildable Lands map and as recommended by the Electric System Planning Study (2015).

Question No. 6: * * *changes in the neighborhood * * * which * * * support * * *request.

Finding: Consolidation of the parcel under one Comprehensive Plan Map designation will allow the parcel to be rezoned to R1 and allow an electric substation by conditional use permit. The surrounding neighborhoods are currently under large scale residential development. The consolidation of the plan map designation and related zone change and conditional use permit will facilitate the construction of the needed electric facility infrastructure to support the anticipated residential development.

Question No. 7: * * * site can be efficiently provided with public utilities * * *.

Finding: The site will not require sewer, or natural gas to operate. Applicant currently serves the site with water and electricity and will continue to serve the site.

Question No. 8: Describe, * * * proposed use will affect traffic * * * *?

Finding: The proposed expansion will have a negligible effect on traffic in the area, as the site is already in use as an electric substation. Visits for the expanded facility will take advantage of visits to the site that would otherwise be made and the expansion should not perceptibly increase traffic volume. The applicant has dedicated additional street width to Baker Creek Road to facilitate traffic flow. See Attachment 8, Dedication Deed.

2. PLANNED DEVELOPMENT AMENDMENT CRITERIA

The following six sections answer questions contained on the Application for the Planned Development Amendment application:

1) Show in detail how your request seeks to amend the existing planned development overlay. State the reason for the request and the intended uses of the property:

Finding: The application seeks to remove the planned Development Plan Overlay from the 1.22 acre expanded substation site. The overlay will otherwise remain. Currently, about 2/3 (0.8 acres) of the site is subject to the overlay and will create inconsistent development requirements where the overlay was intended for commercial development and the site is being rezoned to residential, with the substation expansion as a conditional use. Removal of the overlay will allow a single standard for review across the entire parcel.

- 2) Consistent with Goals and Policies of Comprehensive Plan: See Exhibit 1, Section C, above, for discussion of Goals and Policies.
- 3) Considering the pattern of development in the area and surrounding land uses, show, in detail, how the proposed amendment is orderly and timely.

Finding. The pattern of development is orderly and timely in that the area is largely already residential. An amendment of the Comprehensive Plan Map to residential, from commercial, is consistent with the actual development in the immediate area of the parcel. The area, adjacent to the east (along with half of the existing parcel) and north is residential. The area on the south side of Baker Creek Road is currently under residential development. The area to the west will remain commercial. The substation is also needed to serve the expected commercial uses.

 Describe any changes in the neighborhood or surrounding area which might support or warrant the request

Finding. Consolidation of the parcel under one Comprehensive Plan Map designation will allow the parcel to be rezoned to R1 and for application for a conditional use permit to allow an electric substation. The surrounding neighborhoods are currently under large scale residential development. The consolidation of the plan map designation and related zone change and conditional use permit will facilitate the construction of the needed electric facility infrastructure to support the anticipated changes in the neighborhood, those changes being large-scale residential development together with commercial development.

5) Document how the site can be efficiently provided with public utilities, including water, sewer, electricity, and natural gas, if needed, and that there is sufficient capacity to serve the proposed use.

Finding. The site will not require sewer, or natural gas to operate. The facility is currently served with electricity and water by MW&L and MW&L will continue to serve the site in a like manner. The north and west of the City of McMinnville has the bulk of the buildable land for residential development. MW&L's 2015 Electric System Planning Study recommends expansion of the Baker Creek Substation as the least cost option to address the expansion of the electric system in this area of the City.

6) Describe, in detail, how the proposed use will affect traffic in the area. What is the expected trip generation?

Finding. The proposed use will have a negligible effect on traffic in the area, as the site is already in use as an electric substation. Visits and maintenance at the expanded facility will take advantage of economies of scale in combination with the existing facility. The expansion should not perceptibly increase traffic volume.

17.74.070 Planned Development Amendment - Review Criteria.

An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120, and include the following:

- * An increase in the amount of land within the subject site;
- *An increase in density including the number of housing units;
- * A reduction in the amount of open space; or
- * Changes to the vehicular system which results in a significant change to the location of streets, shared driveways, parking areas and access.

FINDING: The proposed amendment of the Planned Development does not meet any of the above criteria and is not a major change.

An amendment to an existing planned development may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

- A. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements; Finding: *Not applicable*.
- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;

Finding: With the concurrent Comprehensive Plan Map amendment, the new substation will be consistent with serving the utility needs of the densely growing and expanding residential use planned for the area surrounding the expanded substation.

C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;

Finding: Not applicable.

D. The plan can be completed within a reasonable period of time;

Finding: The expansion has been planned and needed equipment is already on order and the expansion is in the current MW&L "Light" Budget for Water and Light. Attachment 13, pages 1-2 (pages 15-16 to plan).

E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;

Finding: The substation site is adjacent to Baker Creek Road and easily accessible.

F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;

Finding: The development will serve utility need for proposed growing population densities in the surrounding neighborhoods. The site will use a combination of gravel, paved and landscape surfaces that will minimally impact drainage.

- G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.
- 27 EXHIBIT 1 Answers to Questions (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

Finding: The expanded substation will have a noise impact of a like-kind to the existing substation facility, which will be partially mitigated by screening (plant and man-made). The expanded facility will be built with additional environmental safety features to protect against water pollutants.

3. CONDITIONAL USE CRITERIA:

17.74.030 Authorization to Grant or Deny Conditional Use.

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this chapter. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, a change in the use or in lot area, or an alteration of any structure shall conform to the requirements for conditional uses. In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

Question No. 1: See this Exhibit 1, Section B, above (Intended Use), for nature of request in detail.

Question No. 2: The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;

Finding: See this Exhibit 1, Section C above (Goals and Policies) for findings.

Question No. 3: That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;

FINDING: The location and size of the expanded substation is reasonably suited to the development of abutting properties. The footprint is large enough to accommodate the safety AND maintenance needs of this high-voltage facility, while at the same time providing for the required buffering to adjacent uses. The expanded facility will cause an imperceptible increase in maintenance traffic compared to the existing facility. The relative small size of the site footprint will preserve ground for needed residential development in the neighborhood. The

design allows for the continuation of NW Meadows across Baker Creek Road, from south to north along the eastern side of the substation. The facility takes advantage of, and abuts the existing BPA electric easement. The expanded facility meets this criteria.

Question No. 4: That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;

FINDING: The electric substation will positively impact livability, value and appropriate development of abutting properties of the surrounding area, as compared to other permitted development, by facilitating the expanded electric load demand caused by dense residential development and expected commercial development. As explained by the Memo of Jaime Phillips, Attachment 5, failure to expand the substation in light of the growth of permitted residential and commercial uses would likely lead to degraded electric service in the west McMinnville electric service areas.

Question No. 5: The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;

FINDING: By its nature, an electric substation is of a utilitarian design. However, the design of the expanded substation will be symmetrical and otherwise geometrically pleasing. Landscaping will be created to buffer and screen the facility, if not entirely obscuring the facility from outside view. In fact, Water and Light being a consumer-owned utility, the neighbors and passers-by may take some pleasure in seeing the fruits of their investment in this consumer-owned facility.

Question No. 6: The proposal will preserve environmental assets of particular interest to the community.

FINDING: No particular environmental assets appear on the site.

Question No. 7: The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes.

FINDING: The intended expansion is described in the Electric System Planning Study of 2015 and in the MW&L "Light" Budget (Attachment 13, p. 1-2 {p. 15-16}). The applicant has a well-established municipal utility purpose as described in the McMinnville Charter of 1971, as amended in 1978. The activities of the applicant are directed by the City of McMinnville, acting by and through its Water and Light Commission, a five-member board made up of the mayor and four appointed commissioners. The utility sets rates on a cost-of-service basis at

public hearings and is prohibited by state law and its own policies from acting for speculative investment purposes.

DEFINITIONS: Landscaping

17.06.035 Landscaping Related Definitions.

For the purpose of Landscaping (Chapter 17.57), the following definitions shall apply.

Landscaping – The preservation, planting, and maintenance of trees, shrubs, groundcover, and lawn that are compatible with Chapter 17.57 (Landscaping) and Section 17.03.020 of this ordinance. Landscaping shall be encouraged that considers energy conservation through effective planting and ground contouring. Courts, plazas, walkways, fountains, benches, sculptures, fences, or decks may be included within the landscaping percentage required in Section 17.57.070 if they are designed in conjunction with substantial plantings of trees, shrubs, groundcovers, or lawns, and the review committee finds they are consistent with the purpose and intent set forth in Section 17.57.010 and factors set forth in Section 17.57.070(B) of this ordinance.

17.57.040 Specific uses requiring landscaping.

A.. Utility substations, subject to the landscaping requirements of commercial uses.

FINDING: Applicant has provided a landscaping plan (Attachment 2) that is capable of review by landscaping committee. The approval and the individual applications can be made subject to required Landscape Review Committee approval for issuance of required building permits.

17.57.070 Area Determination—Planning factors.

A. Landscaping shall be accomplished within the following ranges:

- 1. **** [N/A]
- 2. Commercial, at least seven percent of the gross area. This may be reduced to not less than **five percent** upon approval of the review committee. (The gross area to be landscaped may only be reduced by the review committee if there is a showing by the applicant that the intent and purpose of this chapter and subsection B of this section are met.)

FINDING: As indicated by the map showing the substation landscape plan (Attachment 2) there is at least 7% of the gross surface area outside of the facility fencing available for landscaping. As a utility substation, the development will be subject to commercial landscape requirements, as reviewed by the Landscape Review Committee.

- B. The following factors shall be considered by the applicant when planning the landscaping in order to accomplish the purpose set out in Section 17.57.010. The Landscape Review Committee
- $30 EXHIBIT\ 1$ Answers to **Questions** (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

shall have the authority to deny an application for failure to comply with any or all of these conditions:

1. Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon.

FINDING: The proposed utility use is of a character that currently exists on the site adjacent to residential uses. The proposed expansion and planned improvements to landscaping will make the facility more compatible with surrounding and abutting properties (than it would be without the expansion) and will be of a nature and character that is appropriate to support affordable housing.

 Screening the proposed use by sight-obscuring, evergreen plantings, shade trees, fences, or combinations of plantings and screens.

FINDING: The approval will give consideration to sight-obscuring features. These features may utilize continuous fence, colored slats, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view. Complete obscurification of the facility is not practical where overhead transmission lines rise above adjacent park facilities and connect to the facility by way of towers. Security of the facility also requires line of sight into the facility grounds. Switching gear is also of a height that cannot be practically, completely obscured. However, a combination of street trees, shrubs, decorative and slat-filled-fencing (Attachment 2) can visually temper the appearance and adequately blend the facility into the landscape of the neighborhood.

3. The retention of existing trees and natural areas that may be incorporated in the development of the project. The existing grade should be preserved to the maximum practical degree. Existing trees shall be provided with a watering area equal to at least one-half the crown area.

FINDING: There are no existing trees and the grade of the overall property will not be altered by the expansion.

7) The development and use of islands and plantings therein to break up parking areas.

FINDING: Parking for intermittent visits to the facility can easily be accommodated by parking along the 96-foot wide right of way. The facility will also provide (See **Attachment 1**, site plan) for ample onsite parking within the gates for service vehicles. The design has room for vehicles inside the fence around the perimeter of the facility.

- 8) The use of suitable street trees in the development of new subdivisions, shopping centers and like developments. Certain trees shall be prohibited in parking areas: poplar, willow, fruit, nut, birch, conifer, and ailanthus.
- 31 EXHIBIT 1 Answers to Questions (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

FINDING: Applicant will provide suitable trees in planting strip consistent with City standards and OPUC rules.

 Suitable watering facilities or irrigation systems must be included in or near all planted areas;

FINDING: Irrigation facilities will be provided under the terms of approval to facilitate required landscaping.

C. All landscaping approved through the Landscape Review Committee shall be continually maintained, including necessary watering, weeding, pruning, mowing, and replacement. Minor changes in the landscape plan, such as like-for-like replacement of plants, shall be allowed, as long as they do not alter the character and aesthetics of the original plan. It shall be the Planning

FINDING: Applicant's landscape plan demonstrates that applicant is fully capable of complying with this proposal. The site is currently served with water for irrigation.

17.57.090 Credit for work in public right-of-way.

The review committee may grant an applicant credit for landscaping done in the public right-of-way provided that if at any time in the future the right-of-way is needed for public use, any landscaping removed from the right-of-way must be replaced on the subject site. The review committee shall consider the need for future use of the right-of-way for street or utility purposes before granting credit under this section. (Ord. 4128 {part}, 1981; Ord. 3380 {part}, 1968).

FINDING: No such credit is required, but the applicant will take into the account the development of future right-of-way along the boundaries of the substation and will stage the landscaping development in coordination with the surrounding development.

17.58.080 Street Tree Planting—When Required.

All new multi-family development, commercial or industrial development, subdivisions, partitions, or parking lots fronting on a public roadway which has a designated curb-side planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 17.58.090. (Ord. 4654B §1, 1997)

FINDING: MW&L will comply with tree planting requirement in planting strip along street frontage.

PROPOSED ORDER LANGUAGE ON C.U.P. See attached Attachment 6(Conditional Use Permit for Baker Creek Substation – CU 7-99, for similar findings)

That the applicant submit to the McMinnville Landscape Review Committee for review and approval a detailed landscape and irrigation plan prior to issuance of any building

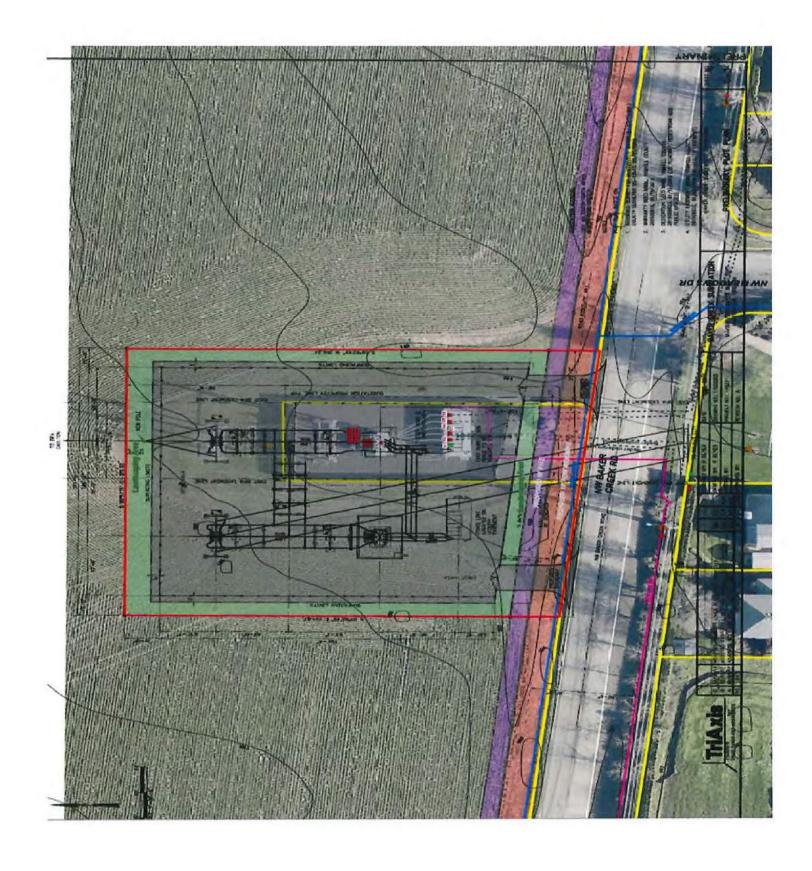
32 - EXHIBIT 1 - Answers to Questions (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

permits for the proposed facility (in the form of Attachment 2, Landscape Plan). The plan will include a planting strip with trees to city standard within the R.O.W. between the traveled surface and the sidewalk. A vegetative screening in the form of a evergreen hedge or similar planting material, white decorative fencing (similar to neighborhood design) in combination with green-slatted security fencing, shall be placed along the site's southern perimeter within a landscape strip a minimum of five feet in width. For security, a clear line of sight to the fence will be maintained as visually broken with trees, shrubs, plants, decorative fencing, and planting strip trees. The security fencing will be six-foot high cyclone fencing, with barbed wire 1-foot top (by OPUC rule) and secured access gates shall be installed so as to prohibit direct public access from all sides. Such fencing shall be set back a minimum of 10 feet from the Baker Creek Road right-of-way. Tree setbacks from fencing will comply with National Electric Safety Code and OPUC safety rules. At the time of development by neighboring uses, landscaping to include trees and screening (combination of plants and green slatted fencing) shall be provided along the site's eastern, western and northern perimeter. A clear line of sight to security fencing will be maintained, visually broken up with trees, shrubs, decorative fencing, and planting strip trees. All trees to be planted along the site's Baker Creek Road frontage, planting strip shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for a particular planting area, and be spaced as appropriate for the selected species and as may be required for the location of under-ground utilities, above-ground utility vaults, transformers, light poles, and hydrants. All required landscaping and irrigation shall be installed on Baker Creek Road prior to use of the substation. Other landscaping, on the other boundaries will be installed concurrently with neighboring development.

- 2. That all outside lighting shall have hoods or shall be "shoebox" type fixtures that will direct light beams both downward and away from neighboring residentially planned property.
- 3. That signage shall be limited to a maximum of one free-standing sign not more than two square feet in area. The sign, if illuminated, must be indirectly illuminated and non-flashing.
- 4. Construction of the proposed substation will require the applicant to gain a fill and grading permit from the City Building Division. All fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department.
- 5. That the proposed entry drives (two) to the facility from Baker Creek Road shall be paved.
- 33 EXHIBIT $\bf 1$ Answers to **Questions** (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit

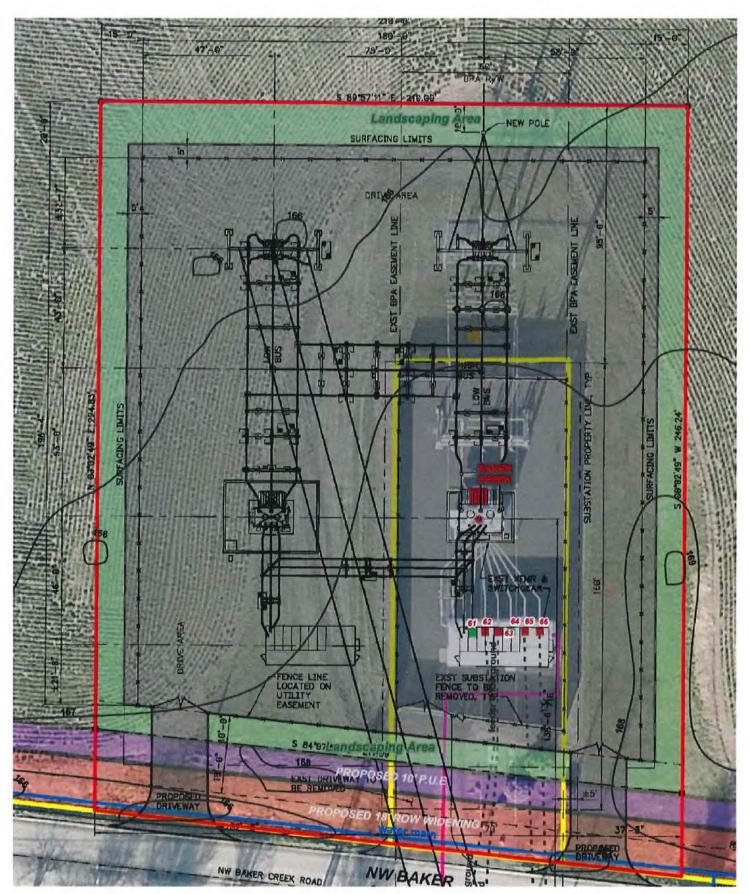
E. ATTACHMENTS TO THIS EXHIBIT

- 1) Site Plan; Map of proposed substation expansion
- Landscape Plan (landscape plan and potentially elevation drawings showing how you intend to blend and screen the substation from adjacent properties).
- 3) Gov. Kate Brown's Executive Order 17-21, November 6, 2017
- 4) Electric System Planning Study 2015, Triaxis Engineering; written by: Michael Antonishen
- 5) Memorandum of Jaime Phillips, MW&L Senior Power Analyst
- 6) Conditional Use Permit for Baker Creek Substation CU 7-99
- 7) "Bump Out" Easement, 01-15-19
- Dedication Deed to City of McMinnville, 01-15-19
- 9) Public Utility Easement, 01-15-19
- 10) Lot Map (showing larger surrounding area)
- 11) Vesting Deed, January 15, 2019
- 12) Oregon Public Utility Commission, Substation Security, 12/29/2000
- 13) MW&L "Light" Budget Document
- 14) RELATIVE COSTS OF DRIVING ELECTRIC AND GASOLINE VEHICLES IN THE INDIVIDUAL U.S. STATES, MICHAEL SIVAK BRANDON, SCHOETTLE, University of Michigan Study 2018
- 15) Copy of mailed notice of Neighborhood meeting
- 16) Mailing List for Neighborhood meeting
- 17) Photo of sign posted announcing neighborhood meeting Copies of materials presented at neighborhood meeting
- 18) Sign In List; Neighborhood meeting; March 27, 2019
- 19) Notes of Neighborhood meeting; and comments NONE (Meeting open 3-27-19, 6PM, to 6:30PM, 855 NE March Lane, McMinnville, OR; No public attendees; No public input).
- Materials Available at Neighborhood meeting, March 27, 2019
- 21) Ordinance 4633, Planned Development, 1996
- 34 EXHIBIT 1 Answers to Questions (Comp Plan Amendment; Zone Change; Amendment to Planned Development Overlay); Re: Conditional Use Permit



Attachment 1 to Exhibit 1; Site Plan; MW&L Applications

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Attachment 1 to Exhibit 1; Site Plan; MW&L Applications

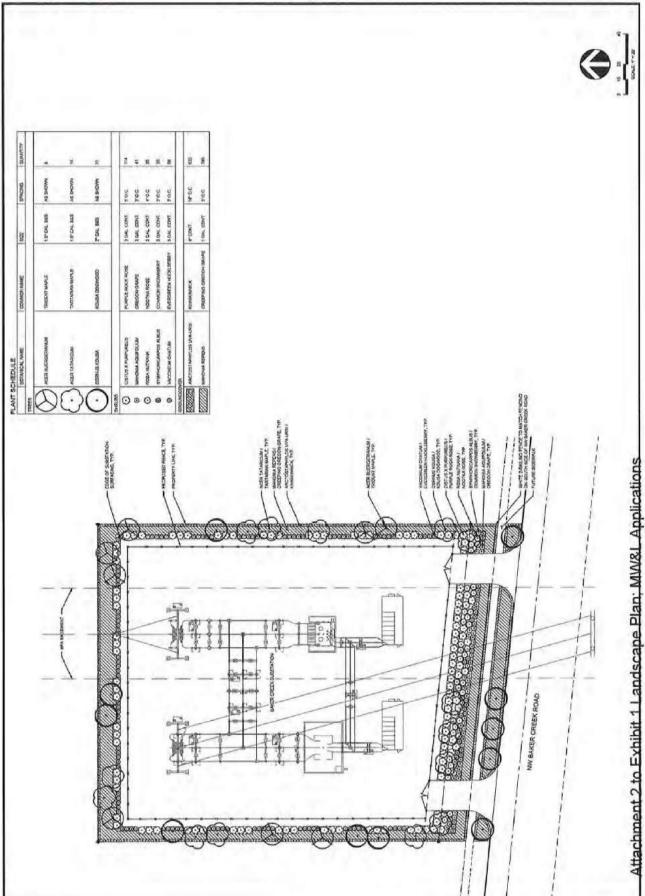
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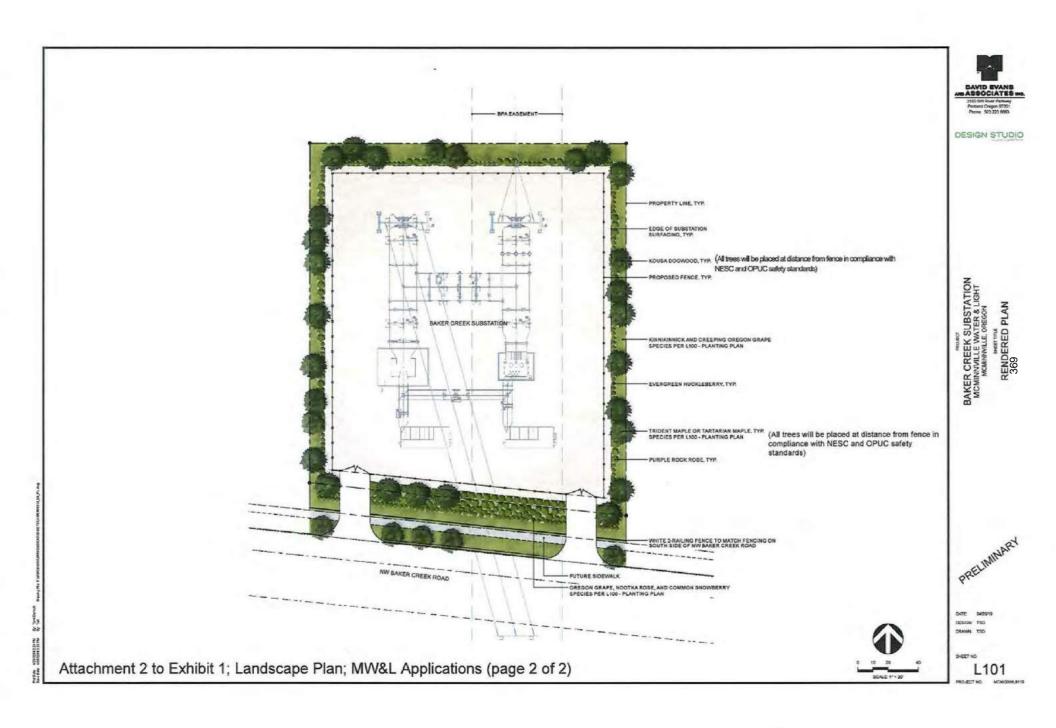
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EXECUTIVE ORDER NO. 17-21

ACCELERATING ZERO EMISSION VEHICLE ADOPTION IN OREGON TO REDUCE GREENHOUSE GAS EMISSIONS AND ADDRESS CLIMATE CHANGE

WHEREAS, climate change presents a significant threat to our livelihoods, economic security, environment, health, and well-being.

WHEREAS, there has been an increase in extreme weather events, including more frequent and intense heat waves and wildfires. According to the Oregon Climate Change Research Institute and other regional studies, the best available science indicates Oregon is at risk of serious impacts to its natural resources due to climate change.

- Water resources are being affected by decreased winter snowpack, changes to seasonal runoff patterns, decreased precipitation in Eastern Oregon, and increased intensity and occurrence of flooding.
- Agricultural resources are being affected by increases in temperatures.
- Ocean acidification is increasing and there are changes in ocean currents.
- Significant parts of the Oregon coastal region, stretching 363 miles, will be impacted by an expected rise in sea level up to 1 to 4 feet by 2100, incurring billions of dollars of damages and losses to roadways and structures.
- Climate change impacts threaten the State's agricultural, fishing, timber, recreation, and tourism industries, thereby threatening the livelihood of the State's residents and an important source of Gross State Product for the state.

WHEREAS, climate-related pollution from transportation and other emissions is projected to create \$1.1 billion in health costs for Oregon families to bear by 2040, including asthma, heart disease, stroke, and cancer; and internal combustion engines burning fossil-based fuels are the largest contributor of greenhouse gas emissions in Oregon, with the transportation sector accounting for 37 percent of greenhouse gas emissions and light-duty vehicles alone accounting for 25 percent of greenhouse gas emissions, all while the state's transportation sector related greenhouse gas emissions continue to grow.

WHEREAS, Oregon is committed to meeting the international Paris Agreement targets to reduce greenhouse gas emissions by 26 to 28 percent below 2005 levels by 2025.



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WHEREAS, Oregon has adopted goals to reduce greenhouse gas emissions to 10 percent below 1990 levels by 2020 and at least 75 percent below 1990 levels by 2050 as described in ORS 468A.20.

WHEREAS, greater transition of internal combustion engines to zero emission vehicles, like electric cars, buses, and trucks, play a key role in helping Oregon achieve its climate change goals, improving the health of Oregon communities, and encouraging clean energy job development.

WHEREAS, zero emission vehicles provide multiple benefits to Oregonians, including operating quietly and cleanly; allowing home refueling; lowering operating, maintenance, and fuel costs; and reducing pollutants such as carbon dioxide and black carbon emitted through diesel combustion.

WHEREAS, emissions associated with the combustion of fossil fuels have a negative health impact for Oregonians and, in particular, communities located close to major highways, and the use of zero emission vehicles can have immediate positive impacts on local air quality and public health.

WHEREAS, the median Oregon household spends four to five percent of its income on transportation fuel costs, and Oregon businesses and residents could benefit from the lower costs of zero emission vehicle operation and maintenance and the diversification of our transportation fuels, including electricity, which can help offset price volatility and political instability associated with petroleum fuels.

WHEREAS, the development of a robust clean energy economy includes the sales of electric vehicles, chargers, and other equipment as well as the installation and maintenance of charging equipment that will encourage clean energy job development at a local level.

WHEREAS, Oregon is a member of the following organizations and coalitions that have zero emission vehicle goals and commitments:

 The International Zero Emission Vehicle Alliance has committed that all new light-duty vehicle sales will have an electric powertrain as soon as possible and no later than 2050.



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- The Pacific Coast Collaborative established and supports the West Coast Electric Fleets initiative to expand the use of electric vehicles in fleets and the West Coast Green Highway to provide resources for zero emission vehicles on Interstate-5.
- The Zero Emission Vehicle Multi-State Memorandum of Understanding has an Action Plan Goal of a minimum of 25 percent of new light-duty state fleet purchases and leases for applicable uses, to the extent available, will be zero emission vehicles by 2025.

NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

- Definition. For purposes of this Executive Order, "state agency" shall be
 defined as any agency within the Executive Department as defined in ORS
 174.112, other than the Oregon Secretary of State, Oregon State Treasury,
 Oregon Department of Justice, and Oregon Bureau of Labor and Industries.
- 2. Statement of Policy and Establishing Statewide Goal. It is the policy of the State of Oregon to establish an aggressive timeline to achieve a statewide goal of 50,000 or more registered and operating electric vehicles by 2020. This short-term goal will ensure the state is on track to meet ambitious long-term goals described above. There are currently approximately 16,000 electric vehicles registered in Oregon and establishing this new state goal will focus state agencies and partners in transitioning public and private fleets to electric vehicles to achieve multiple climate change goals and commitments. Strategies outlined in this executive order will close cost gaps, infrastructure gaps, and information gaps to help accelerate the transition toward electric vehicles.
- 3. Oregon State Agencies Leading by Example with Increased Use of Electric Vehicles.
 - A. State Electric Vehicle Chargers to Support the State Goal. The Department of Administrative Services (DAS) and the Oregon Department of Energy (ODOE) are directed to develop a plan and estimated budget through 2025 to install electric vehicle chargers for the operation of state agency owned electric vehicles, public charging at



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state facilities, and state employee charging. The number and placement of electric vehicle chargers will be designed to provide sufficient charging infrastructure necessary for the state to achieve the fleet conversion goals of the Pacific Coast Collaborative West Coast Electric Fleet initiative described above.

- B. Electric Vehicle Policy for State Parking Lots to Support the State Goal. DAS is directed to add electric vehicle charging as a priority criteria for parking lot waitlists, add electric vehicle charging capacity for employee and public visitor parking lots, develop contracts for the procurement and installation of charging infrastructure, and incorporate electric vehicle charging as a tenant improvement for state-leased buildings.
- C. Long-term Return on Investment of Electric Vehicles to Support the State Goal. DAS, in cooperation with ODOE, is directed to develop a tool to calculate the long-term return on investment and life-cycle costs of electric vehicles using costs and savings including but not limited to vehicles purchase, fuel, and maintenance. This tool will inform state agencies of potential cost savings for greater state agency fleet conversion toward zero emission vehicles to achieve the state goal established in Section 2. In addition, DAS is directed to develop a "Low-Emission Vehicle First" policy, to encourage state employees to first use electric vehicles or other low-emission vehicles in the state fleet.
- D. <u>Bulk Electric Vehicle Purchases to Support the State Goal.</u> DAS and ODOE are directed to improve the use of the West Coast Electric Fleets initiative for electric vehicle bulk procurement to reduce costs for electric vehicle purchases.
- E. Enabling Electric Vehicle Purchases and Infrastructure to Support the State Goal. DAS, in cooperation with all state agencies, is directed to inform and support legislative changes that would enable increased charging infrastructure and state agency electric vehicle purchases.
- 4. Increasing Oregonians' Access to Electric Vehicles.
 - A. <u>Electric Vehicle Rebate Programs Designed to Achieve the State Goal.</u>
 The Oregon Department of Environmental Quality (DEQ) is directed to



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conduct rulemaking for the electric vehicle rebate programs, established in HB 2017 (2017), to encourage Oregonians to purchase or lease electric vehicles such that these rebate programs are designed to achieve the state goal established in Section 2. As part of the rulemaking, DEQ is directed to develop strategies to help ensure Oregonians are informed about the opportunities to reduce the costs of electric vehicle purchases and leases through the Electric Vehicle Rebate program, in addition to robust outreach to low-income communities and organizations through the Charge Ahead Rebate program.

- B. Clean Fuels Program Designed to Achieve the State Goal. DEQ is directed to conduct rulemaking for the Clean Fuels Program to support greater electric vehicle adoption, in cooperation with the Oregon Public Utility Commission (PUC), such that the program is designed to support innovative solutions in the evolving electric vehicle market and achieve the state goal established in Section 2. DEQ is directed to develop a method to aggregate and monetize all eligible electric vehicle credits in the Clean Fuels Program to assist in achieving the state goal.
- C. Zero Emission Vehicle Regulation Designed to Achieve State Goal. Today, DEQ's zero emission vehicle regulation requires car manufacturers to sell six to eight percent electric vehicles for new light-duty sales by 2025. DEQ is directed to work with the Environmental Quality Commission to maintain consistency with California's zero emission vehicle regulation, including efforts to ramp up regulatory requirements. DEQ is directed to participate in federal assessments of vehicle emissions standards and work with the Department of Justice to take appropriate steps to retain California's exemption for vehicle standards that are more protective of air quality under the federal Clean Air Act Section 209.
- D. Consumer Engagement in Transportation Electrification Plans to
 Achieve the State Goal. PUC, with input from interested stakeholders, is
 directed to implement the transportation electrification program,
 established in SB 1547 (2015), to support consumer engagement in the
 investor-owned utilities' transportation electrification plans such that the
 transportation electrification program is designed to achieve the state
 goal established in Section 2. Wherever possible, the PUC is directed to



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encourage programs that support greater electric vehicle adoption in moderate- and low-income communities.

- 5. Increasing Oregonians' Access to Electric Vehicle Charging Infrastructure.
 - A. Leveraging Volkswagen Mitigation Fund to Support the State Goal. DEQ, in cooperation with Oregon Department of Transportation (ODOT), ODOE, and Oregon Health Authority Public Health Division, is directed to engage interested stakeholders and receive public comments to inform development of a plan to leverage up to 15 percent of the Volkswagen Mitigation Fund to support vehicle electrification. This plan will use part of Oregon's share of the Volkswagen Diesel Settlement (Appendix D), consistent with the limitations on the use of such funds, to develop and maintain electric vehicle charging stations with a focus on connecting rural communities, low-income communities, and Oregonians living in multi-family homes, while complementing the Electric Vehicle Rebate Program and Charge Ahead Rebate Program that were established in HB 2017 (2017).
 - B. Leveraging Volkswagen Zero Emission Vehicle Fund to Support the State Goal. ODOT, in cooperation with ODOE, DEQ, PUC, and local governments, is directed to facilitate the application process for fund deployment of the Volkswagen "Electrify America" investments and projects under the Zero Emission Vehicle Fund, which are developed in accordance with the Volkswagen Diesel Settlement (Appendix C). In addition, these agencies will develop proposals for future 30-month investment periods for the Volkswagen "Electrify America" Zero Emission Vehicle Investment Plans to achieve the state goal established in Section 2.
 - C. Charging Infrastructure in Transportation Electrification Plans to Achieve the State Goal. PUC, with input from interested stakeholders, is directed to implement the transportation electrification program, established in SB 1547 (2015), to support electric vehicle charging in the investor-owned utilities' transportation electrification plans such that the transportation electrification program is designed to achieve the state goal established in Section 2. Wherever possible, the PUC is directed to



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encourage programs that support greater electric vehicle adoption in moderate- and low-income communities.

- D. Electric Vehicle Ready Building Construction to Achieve the State Goal. The appropriate advisory board(s) and the Department of Business and Consumer Services Building Codes Divisions (BCD) are directed to conduct code amendment of the state building code to require that parking structures for all newly constructed residential and commercial buildings are ready to support the installation of at least a level 2 EV charger by October 1, 2022. BCD may establish limited specific exemptions related to types of parking lots, such as temporary parking lots.
- 6. Providing Partners with Information on Electric Vehicle Use and Functionality.
 - A. <u>Assisting School Districts to Support the State Goal.</u> ODOE, working with ODOT, PUC, DEQ, and the Department of Education, is directed to develop tools and provide information to assist school districts in making decisions about zero emission vehicle bus options when replacing school buses.
 - B. Assisting Transit Agencies to Support the State Goal. ODOT, working with ODOE, PUC, and DEQ, is directed to develop tools, information, and best practices to assist transit agencies when making decisions about zero emission vehicle bus technology adoption in transit fleets for their transit districts. In addition, ODOT, working with ODOE, DEQ, and Oregon Health Authority Public Health Division, is directed to engage with transit agencies and interested stakeholders to assess how zero emission vehicle technologies can help to reduce lifecycle emissions, improve public health, and save costs in the heavy-duty sector, including through the accelerated transition to zero-emission buses.
 - C. Assisting Consumer Owned Utilities to Support the State EV Goal. ODOE is directed to engage with consumer and public-owned utilities to enable increased electric vehicle adoption in their service territories and provide technical assistance on strategies to accommodate increased



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loads on their electric systems in order to achieve the state goal established in Section 2.

- D. Assisting Investor Owned Utilities to Support the State EV Goal. PUC, in collaboration with utilities and stakeholders, is directed to oversee development of strategies to encourage continuous improvement of the investor-owned utilities' transportation electrification plans, established pursuant to SB 1547 (2015), to achieve the state goal established in Section 2.
- 7. Celebrating Achievements by Recognizing Businesses and Organizations that Lead Oregon in Electric Vehicle Adoption.
 - A. Establishing Governor's Awards for Automobile Dealerships. ODOE is directed to design and establish "Governor's Awards" for automobile dealerships to encourage sales of electric vehicles, such as highest annual electric vehicle sales and highest percentage per capita of electric vehicle sales in a year.
 - B. Establishing Governor's Awards for Businesses or Organizations.

 ODOE is directed to design and establish "Governor's Awards" that recognize businesses and organizations which support increased electric vehicle adoption, such as through installing charging infrastructure and converting fleets to electric vehicles.
- 8. Implementation. The implementation of this Executive Order shall be coordinated through a Zero Emission Vehicle Working Group, which will also identify any structural barriers or barriers to information sharing that may slow the progress of any directive in this Executive Order. The Zero Emission Vehicle Working Group will review directives in this Executive Order, seek input from interested stakeholders, and recommend opportunities to provide equitable access to clean energy by removing barriers to electric vehicles and electric vehicle chargers to the Governor and state agencies. The Zero-Emission Vehicle Agency Working Group shall include the following agencies: DAS, ODOE, OPUC, ODOT, and DEQ. ODOE will lead a collaborative effort through this interagency working group to develop goals, metrics, and other indicators of progress and will establish a website to share information about the directives in this Executive Order with the public. Agencies shall implement each directive in



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this Executive Order using their existing internal processes and established rulemaking procedures, including recommendations from any boards. This Executive Order is intended to be consistent with obligations under federal and state law and shall be interpreted as to not violate any requirement of federal or state law.

9. The Governor encourages the Secretary of State, the State Treasurer, the Attorney General, and the Commissioner of the Bureau of Labor and Industries to adopt policies and practices to accelerate zero emission vehicle adoption consistent with measures in this Executive Order. DAS and ODOE are directed to assist the above-mentioned officials and entities of state government in accomplishing these objectives as they may request.

Done at Portland, Oregon, this total day of November, 2017.

Kate Brown
GOVERNOR

ATTEST:

Dennis Richardson

SECRETARY OF STATE

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ELECTRIC SYSTEM PLANNING STUDY

for

McMinnville Water and Light

McMinnville, Oregon

July 2015

Report



TriAxis Engineering, Inc. 1600 SW Western Blvd., Suite 100 Corvallis, OR 97333

ELECTRIC SYSTEM PLANNING STUDY

for

McMinnville Water and Light

McMinnville, Oregon

July 2015

Prepared by:

Written: Michael Antonishen

Checked: Mike Beanland, David Castor

Approved: Paul Hazel TriAxis Engineering, Inc. MPA@TriAxisEng.com



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CHAPTER 1

Introduction

A. Purpose

This report presents the results of a planning study of the McMinnville Water and Light (MW&L) electric system; it is intended to be used as a management and planning tool for capital spending over the next ten years. The primary goal is to provide realistic recommendations for the most practical and economic means of serving existing and future loads, while maintaining high quality service to customers with timely implementation of necessary equipment replacements and system improvements. The study evaluates the electric system strengths and weaknesses and identifies needed improvements based on service quality, anticipated system changes, growth and recessionary effects, compliance, obsolescence, and reliability

This report provides recommendations with detailed descriptions, schedules, and cost estimates for replacement and improvement of infrastructure to meet future loads and/or replace and upgrade aging equipment. System improvements are suggested based on projected system load growth and changing electrical industry conditions with the aim of improving service quality and reliability while complying with construction, operating, and safety standards.

This study was conducted based on the best available information at the time. Some assumptions were necessary and are noted in the report. Any changes in equipment or system configuration may require a change in recommendations. Except where noted, this study evaluated the system as it was configured at the time the study was performed.

With the passage of time, conditions generally change, and these changes can affect the feasibility or practicality of making some of the recommended improvements. This report should be reviewed and updated periodically since changing system conditions may affect the economic viability or integrity of the recommended plan.

B. Scope of Work

LOAD REVIEW & LOAD GROWTH FORECAST

Available historical load data was reviewed with a primary focus on peak demand loads occurring during winter cold weather events and summer hot weather events. A ten year projected peak demand forecast was prepared using several data sources such as land use plans, local and governmental comprehensive plans, proposed expansions and annexations, density and zoning, potential commercial and industrial development, weather impacts, and Bonneville Power Administration (BPA) planning forecasts.

This forecast is intended to provide estimated future feeder and substation peak loading, load balance, and help guide system improvement needs and timing.

SYSTEM MODELING, POWER FLOW & CONTINGENCY ANALYSIS

The MW&L system was analyzed using an existing model, developed by MW&L staff, in the Windmil software package. The following cases were examined for power flow, voltage levels, and equipment and conductor loading.

- 1. Base Case normal system configuration modeled under peak load
- 2. Five-Year Growth Case modeled under projected peak load and cold weather conditions
- 3. Ten-Year Growth Case modeled under projected peak load and cold weather conditions
- 4. Contingency Cases separately modeled the loss of every distribution substation and every distribution feeder with load appropriately sectionalized to the other sources to serve all customers under peak conditions

PROTECTIVE DEVICE COORDINATION

Using the *EasyPower* software to generate time-current curves, the system coordination and protection was evaluated. A time-current curve coordination plot, containing the information listed below, is provided for each substation and distribution feeder.

- Transformer damage curve
- Conductor or insulation damage curve
- Maximum available short circuit symmetrical and asymmetrical fault current
- Time-current curves of primary protection devices
- Time-current curves of secondary protection devices
- Time-current curves of major backbone protection devices

The report provides tables of existing settings and recommended settings changes for system protective devices.

SYSTEM PLANNING, DESIGN, & RELIABILITY CRITERIA

Recommended planning criteria and objectives, upon which short-term and long-term planning action should be based, were identified. Criteria and recommendations include practical conductor sizing, conductor and feeder load capacities under normal conditions, loading guidelines for backup and emergency conditions, acceptable voltage drop levels, acceptable phase imbalance, and other operating guidelines. These criteria are intended to establish uniform planning, operating, and construction practices.

Analysis of Existing System

TRANSMISSION SYSTEM ANALYSIS

The existing transmission system facilities serving MW&L, both BPA and MW&L-owned, were evaluated to determine interconnection and switching flexibility, looping capabilities, isolated segments, and overall performance of transmission service to the MW&L electric system. The transmission system reliability, protection components, protective philosophy, and operational schemes were also considered to evaluate power availability, interruption frequency, and emergency operating conditions.

SUBSTATION AND FEEDER EVALUATION

The substations and distribution system were evaluated on the basis of equipment ratings, operating configurations, reliability, maintenance programs, vintage, condition, and equipment capacities compared with projected load forecasts. Balance of load between feeders and phase imbalance of each feeder was also investigated.

SERVICE RELIABILITY

Service reliability was evaluated based on available outage data from MW&L and BPA using IEEE and industry standard methodology.

SYSTEM AGING ANALYSIS

The age of major system equipment was evaluated and used to help develop the recommendations for specific equipment replacements. The data presented can be used by MW&L to help plan future replacements.

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION (NERC) COMPLIANCE

Existing compliance documentation and records were reviewed to assess the need for improvements related to requirements of the NERC reliability standards.

SPILL PREVENTION CONTROL AND COUNTERMEASURES (SPCC) PLAN REVIEW

SPCC plans for six of the seven substations and the operations yard were reviewed, revised, and documented.

System Improvement Recommendations & Cost Estimation

Results from the approach outlined above were compiled into a list of recommendations, solutions, and system improvements (immediate, intermediate, and long-term). A prioritized ten year work plan, with estimated dates of necessary improvements and budgetary-level cost estimates, is provided. The work plan addresses violations of the planning criteria under existing and projected future loading and contingency scenarios.

CHAPTER 2

SUMMARY & RECOMMENDATIONS

A. GENERAL

McMinnville Water and Light (MW&L) owns and operates electric distribution facilities presently serving approximately 15,842 customers (meters). All electric power sold by MW&L is provided by BPA and transformed at seven MW&L-owned substations. MW&L also owns a portion of a 115 kV transmission loop serving Baker Creek, Walnut City, Gormley, and Booth Bend substations with a normally open point at switch B-77.

MW&L is a winter peaking system, with peak demand events predominantly caused by cold temperatures and residential load. There is a strong correlation between extreme cold temperatures and winter peak loading on the MW&L electric system.

Evaluation of MW&L distribution system historical load data (not including industrial substations) indicates maximum winter peak demands in the last ten years of 113.5 MW in December of 2009 and 106.3 MW in December of 2013. Evaluation of historical distribution energy sales data shows an annual average growth rate of 2.2% from 2001 through 2008, followed by a 10% drop from 2008 to 2010 according to BPA and MW&L data sources. Distribution energy sales between 2011 and 2014 are higher than sales in 2010 but show no significant continued trend of growth, however this could be partially attributed to milder winter weather in recent years. Historical data, weather trends, and future system growth are further discussed in Chapter 3. For privacy reasons, detailed industrial system load data will not be included in this report.

Based on the data and assumptions used for this study, the MW&L system has enough transmission, transformer, and distribution system capacity to serve the historical MW&L peak demand under normal operating conditions. While MW&L does have overall system capacity available for considerable load growth according to the planning criteria, many areas of expected load growth are already served by heavily loaded circuits and transformers. Planning Criteria are discussed in Chapter 4, and power flow results for growth and contingency scenarios are discussed in Chapter 6.

Table 2-1 provides recommendations for improvements and upgrades during the next ten years. These are organized by the following categories:

- General
- Transmission
- Substations
- Distribution

These recommendations are based on the overall goals of providing adequate substation capacity and a flexible distribution system that can reliably serve existing and future projected load. A separate Construction Plan based on these recommendations is provided in Table 2-2 and suggests a

prioritized sequence of improvements over the next ten years. The estimated spending required for improvements listed in each year is also provided.

	TABLE 2-1 - Recommendations						
	Description						
General							
G-1	Begin to address "low hanging fruit" related to critical equipment and consider system improvements or policies that allow for better system survival of seismic events. See Chapter 5 section on Seismic Considerations for more details.	In-house					
G-2	Continue to update GIS system with component age and other applicable data. A properly updated database is a powerful tool that can help direct future system improvements.	In-house					
Transmi	ssion System						
T-1	Begin planning re-conductoring improvements to MW&L owned transmission loop when summer peak loading of the MW&L owned loop loads (Baker Creek, Walnut City, Gormley, and Booth Bend substations) reaches 80 MW. Request that BPA re-conductor BPA-owned 266.8 ACSR from BPA B1292 to Walnut City. Cost estimate low end assumes only replacing conductor, high end assumes 50% of poles needing replacement.	\$375,000 to \$1,250,000					
T-2	If MW&L desires to operate the MW&L owned 115 kV loop without a normally open point, a differential relaying scheme should be implemented.	\$50,000-\$100,000 per line segment					
T-3	MW&L needs to replace 3 transmission poles each year to achieve a targeted average transmission pole life of 55 years. Due to the large number of poles installed between 1975 and 1979, MW&L should be prepared to replace up to 10 poles each year after 2030.	\$12,000 per pole					
T-4	Move approximately 1800 feet of 115 kV transmission line (from Walnut City Substation along 2 nd Street to Hill Road) from the south side of the street to the north side of the street. Cost estimate includes design and construction for 115 kV transmission circuit with shield wire, double circuit distribution underbuild, and assumes hot-line construction for distribution circuits.	\$600,000					

	TABLE 2-1 - Recommendations	
	Description	Estimated Cost (\$2015)
Substat		
S-1	Replace aging East McMinnville #1 12/16/20 MVA transformer with new 20/27/33/38 transformer with LTC. At the time of replacement, update old TPU and MSOC relays with new SEL devices to match other substations.	\$785,000
S-2	Replace 35-year-old GE vacuum circuit breakers on Feeder 11, 12, 13, and 14 at East McMinnville Substation.	\$22,500 each \$90,000 total
S-3	Replace the 35-to 37-year-old GE vacuum circuit breakers at Windishar #1 Substation Feeders 31, 32, 33, and 34.	\$22,500 each \$90,000 total
S-4	Due to age, testing requirements, software and hardware access requirements, and availability of spares, it is recommend that the following protective devices be replaced: Basler BE1-51 relays (2) at Cascade 230 substation TPU and MSOC transformer protection at East McMinnville #2 Substation TPU and MSOC transformer protection at Baker Creek Substation PCD2000 feeder protection relays at Baker Creek Substation MW&L has standardized on SEL relays as the system has been updated in recent years and should continue to follow this standard. New digital relays have useful features such as self-testing of hardware	\$9,000 each \$108,000 total
	and software, event capture, additional SCADA and communications abilities, and additional protective capabilities. Cost estimate includes hardware, installation, and integration of new SEL relays.	
S-5	Substation power transformer overcurrent protection is similar throughout the MW&L system, but also appears to vary slightly at some substations. It is recommended that MW&L standardize transformer overcurrent protection practices according to the criteria laid out in section B of Chapter 7.	In-house
S-6	Review the high-side backup and instantaneous transformer overcurrent protection at East McMinnville Substation #2.	Ϊπ-hous e

	TABLE 2-1 - Recommendations	
	Description	Estimated Cost (\$2015)
S-7	On feeders 11-14 and 21-24 at East McMinnville Substation, update relaying to implement two-shot reclosing with a three-second open interval. The reclosing function on these relays is currently set for four operations to lockout and was never configured to match the reclosing at other MW&L distribution substations. MW&L reclosing philosophy is outlined in Part B of Chapter 7.	In-house
S-8	On feeders 11, 12, 13, and 14, consider implementation of a high-current instantaneous trip similar to other feeder relays. Consider increasing instantaneous phase and ground pickup levels on feeders 21, 22, 23, and 24 for better coordination with downstream devices.	ln-house
S-9	At Walnut City Substation, there is currently no low side phase protection element configured in the SEL-787. It is recommended that one be set to match the high side phase protection to provide better protection for the transformer 12.47 kV windings.	In-house
S-10	 Baker Creek Substation Protection: Transformer phase protection at Baker Creek Substation is not adequately protecting the transformer from thermal and mechanical damage during faults. It is recommended that this be changed immediately and set according to the criteria laid out in section B of Chapter 7. There is presently an instantaneous overcurrent element configured on the low side of the transformer for both phase and ground. It is recommended that this low side instantaneous element be disabled, for both phase and ground, due to the lack of selectivity between a close in high magnitude feeder fault and a bus fault. It is recommended that a residual ground overcurrent element is turned on in the TPU for the transformer high winding CT, it could be implemented similar to McMinnville #1 and #2 transformer protection. 	In-house
S-11	At Gormley Substation, the neutral overcurrent element in the SEL 551 relay presently does not coordinate with the main breaker SEL 751A ground curve. It is recommended that the SEL 551 curve is changed immediately to match the SEL 587 low side ground curve.	In-house
S-12	At Baker Creek Substation, MW&L should consider using bus differential protection, fast bus tripping, optical arc-sensing, or other arc-flash mitigation techniques to reduce incident energy levels at metal clad switchgear. Cost estimate includes relay, fiber, engineering, and install.	\$25,000-\$50,000

	TABLE 2-1 - Recommendations	
	Description	Estimated Cost (\$2015)
S-13	Based on the results of the power flow base case analysis and the criteria in Chapter 4, the following load transfers are recommended to reduce peak demand at Booth Bend and Baker Creek substations. Load transfer amounts are given in terms of what they would be measured at peak load. Move approximately 3 MW of Feeder 62 load to feeders 41 and 45 Move approximately 1 MW of Feeder 66 load to Feeder 22 Move approximately 2 MW of Feeder 65 load to Feeder 23 Move approximately 4.5 MW of Feeder 51 load to Feeders 11 and 21	In-house
S-14	Within the next four years, replace 31-year-old GE PVD circuit breakers and GE IAC 77 relays at Booth Bend Substation Feeders 51, 52, 53, and 54.	\$30,000 each \$120,000 total
S-15	Within the next five years, replace the 30-year-old GE PVD circuit breakers on Feeders 95 and 96 at Windishar Substation.	Completed during study
S-16	Within the next seven years, replace the 38-year-old 15/20/25 MVA Windishar #3 transformer. Estimated cost is based on a new 15/20/25 MVA transformer.	\$425,000
S-17	Within the next ten years, replace the 35-year-old 15/20/25 MVA Windishar #4 transformer. Estimated cost is based on a new 15/20/25 MVA transformer.	\$425,000
S-18	Within the next ten years, replace the 25-year-old GE PVD circuit breaker on Feeder 98 at Windishar Substation, Feeder 97 was replaced during study.	\$22,500
S-19	As load growth develops, construct a new 1.5 mile main feeder along Meadows Drive from spare Baker Creek breaker 64 and transfer load from Walnut City Substation feeders. This recommendation was carried over from the previous study.	\$630,000

	TABLE 2-1 - Recommendations	
	Description	Estimated Cost (\$2015)
S-20	Based on the best available growth forecasts and information on growth areas, feeders 31, 34, 62, and 65 are all likely to see load growth. These are heavily loaded feeders served by heavily loaded substation transformers with limited or no ability to transfer existing load to lightly loaded substations. A majority of the available MW&L transformer and circuit capacity is at East McMinnville #2 and Gormley substations; without major circuit reconfigurations, this capacity cannot be utilized for load growth on the north and west sides of town. If load develops in these areas as expected, single contingency criteria may not be met during peak events for transformer outages at these locations. It is recommended that MW&L be prepared for one of the following options as load growth occurs:	
	Construct the previously planned Grand Haven substation	\$1,900,000 (Sub) \$2,000,000 (Feeders & Transmission)
	Construct the previously planned 3-Mile Lane substation	\$2,040,000 (Sub & land) \$2,000,000 (Feeders & Transmission)
	Expand Baker Creek Substation and add new transformer	\$2,000,000
S-21	With aging substation yards and changing conditions, the IEEE 80 standard for substation grounding recommends periodic ground grid integrity checks or grid resistance measurements. Ground grids should be tested and reviewed every 10-15 years or as factors change that affect ground grid safety, such as increases in available fault current. Continue the practice of installing additional ground conductors in substation yards as new equipment is installed.	\$7,500 per site
Distribu	ition System	
D-1	The limited data available on underground (UG) primary cable age shows approximately 31.5 miles installed before 1987 with potentially problematic unjacketed concentric neutral and older XPLE insulation. MW&L should plan to replace at least one mile of cable annually.	\$350,000 per mile (average) \$11,025,000 total

2-7

Attachment 4 to Exhibit 1; Electric System Analysis, Chapters 1 to 6; MW&L Applications

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	TABLE 2-1 - Recommendations								
	Description	Estimated Cost (\$2015)							
D-2	Replace approximately 112 distribution transformers per year to maintain a system-wide average transformer life of 40 years.								
D-3	Adopt operations and maintenance practices related to voltage regulators that include quarterly control checks and logging of number of operations. Maintenance should be performed based on number of operations and annual oil testing.	In-house							
D-4	MW&L needs to replace 97 distribution poles each year to achieve a targeted average pole life of 55 years. However, due to the large amount of poles installed between 1965 and 1985, MW&L should be prepared to replace up to 194 poles each year starting in 2020.	\$2,500 per polo							
D-5	Monitor phase imbalance on all feeders during peak load conditions. If imbalance on any feeder exceeds 15% with more than 150 amps flowing, action should be taken to shift load and reduce imbalance to below 10%. The following feeders violated the 15% threshold according to data presented in Chapter 5, Table 5-4:								
	 Feeder 12 (lightly loaded) Feeder 14 (lightly loaded) Feeder 21 (lightly loaded) Feeder 22 Feeder 24 								
	Feeder 52 (lightly loaded) Feeder 63								
D-6	Based on the results of the power flow base case analysis and the criteria in Chapter 4, the following load transfers are recommended to reduce peak demand on feeders 34 and 53. Load transfer amounts are given in terms of what they would be measured at peak load. Move approximately 0.5 MW of Feeder 34 load to Feeder 31. Move approximately 3 MW of Feeder 53 load to feeders 52 and 73.	In-house							

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Attachment 4 to Exhibit 1; Electric System Analysis, Chapters 1 to 6; MW&L Applications

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							TABLE 2-2																
04#	Projects		2016		2017		201X	oxdot	2019		2020		2021		2022		2021		2024		2025	C _m	with Dup.
S-1	Replace East McMinnville #1 12/16/20 MVA transformer	3	745,000											1		Ţ							
8-2	Replace GE VIB horskers on Feeder 11, 12, 13, and 14	\$	90,000																				
8.3	Replace GE VIB becakers on Feeder \$1, 32, 33, and 34	\$	90,000											1									
8-1	Replace Builer, TPU, MSOC, and PCD2000 telays	•	108,000																				
5-5	Review and standardize transformer overcucters protection	1												[
\$-6	Review East McMinroille #2 transformer overcoment settings for backup and instantaneous	1												i									
S-7	Insplement two-shot reclusing for all East McMinaville feeders	1																					
8.8	Review instantaneous pickup levels & implementation on East McMinoville #1 and #2 feeders.	1				L.,																	
S-9	Activize and set low side CT phase protection element on Walnut City SEL 787	1		l		L		L		L				Ĺ		l		L					
5-10	Review and cornect transformer protection at Babes Corek Substation	1	٠,																				
5-11	Correct mis-coordination between SEL 551 and main breaker SEL 751A at Goomley Substation	,						L_								L		L.					
D-5	Correct phase imbalance on all indicated feeden with high enough load	1																					
D-6	Shift load from feeders 34 and 50	í	-																				
D-I	Replace Limite of aging UG primary table per year	1	350,000	Ł	350,000	\$	350,000	5	350,000	2	350,000	\$	350,900	5	350,000	3	350,000	\$	350,000	\$	350,000		
1)-2	Replace 112 distribution transformers per year	i	372,000	1_1_	392,000	. 3_	392,000	\$	<u>392,000</u>	3	392,000	1	392000	_3_	392,000	3	392,000	3	392,000		392,000		
D-I	Replace 97 distribution poles per year through 2020, 194 per year 2021-2025	\$	242,500	\$	242,500	\$	242,500	\$	242,500	3	247,500	\$	485,000	3	485,000	3	425,000	1	485,000	1	485,000		
1.3	Replace Steaminion poles per year	5	36,000	5	36,000	3	36,000	. 2	36,000	3	36,000	5	34,900	3	34,000	3	36,000	3	36,030	1	36,000		
T-∔	Move 115 kV transmission line west of Walnut City Substition			.\$	300,000	. \$	300,000	<u>-</u>		L						L			.				
S-12	Implement are-Basis hazard reduction technogues at Baker Creek Substation			. \$.	\$0,000	J		ļ				ļ		<u> </u>		ļ		L					
S-1.3	Shift load from Booth Rept and Bater Creek Substations			\$				<u> </u>						<u>L</u>		<u> </u>		L					
544	Replace GE PVD treaters and GE IAC 77 cetys on feeders \$1, 52, 53, 4st \$4		<u> </u>	_		╙		\$	60,000	3	60,000					Ц_							
\$ -21	Ground grid unegery cheeks and/or tenstance measurements					上		1	7,500	3	7,500	3	7,500	3	1,500	3	7,500	L		L			
S-16	Replace the 15/20, 25 MVA Windishu ≠3 teursformer			_										3	+25,000	Ц_							
S-17	Replace the 13/20/23 MVA Windishae ≠4 teamformer			_		<u> </u>										Ц_				1	425,0XI		
S-18	Replace GE PVD buckers on feeders 97 and 98		····· -	_		į_		_						_		_				1	22,500		
T-I	Reconductor MW&L control notion of \$ 7 msk transmission loop with \$56.5 AAC			ļ		:		1				ļ		L.		_		<u> </u>		ļ		1	1,250,000
S-19	Countries 1.5 mile main feeder from bresher 64 along Mesdows Drive							<u> </u>						_		ļ						5	630,000
S-20m	Countriet Grand Haven Substation			_		•								_		_						5	3,900/000
3-2%	Construct 3-Aide Line Substitute			_		<u>: </u>								_		_						5	4,040,000
8-20c	Expand Baker Creek Substation			_		<u>i </u>								_								\$	2,000,000
	Yearly Totals	\$2,0	93,500.00	\$ 1,	370,500.00	51	,320,500.00	\$ 1,9	88,000.00	\$ 1,0	985,000,00	\$ 1,	270,500.00	\$ 44	95,500.00	81,	270,\$00.00	\$ 1,	263,990.00	1 1,7	10,500.00	S JI,	,820,000.00

CHAPTER 3

LOAD FORECAST

This chapter presents a load forecast developed for the seven McMinnville Water and Light (MW&L) distribution substations. The goal of this forecast is to estimate the coincident peak system demand expected for a one in ten year peak demand event. Included are five-year and ten-year projections covering the period from 2015 to 2025. The load forecast projections are based on information from the following sources:

- MW&L SCADA data, customer data, and forecast projections
- BPA MDMR2 point of delivery data
- BPA load forecast projections
- City of McMinnville Economic Opportunities Analysis (EOA) (2013)
- Northwest Power and Conservation Council (NPCC)
- Weather data from the Western Regional Climate Center (1927-2014)
- Portland State University Population Research Center
- Oregon Office of Economic Analysis
- United States Census
- Oregon Public Utility Commission (PUC)

For the two industrial substations (four transformers), we will rely upon the load forecast prepared by MW&L staff in conjunction with the major industrial customers. For privacy reasons, detailed industrial system load data will not be included in this report.

A. ANALYSIS OF HISTORICAL DATA

HISTORIC WEATHER

In order to examine the effect of weather on system peak demand and energy use, yearly and monthly extreme and average temperature data were obtained from the Western Regional Climate Center (WRCC) McMinnville weather station for the period from 1927 to 2015. MW&L must be able to reliably serve maximum coincident peak demand load under any condition that can reasonably be expected. For localized systems such as the MW&L system, it is common practice to plan around a one in ten year peak event. In the case of MW&L this would likely be caused by a one in ten year cold weather event.

In order to determine the statistical one in ten year cold weather event for McMinnville, the return period method (also known as recurrence interval) was used. The return period is a statistical measurement calculated from historic data using the following equation:

$\frac{(Number\ of\ Years\ on\ record)+1}{Number\ of\ Occurrences}$

Analysis using this method yields cold and warm weather events of approximately 8° F and 105° F, respectively, that have return periods of ten years. In terms of probability, this means that in any

given year, there is a 10% chance that an event with a ten year return period will happen or be exceeded. Figures 3-1 and 3-2 show the number of occurrences, based on monthly data, of extreme warm and cold temperature events in this time period.

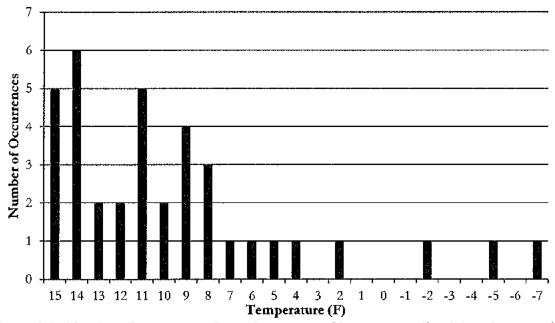


Figure 3-1: Number of occurrences for each extreme cold temperature listed, based on monthly data.

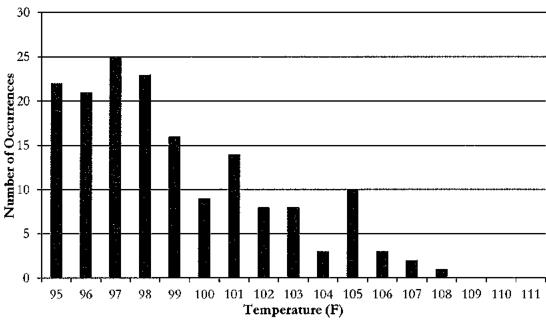


Figure 3-2: Number of occurrences for each extreme warm temperature listed, based on monthly data.

PEAK DEMAND AND TEMPERATURE

Figure 3-3 shows combined scatter plots that depict the relationship between winter (November-March) low temperatures and summer (May-September) high temperatures vs. peak demand. From observation of the data, it is clear that colder temperatures in winter and warmer temperatures in summer correlate with higher distribution system peak demand.

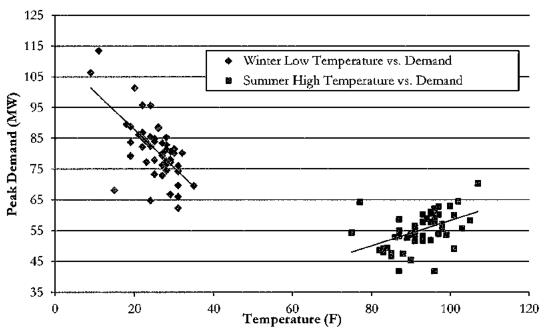


Figure 3-3: Winter low and summer high temperatures vs. peak coincident distribution system demand.

In the most recent ten year period, 2005-2014, the MW&L distribution system experienced its highest peak coincident loading during extreme cold weather events. The two largest coincident peaks on the MW&L distribution system in the last ten years occurred in December of 2009 (113.5 MW, 11° F) and December 2013 (106.4 MW, 9° F). These peak load events correspond with the two coldest weather events in the last ten years. Monthly coincident peak demand for all distribution substations (2005-2014) is shown in Figure 3-4.

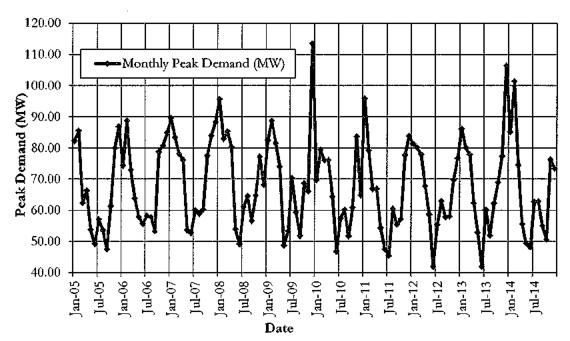


Figure 3-4: Monthly coincident peak demand for distribution substations.

Peak demand during extreme warm weather events is growing, but remains significantly lower than that experienced for cold weather events. The maximum summer coincident peak demand in the period studied was 70.3 MW in July 2009, this is 43.2 MW lower than the maximum winter peak. Figure 3-5 shows the summer peak demand generally growing between 2005 and 2014 despite milder weather in recent years.

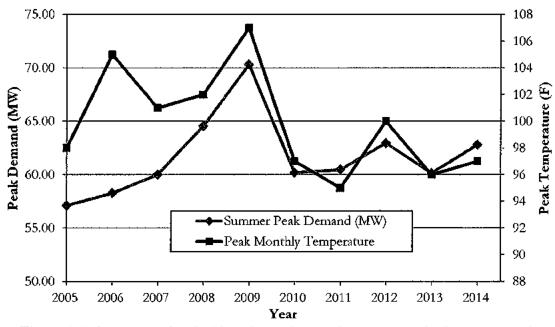


Figure 3-5: Summer peak coincident demand vs. peak temperature in the same month.

POPULATION, CUSTOMERS, AND ENERGY SALES

Table 3-1 shows the MW&L distribution system energy use, the population of the City of McMinnville, the number of residential customers served by MW&L, and the energy sales per customer for each year.

Table 3-1
Energy Use, Population, and Customer Count

Year	Energy ¹ (kWh)	Population ²	Customers ³	Energy Sales per Customer (kWh/Customer)
2001	362,585,872	27,500	13,461-	26,936
2002	367,292,442	28,200	14,045	26,151
2003	366,049,709	28,890	14,306	25,587
2004	378,968,207	29,200	14,639	25,887
2005	387,591,080	30,020	14,967	25,896
2006	400,976,800	30,950	15,289	26,226
2007	409,242,883	31,665	15,527	26,356
2008	422,433,599	32,400	15,711	26,887
2009	408,480,526	32,760	15,794	25,863
2010	380,583,831	32,240	15,730	24,194
2011	401,287,513	32,270	15,599	25,725
2012	392,208,289	32,435	15,690	24,997
2013	398,304,882	32,510	15,757	25,277
2014	383,491,409	32,705	15,842	24,207

- 1. Distribution system energy use, industrial not included
- 2. Population data and estimates provided by PSU Population Research Center
- 3. Customer data provided by MW&L and is number of billed customers
- 4. Customer data estimated for 2001 using PUC Statbook data and the average reporting error between actual MW&L and PUC data from surrounding years

During the last sustained growth period from 2001 to 2008, energy sales grew by 16.45%, population grew by approximately 17.8%, and customer count by 16.7%. While several factors affect energy use on the McMinnville system, a simple linear regression analysis shows that the growth rate of energy use has historically been approximately equal to the growth rate of the MW&L customer count. Figure 3-6 shows the relationship between MW&L customer count and yearly distribution system energy sales for the 2001-2008 period. The trend-line slope suggests with high confidence that each additional customer will add 27,064 kWh of sales. This relationship has not been as clear since 2009, most likely due to the effects of the economic recession and a large energy conservation effort launched by MW&L in 2008. However, for this study it will be assumed that the rate of change in energy sales (and peak demand potential) will be equal to the rate of change expected for population and customers.

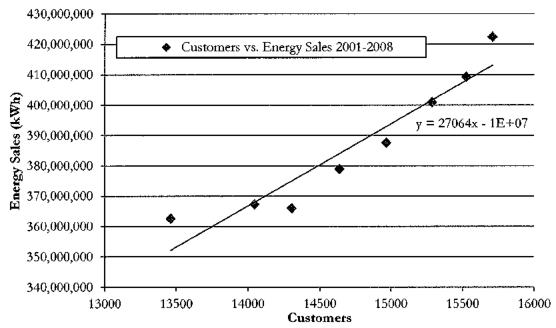


Figure 3-6: Scatter plot of customers vs. yearly energy sales for the 2001-2008 period with simple linear regression trend-line.

B. LOAD FORECAST

In order to determine the likely rate of MW&L distribution system growth, several forecasts were analyzed.

POPULATION

The results of the most commonly referenced population forecasts are summarized below:

- As a result of the 2012 coordinated population forecast process, Portland State University Population Research Center forecasts an average annual population growth rate for the City of McMinnville of 2.0% for the 2015-2020 period and 1.9% for the 2020-2025 period. These estimates are based on the assumption of a slow economic recovery which accelerates after 2015. This forecast considered several factors including demographics, mortality, fertility, immigration, urban growth boundaries, zoning, and historical trends.
- The Oregon Office of Economic Analysis (OEA) forecasts, released March 2013, project average annual population growth rates (for Yamhill County) of 1.67% for the 2015-2020 period and 1.73% for the 2020-2025 period.

ENERGY USE

The results of the available energy and peak demand forecasts are shown below.

MW&L Staff have projected a range of expected energy sales and peak demand growth rates for the 2015-2030 period. These rates take into account recent high level state-wide forecasts made by the NPCC that include consideration for conservation, population growth, distributed generation, and several other factors. Low: 0.5%Medium: 0.8%High: 1.0%

 The BPA peak demand forecast calls for approximately 0.33% yearly average growth from 2015-2025

Under normal system growth conditions, occurring between 2001-2008, the growth rate of distribution system energy use (and peak demand potential) has been shown to be approximately equal to population and customer growth rates. In this study, it is assumed that this will hold generally true in the future. However, we also acknowledge the NPCC assertion that ongoing conservation programs and future technology improvements will continue to lower the average energy use per customer.

FORECAST ASSUMPTION

As a base case for future projections, the recent December 2013 cold weather peak, 106.4 MW, was used as the likely one in ten year cold weather event. Although the December 2009 coincident peak demand was higher, the economic recession and conservation efforts since 2008 lead us to believe that the December 2013 event more accurately reflects the system as it exists today. Additionally, it is assumed that energy use and projected possible peak demand will grow at a similar rate.

Based on a review of the available forecasts, the following load forecast growth rates were established as reasonable and bounding. The average annual energy and peak demand growth rates projected for the 2015-2025 period will be:

Low: 0.5%Mcdium: 1.1%High: 1.7%

These forecasted rates are slightly higher than the MW&L and BPA projections. This can be attributed to the differing goals of serving peak demand load for isolated extreme weather events vs. predicting likely energy sales over the course of a year.

C. SUMMARY

Table 3-2 and Figure 3-7 summarize the findings and conclusions of the load forecast that will be used in the analysis and planning portions of this study. Figure 3-7 shows the actual historic annual peak demand, a linear trend line representing the approximate trajectory of the historic peak demand for average cold weather conditions, a forecast projection based on the same average cold weather conditions, and a forecast based on ten year extreme weather. Average cold weather conditions were calculated from the yearly WRCC 1927-2015 data to be 16.3 degrees. To provide a baseline average weather peak, the 2013 peak was scaled using the relationship developed in Figure 3-3 between cold weather and peak demand.

This forecast incorporates the analysis, assumptions, and projections of several different entities. It is also based on observation of historical trends and reflects expectations for potential future conditions. As always, unforeseen events could have a significant impact on future coincident peak demand. This forecast should be evaluated periodically and modified as needed to correspond with actual growth and changing system conditions.

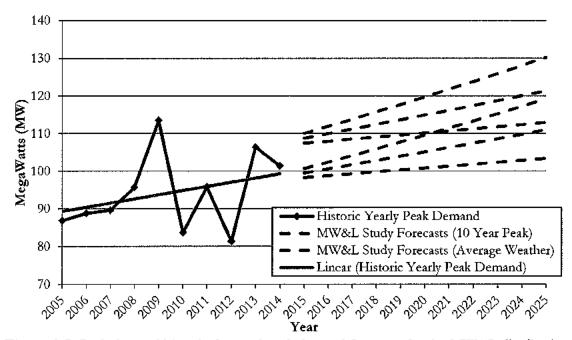


Figure 3-7: Peak demand historic data and peak demand forecasts for the MW&L distribution system.

Table 3-2

Study Load Forecast Summary

Growth Rate	Base Case 2013 Peak Load (MW)	2020 Peak Load (MW)	2025 Peak Load (MW)
Low (0.5%)	106.4	110.1	112.9
Med (1.1%)	106.4	114.9	121.4
High (1.7%)	106.4	119.7	130.2

CHAPTER 4

SYSTEM PLANNING CRITERIA

A. GENERAL

As part of the planning study, specific guidelines and planning criteria were developed and tailored to the MW&L electric system and service objectives. Many of the criteria discussed below were established in the previous electric system planning study and are based on factors which affect system operations and maintenance. These include:

- Providing dependable and economic electric service to ratepayers while giving strong attention to public and personal safety
- The planning, construction, and operating practices of comparable electric utilities
- The risk taken by following less stringent planning practices

B. IMPROVEMENT TIMING

Prudent utility practice requires that system improvements be implemented prior to load growth to allow the utility to meet customer service demand. However, existing facilities should be utilized to the maximum practical extent to avoid costly premature construction of new facilities. The recommended improvements in this report should be made on an as needed basis using the best available growth or age data. The time frame of improvement implementation should be adjusted if the actual load growth varies significantly from the load forecasts, but with sufficient time allowed for necessary engineering, permitting, material procurement and construction. An in-depth discussion of population and load growth is presented in Chapter 3, and system aging is discussed in Chapter 5.

C. SYSTEM RELIABILITY

A primary consideration in system planning is reliability. MW&L operates using single-contingency reliability criterion. Single-contingency reliability is achieved when an outage of any single major component of the electrical system (transmission or distribution line, substation transformer, protective device, cable segment, switching component, etc.) results in only minor service interruption to a limited number of customers while allowing the utility to meet expected peak demand for a one in ten year weather event.

To meet this objective, and provide acceptable service continuity to the extent practical, the following general criteria and recommendations should be used as guidelines in planning and operating the electric system.

PLANNING CRITERIA

TRANSMISSION

 Transmission line sections should be capable of being removed from service for maintenance without causing customer service interruptions.

SUBSTATIONS

- Substations should ideally have at least one alternate transmission line source (looped).
- Single substation transformer outages should not cause prolonged customer service interruptions.
- With the system configured normally and under present peak conditions, most of the MW&L system transformers are loaded below their lowest 55° C rise OA rating. This is a conservative loading practice, but it allows MW&L to easily switch load between substations without violating transformer nameplate loading criteria. It is recommended that MW&L continue to follow this practice.
- Future substations should standardize on the following criteria:
 - o 20/27/33/38 MVA, 115-12.47/7.2-kV transformers with load tap changer
 - o Capacity for four or five feeder bays

DISTRIBUTION

- MW&L should document and maintain up-to-date distribution circuit sectionalizing schemes. These schemes should allow for the transfer of load in case of the loss of any individual feeder or substation.
- MW&L currently designs distribution feeders for approximately 600 A capacity on the getaways and main backbone. With the system normally configured, peak loading should be kept below 300 A on each circuit. During planned maintenance or emergency system outages with load transfers, loading should be kept below 450 A.
- Primary conductors shall be operated within 80% of the IEEE standard line rating. It should be noted that this rating is a "summer" rating and that winter peaking utilities have additional line capacity available.
- Where feasible, distribution feeders should be capable of being supplied by one or more
 alternate distribution sources (sectionalized) through group-operated, load-break switching
 devices installed at appropriate system locations. This will allow circuit breakers or reclosers
 and other feeder components to be taken out of service while maintenance is performed
 without causing lengthy customer service interruptions.
- Circuit breakers or reclosers of circuits receiving load transfers should have alternate settings readily available to avoid nuisance tripping operations.
- The maximum secondary voltage drop allowed by MW&L is 3%. To comply with ANSI C84.1 and have a minimum planning voltage of 114 V (on a 120 V base) at the customer meter, the minimum primary voltage allowed should be 117.6 V.
- Phase load imbalance on distribution feeders should be minimized to avoid overloading individual phases and reduce the need to oversize feeder backbone and tap conductors. If

the imbalance on any feeder exceeds 15% during high load conditions, loads should be shifted between phases to reduce imbalance to 10% or below. This practice will help minimize neutral current and reduce neutral-to-ground potential.

Capacitor banks

- o Should be used to maintain power factors between 97 to 99 percent lagging at peak load to avoid reactive power charges.
- o First preference for the location of capacitor banks should be at the customer's site, especially at industrial installations. Avoid locating capacitor banks in substations.
- Total installed fixed capacitor bank installations should be limited to avoid an excessive leading power factor during low load conditions. Use switched capacitor banks where appropriate.
- O To minimize switching transients where switched capacitor banks are used, avoid locating banks near each other.

GENERAL

- Equipment life shall be based on reasonable assumptions and industry typical values.
 MW&L uses the following general values:
 - o Transformers: 40-45 years
 - o Breakers: 30-35 years, replace controls at the same time
- It is good practice to have a replacement plan in place for all obsolete and aging equipment that no longer has available repair parts.
- When possible, system improvements shall strengthen ties for operational flexibility under abnormal conditions.
- When taking corrective measures, both initial cost and operating cost shall be considered.

D. STANDARD CONDUCTORS

The following tables detail the MW&L system present standard conductor sizes, and some that were used previously.

Table 4-1
Overhead Conductors

Voltage (kV)	Conductor	Circuit Application
115	556.5 & 336.4-kcmil AAC	Transmission
12.47	556.5-kcmil AAC*, 336.4-kcmil AAC, 795 or 954-kcmil AAC (future)	Distribution Main Backbones
12.47	#2-ACSR	Distribution Taps

^{*336.4-}kcmil AAC was an old standard for distribution main backbones, not used for new construction

Table 4-2 Underground Conductors

Voltage (kV)	Conductor	Circuit Application
12.47	1000-kemil Al EPR	Substation Getaways
12.47	750-kcmil AL EPR	Distribution Main Backbones
12.47	4/0-AL	Distribution Large Taps
12.47	1/0-AL TRXLP	Distribution Taps

^{*4/0} Al was an old standard, not used for new construction

The maximum ampacity rating and relative MW capacity for winter and summer loading for typical overhead and underground MW&L standard conductors are shown in Tables 4-3 and 4-4 below. For underground cables, a thermal resistivity (RHO) of 90 is assumed based on soil data from the United States Department of Agriculture Natural Resources Conservation Service. According to the data available, this generalized value should be sufficient for a majority of the MW&L system, but MW&L staff should understand that both soil type and moisture content will affect thermal resistivity and can increase or decrease the ampacity of underground cables.

Table 4-3
Capacity Of Overhead Conductors

Conductor		Wir	nter(a)	Summer(a)		
ACSR	AAC	AAC Ampacity MW(b)		Ampacity	MW(b)	
#2		225	4.7	155	3.3	
	336.4	630	13.2	435	9.1	
	556.5	870	18.2	600	12.6	
	795*	1090	22.8	760	15.9	
	954*	1220	25.6	850	17.8	

a) Based on 75 Celsius (degrees) conductor temperature, 0 Celsius (degrees) Winter Ambient, 40 Celsius (degrees) Summer Ambient.

b) All MW ratings assume a three-phase 12.47 kV system with 97% power factor.

^{*} Potential future standard conductor sizes.

TABLE 4-4A
Underground Cable Capacity 15 kV, 133%, Full Concentric (a) and 1/3 Concentric (b)

onweight and subject supports to it, 10070, I am sometime (a) and 1/0 sometime (b)						
Conductor	In Duct	In Duct Bank (c)		uried (c)		
	One Circuit (Amps)	MW (d) (1-Phase)	(Amps)	MW (d) (1-Phase)		
#1/0 AL (a)	155	1.1	218	1.5		
#4/0 AL (a)	230	1.6	324	2.3		
750 kcmil AL (b)	547	11.5	635	13.5		
1000 kcmil AL (b)	641	13.4	740	15.5		

a) Based on Southwire Primary Cable UD Jacketed literature for <u>ONE</u> single-phase circuit, one conductor in one conduit, with 90 deg C, 220 mil, 133% TRXLP insulation level with full concentric neutral.

TABLE 4-4B Underground Cable Capacity 15 kV, 133%, 1/3 Concentric (a)

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Conductor		In Duct Bank (b)				
	One Circuit (Amps)	MW (c) (3-Phase)				
#4/0 AL	240	5.0				
750 kemil AL	470	9.8				
1000 kemil AL	550	11.5				

a) Based on AIEE-ICEA Power Cable Ampacity Ratings, Volume I and II and Okonite URO-J literature for <u>ONE</u> three-phase circuit, three conductors in one duct, 220 mil, 133% insulation level with 1/3 concentric neutral. <u>Denting is required for multiple circuits in a single duct bank.</u>

TABLE 4-4C
Underground Cable Capacity – <u>TWO</u> Circuit Duct Bank (a)

Conductor	In Duct Bank (b)			
	Two Circuit (Amps)	MW (c) (3-Phase)		
750 kemil AL	405	8.5		
1000 kemil AL	465	9.7		

a) Based on AIEE-ICEA Power Cable Ampacity Ratings, Volume I and II and Okonite URO-J literature for <u>TWO</u> three-phase circuit, three conductors in each duct, 220 mil, 133% insulation level with 1/3 concentric neutral b) 90 C conductor temperature, RHO = 90, 20 Celsius (degrees) ambient earth temperature, 100% load factor (applicable both summer and winter loading).

b) Based on AIEE-ICEA Power Cable Ampacity Ratings, Volume I and II and Okonite URO-J literature for *QNE* three-phase circuit, one cable per non-metallic duct, 220 mil, 133% insulation level with 1/3 concentric neutral. Derating is required for multiple circuits in a single duct bank.

c) 1/C cables Direct buried on 7½" centers, 90 C conductor temperature, RHO = 90, 20 Celsius (degrees) ambient earth temperature, 100% load factor.

d) All MW ratings assume a three-phase system with 97% power factor.

b) 90 C conductor temperature, RHO = 90, 20 Celsius (degrees) ambient earth temperature, 100% load factor (applicable both summer and winter loading).

c) All MW ratings assume a three-phase system with 97% power factor.

c) All MW ratings assume a three-phase system with 97% power factor.

TABLE 4-4D
Underground Cable Capacity – <u>FOUR</u> Circuit Duct Bank (a)

Conductor		In Duct Bank (b)			
	Four Circuit (Amps)	MW (c) (3-Phase)			
750 kemil AL	318	6.7			
1000 kemil AL	363	7.6			

a) Based on AIEE-ICEA Power Cable Ampacity Ratings, Volume I and II and Okonite URO-J literature for *FOUR* three-phase circuit, three conductors in each duct, 220 mil, 133% EPR insulation level with 1/3 concentric neutral b) 90 C conductor temperature, RHO = 90, 20 Celsius (degrees) ambient earth temperature, 100% load factor (applicable both summer and winter loading).

c) All MW ratings assume a three-phase system with 97% power factor.

CHAPTER 5

Analysis of Existing System

A. Transmission

A majority of the MW&L system is fed at 115 kV from the BPA Carlton substation and BPA McMinnville switching stations. The only exception to this is the Cascade 230 substation which is fed at 230 kV from the BPA Carlton-Sherwood #1 line. MW&L owns approximately 5.9 miles of 115 kV transmission on a loop that serves Booth Bend, Gormley, Walnut City, and Baker Creek Substations. East McMinnville and Windishar Substations are fed directly from BPA. All MW&L substations are loop fed or have multiple energization sources. Refer to Appendix A for BPA Meter Diagrams and McMinnville area transmission diagrams.

EXISTING SYSTEM

With projected growth as modeled in Chapter 6, the MW&L-owned transmission loop, sized at 336.4 AAC and 556.5 AAC, should have sufficient capacity to serve MW&L through 2025. At 115 kV with 97% assumed power factor, 336.4 AAC has a summer capacity of 84 MW and a winter capacity of 121 MW. Under high growth conditions the MW&L loop loads (Baker Creek, Walnut City, Gormley, and Booth Bend) are projected to reach a coincidental winter peak of 84.7 MW in 2025. MW&L should begin planning improvements to this portion of the system when summer coincidental peak loading begins to approach 80 MW.

The 115 kV BPA lines serving the MW&L system are predominantly 556.5 ACSR, however there is a 5.63 mile section of 266.8 ACSR serving the Baker Creek side of the MW&L owned 115 kV loop. According to the power flow cases and growth assumptions as modeled in Chapter 6, the loads served by this section of 266.8 ACSR (Baker Creek, Walnut City, Gormley, and Booth Bend) have a coincident historical peak of 67.5 MW and could reach a peak of 84.7 MW by 2025 under high growth (1.7%) conditions. At 115 kV with assumed 97% power factor, the section of 266.8 ACSR has capacity for approximately 77.2 MW in summer conditions and 111.5 MW in winter conditions. MW&L and BPA should be aware that if summer peak conditions approach the magnitude of expected winter peak conditions, this line may need to be reconductored within the ten year planning period.

A 556.5 ACSR conductor at 115 kV with 97% assumed power factor has a summer capacity of approximately 124 MW and a winter capacity of 179 MW. The loads served by the BPA 556.5 ACSR conductor amount to all MW&L load aside from Cascade 230. Peak coincident loading reached 148 MW in 2014. Under high growth conditions (1.7% yearly) and with no additional growth in industrial loads at Windishar, the coincident peak could reach 172 MW by 2025. This conductor is currently adequate to serve all MW&L loads, however if high growth conditions occur along with an increase in summer peak conditions, this line may need to be reconductored by BPA at some point in the planning period.

In summary, the BPA and MW&L-owned transmission lines serving the MW&L system presently have adequate capacity. However, high growth coupled with an increase in coincident peak magnitude during the summer could lead to required improvements.

MW&L has 115 kV circuit switchers at every substation and three line breakers (B-710, B-712, and B-713) on the MW&L owned portion of the 115 kV loop. Although B-712 and B-713 at Walnut City Substation are equipped with SEL 387L line current differential relays, a differential line relaying scheme has not yet been implemented. If MW&L desires to operate the 115 kV loop without a normally open point, a line differential relay scheme should be implemented.

According to outage data provided by BPA, MW&L had 44 transmission outages between September 2009 and April 2015. 17 of these outages were greater than or equal to one minute, and only one (occurring on the McMinnville-Forest Grove line) was greater than three minutes. Of these total 44 outages, 17 occurred on the McMinnville-Forest Grove line, and BPA has improvements planned that address this in either BPA fiscal year 2016 or 2017.

BPA PLANNED IMPROVEMENTS

BPA has planned several improvements at BPA Carlton Substation, expected in fiscal year 2016-2017, that will improve reliability of service to MW&L. The preliminary improvement one-lines can be found in Appendix A and are summarized below:

- Carlton 230 kV Substation will have two new 230 kV breakers and disconnects installed with new breaker failure, bus differential, and bus tie relays. New surge arresters will also be installed. This will provide protection and reliability improvements to the MW&L 115 kV system as well as Cascade 230.
- Carlton 115 kV Substation will be expanded to include two new breakers and bays. The MW&L system will still be fed from the same breakers, but breaker B131 will now solely serve the MW&L system. The line to Forest Grove will be served through one of the new breaker positions and the other position will be a bus tie.
- Carlton 115 kV Substation relaying will also be improved with new instrument transformers and new breaker failure, bus differential, tie, and transformer differential relays.

B. Substations

Tables 5-1, 5-2, and 5-3 provide information on all major substation equipment owned and operated by MW&L. In general, the system is in good condition with several major improvements being made in the last ten year period. However, additional improvements are recommended for the ten year planning period. These recommendations can be found in Chapter 2.

Table 5-1 System Transformers

System Transformers								
Transformer	Load Type	Voltage	Base Rating (MVA)	Top Rating (MVA)	LTC	Manufacturer	Year Purchased	2015 Age
McMinnville 2	D	115/12.47	20	37	YES	Delta Star	2011	4
McMinnville 1	D	115/12.47	12	20	NO	Allis-Chalmers	1974	41
Windishar #1	D	115/12.47	20	33	YES	Pauwels	1998	17
Walnut City	D	115/12.47	20	37	YES	Delta Star	2011	4
Booth Bend	D	115/12.47	20	37	YES	Delta Star	2011	4
Baker Creek	D	115/12.47	20	33	YES	GE/Prolec	2000	15
Gormley	D	115/12.47	20	33	YES	Delta Star	2009	6
Windishar #2	I	115/12.47	20	33	NO	ASEA	1984	31
Windishar #3	1	110/12.47	15	25	NO	Westinghouse	1977	38
Windishar #4	I	110/12.47	15	25	NO	Westinghouse	1980	35
Spare		110/12.47	12	20	NO	GE	1969	46
Cascade 2301	I	230/34.5	100	133	NO	ABB	2013	2
Spare	I	230/34.5	100	133	NO	ABB	2005	10

^{1:} The Cascade 230 transformer and space are owned by Cascade Steel. Transformer presently in use was originally purchased in 1990, but was rewound and refurbished in 2013.

Table 5-2 34.5 - 230 kV Devices & Control Type

	54.5 - 250 KV Devices & Control Type							
Substation	Device	Voltage	Mfr & Model	Year Purchased	2015 Age	Control Type		
McMinnville 2	Bank 2 CS	115 kV	Alstom S1-145 F1	2003	12	TPU/MSOC		
McMinnville 1	Bank 1 CS	115 kV	Alstom S1-145 F1	2003	12	TPU/MSOC		
Windishar 1	Bank 1 CS	1 15 kV	Southern States CSV	2011	4	SEL 787/751A		
Windishar 2	Bank 2 CS	115 kV	Southern States CSV	2013	2	SEL 787/751A		
Windishar 3	Bank 3 CS	1 15 kV	Southern States CSV	2011	4	SEL 787/751A		
Windishar 4	Bank 4 CS	115 kV	Southern States CSV	2013	2	SEL 787/751A		
	CS	115 kV	Alstom GL312P	2014	1	SEL 787/751A		
Walnut City	Transmission B-712	115 kV	Alstom DT-145FkF1	2014	1	SEL 387L		
	Transmission B-713	115 kV	Alstom DT-145FkF1	2014	1	SEL 387L		
Booth Bend	CS	115 kV	Southern States CSV	2011	4	SEL 787/751A		
Baker Creek	CS	115 kV	S&C 2030	2001	14	TPU/MSOC		
	CS	115 kV	Southern States CSV	2010	5	SEL 587/551		
Gormley	Transmission B-710	115 kV	Areva DT1-123F1	2010	5	SEL 751A		
	CS A-2	230 kV	S&C 2040	1991	24	Basler BE1-51		
Cascade	Feeder C-2	34.5 kV	Siemens P38-23-3	1991	24	Basler BE1-51		
	Feeder Spare	34.5 kV	Siemens P38-23-3	1991	24	Not in Service		

Table 5-3
Substation Feeder Breaker Devices & Control Type (12.47 kV)

Substation Feeder Breaker Devices & Control Type (12.47 kV)								
Substation	Feeder	Mfr & Model	Year Purchased	2015 Age	Control Type			
	11		1980					
NA NATURE OF THE OR	12	CE TUD						
McMinnville 2	13	GE VIB		35	SEL 551			
	14							
	21		,					
35 35, 44	22		•005		077 0740			
McMinnville 1	23	Areva EOX	2007	8	SEL 351S			
	24							
	31		1978	37				
	32		1978	37				
Windishar 1	33	GE VIB	1982	33	SEL 751/751A			
	34		1980	35				
	40 (Main)	Powell VB	2014	1	SEL 751/751A			
	41		2014					
Walnut City	42							
	43*	Powell VB		1	SEL 751			
	44							
	45							
	51		1984	31	IAC 77			
Booth Bend	52	GE PVD						
Dooin Bena	53	J JET V						
	54							
	Main	GE Power Vac	2000	15	TPU			
	61*							
	62							
Baker Creek	63	GE VB1	2001	14	PCD2000			
	64*							
	65							
	66 70							
	(Main)							
	71			5				
Gormley	72	СН УСР	2010		SEL 751A			
[73							
	74*							
	75*							

Table 5-3
Substation Feeder Breaker Devices & Control Type (12.47 kV)

Substation	Feeder	Mft & Model	Year Purchased	2015 Age	Control Type
	911		2013	2	
	921	Mitsubishi	2013	2	
	931	17DV25-20	2014	1	
Windishar	941		2013	2	SEL 751/751A
Industrial	951	GE PVD	1985	3 0	SEL /51//51A
	961		1985	30	
	971		1990	25	
	981		1990	25	

^{*}Denotes spare or tie breaker position

SUBSTATION CAPACITY

Figure 5-1 shows the existing substation capacity alongside the MW&L peak demand forecasts for the MW&L distribution substations (detailed in Chapter 3). If all load were to be distributed evenly between all of the transformers, MW&L has enough transformer capacity to satisfy the planning criteria until 2025 even if 1.7% yearly growth is seen. However, perfectly even load distribution and growth is not realistic. In the power flow analysis, detailed in Chapter 6, it was determined that even if some load is shifted between existing substations, likely growth conditions will potentially require additional transformation capacity and new substations. These recommendations are detailed in Chapter 2.

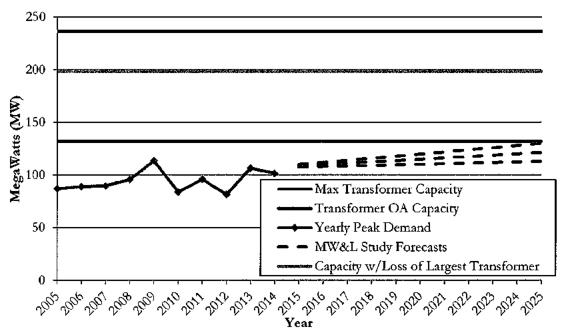


Figure 5-1: Substation capacity and future projected growth.

^{1:} Settings provided by others

SUBSTATION GROUND GRIDS

Due to the age of existing substations and the importance of grounding for safety in electric substations, MW&L should periodically assess existing ground grids and grounding practices. According to MW&L staff, new grounding conductors and switch operator platforms have been added at every site as construction work has taken place. The only point of concern mentioned was at Windishar Substation #1, but work is currently planned at this site for the near future; additional conductor and platforms will be installed. It is recommend that MW&L continue the practice of adding additional grounding conductors as new equipment is installed.

In accordance with IEEE 80, it is recommended that MW&L perform periodic ground grid integrity checks or grid resistance measurements approximately every 10-15 years. Additionally, if factors affecting ground grid safety change (such as increases in available fault current) MW&L will need to review the existing grid to determine if safety has been compromised.

SEISMIC CONSIDERATIONS

It is well known that the Cascadia Subduction Zone Fault is a source of major earthquake events, up to magnitude 9.0 or greater, which occur approximately every 300 to 600 years. The last known event in the northwest occurred in the year 1700. While predicting the exact timing and magnitude of these events is impossible, it is prudent to take some precautions to improve infrastructure to better handle a possible earthquake. According to a recent BPA workshop, a magnitude 9.0 event would likely result in isolation of everything west of the cascades for at least three weeks, with up to three months before restoration of basic services and transportation.

It is recommended that MW&L address "low hanging fruit" related to critical equipment and consider the following as time and budget allows, and as new equipment is installed:

- Replace rigid connections with flexible connections to help prevent breakage of hard to replace equipment such as transformer bushings
- Anchor battery and control racks
- Anchor transformers, or consider newer concepts such as mounting on friction pendulum bearings which allow transformer to stay stationery while ground moves below (reduces force transfer)
- Brace tall structures with high center of gravity such as bus supports, live tank breakers, and HV CTs

C. DISTRIBUTION SYSTEM

Based on the analysis, the existing MW&L distribution system currently provides reliable service and acceptable voltage levels for all evaluated loading conditions up to the historical peak load when operating in a normal system configuration.

MW&L staff did not call attention to any major trouble areas within the distribution system. The sections below covering UG conductor, OH conductor, poles, and distribution transformers are based on the best available data from the MW&L GIS database. MW&L should continue the practice of logging all applicable age, location, and configuration data in the GIS system to allow for easy search and analysis of all different types of system data.

DISTRIBUTION CONDUCTORS

The MW&L GIS database has information on 578 circuit miles of conductor. Of the 578 circuit miles, 316 miles are listed as underground conductor and 256 are listed as overhead. Approximately six miles are not labeled.

UNDERGROUND CONDUCTOR

The MW&L GIS database has information on 144 miles of underground primary and 172 miles of underground secondary conductor. Age data is available for 88 miles of underground primary conductor (2231 segments in GIS) and 44 miles of underground secondary conductor (4590 segments in GIS). The statistics for underground primary and secondary cable age are shown below in Figure 5-2, but it should be noted that less than half of the MW&L underground system is represented in this figure.

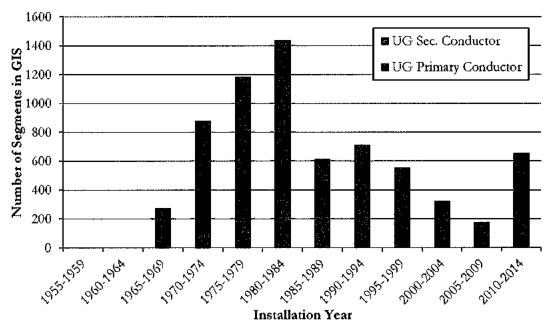


Figure 5-2: Underground conductor segment age distribution.

According to MW&L outage data as presented in Tables 5-6 and 5-7, five outages were attributed to cable failure in 2013 and six in 2014. These outages represented approximately 5% of the total customer hours out for each year: 786 hours in 2013 and 611 in 2014. In addition to the data presented here, available in the MW&L GIS system, MW&L has already produced a map of underground cables throughout the system colored according to age. It is recommended that MW&L staff continue to update and monitor these sources of information in order to use them as a guide for cable replacements in the future.

MW&L is aware of the issues with pre-1987 underground primary cable with unjacketed concentric neutral, as well as XPLE insulation from this period. The lack of jacket leads to accelerated neutral failure and accelerated treeing of XLPE insulation. MW&L will need to monitor and track this cable closely and plan for replacement. The limited data contains approximately 31.5 miles of primary

cable installed before 1987. Given that this cable is reaching the end of its expected life, it is recommended MW&L should plan to replace at least one mile of this cable annually.

OVERHEAD CONDUCTOR

The MW&L GIS database has information on 176 miles of overhead primary and 80 miles of overhead secondary conductor. However, GIS data on installation date is only available for 2.15 miles total of installed overhead conductor. Because of this, no reasonable conclusions can be made from this data. Except for issues with failures in copperweld conductors, overhead conductors have an expected 100 year lifespan. Eventual failures will occur due to work hardening and strand breakage.

DISTRIBUTION TRANSFORMERS

There are 4,485 distribution transformers listed in the GIS database for the MW&L system, but none have age or installation data available. Assuming a reasonable average transformer life of 40 years, MW&L should be retiring or replacing about 112 transformers per year. MW&L should strive to determine transformer age and add it to the GIS data to assist with planning. In many cases, the age of adjacent homes, businesses, or power poles may be a suitable substitute. MW&L should continue the policy of replacing any 30+ year old distribution transformers that make their way back to the equipment yard during normal operations and maintenance.

VOLTAGE REGULATORS

The MW&L system currently has only one line voltage regulator. However, more are planned and likely to be installed following the results of a 2013 voltage optimization study performed by SAIC. Voltage regulators, like most other equipment, require periodic maintenance and testing. Specific inspection and maintenance considerations include inspection of the control cabinet, controller, bushings, and regulator tank assembly along with electrical tests and oil testing. Depending on the manufacturer, the maintenance interval should be somewhere between four and ten years.

It is recommended that MW&L adopt O&M practices related to voltage regulators that include quarterly control checks and logging of number of operations. Maintenance should be performed based on number of operations and annual oil testing.

Poles

Age data is available for 5284 out of the total 5433 MW&L owned transmission and distribution poles in the GIS database, with 5309 MW&L owned distribution poles and 124 MW&L owned transmission poles. The 2015 MW&L system has an average distribution pole age of 33.7 years and an average transmission pole age of 32.3 years. The 2005 study calculated an average age of 23 years for 5014 existing poles. With an average expected pole lifespan of 55 years, MW&L would need to replace or retire approximately 97 distribution poles and 3 transmission poles each year to achieve this target life. Regular testing and treating should continue to guide MW&L toward the poles in greatest need of attention.

The age distribution of poles is presented in figures 5-3 and 5-4. Based on this data and the large number of distribution poles manufactured between 1965 and 1985, MW&L should be prepared to replace a higher number of distribution poles than average starting in 2020.

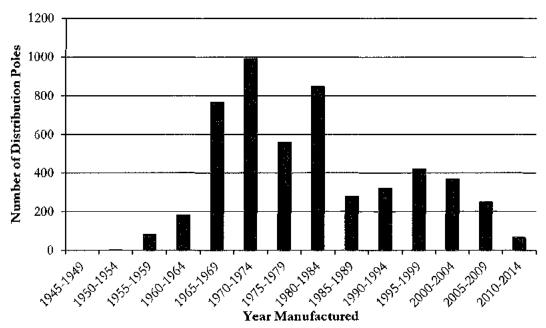


Figure 5-3: MW&L owned distribution pole age distribution.

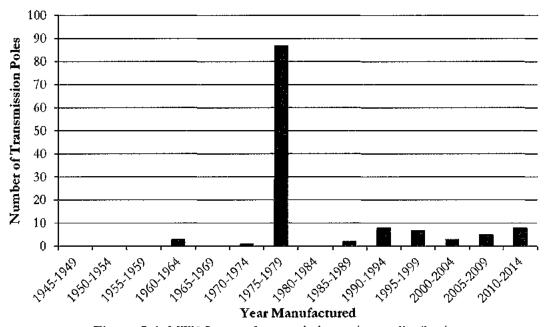


Figure 5-4: MW&L owned transmission pole age distribution.

PADMOUNT SECTIONALIZING DEVICES

MW&L has several Cooper Power System type (VFI) pad-mounted switching devices installed in the underground distribution infrastructure at key sectionalizing locations. These devices have a history of being susceptible to failure. MW&L staff is aware of this condition and has implemented a testing plan with a five year interval to monitor for any degradation that could cause mis-operation

or failure. Where VFI functionality is required, MW&L should regularly investigate manufacturer offerings and stay apprised on the best offerings available.

PHASE CURRENT IMBALANCE

The primary concern of imbalanced loading between phases of a circuit is the resulting unbalanced phase voltages, often a mix of high and low phase voltage at the same time. Unbalanced voltages can cause additional negative sequence currents to circulate in three-phase motors; this negative sequence current can lead to motors overheating. Load imbalance also causes excessive neutral currents, which can cause increased system losses and can affect ground relaying.

Because system loads are continually changing and since single phase loads are present on each feeder it is nearly impossible to achieve perfect phase balance. During high load conditions a policy of monitoring phase imbalance on each feeder is recommended. If the imbalance on any feeder exceeds 15%, loads should be shifted between phases to reduce imbalance to 10% or below. System balance may fluctuate seasonally or with system peaks, but these fluctuations should not be excessive if the policy above is followed.

Imbalance percentages are given on a per-feeder basis based on load data from the MW&L SCADA system and downloaded from substation relays. In general, individual phase data for the recent December 2013 peak was used to calculate phase imbalance. Some data came from other time periods or may need to be interpreted differently due to non-standard system configuration, lack of available historical SCADA data, and differences in data available from different relay types.

- For feeders 31-34, data from a high load period in October of 2013 was used to calculate imbalance.
- For feeders 41-45, data from a high load period in November of 2014 was used to calculate imbalance.
- For feeders 62-66, the PCD relays only provide maximum current for each phase individually instead of coincidentally. Because of this, calculated imbalance could be slightly higher than shown.
- For feeders 71 and 73, data from a high load period in February 2015 was used to calculate imbalance.
- For Feeder 72, imbalance was not calculated due to lack of available data where the waste management generation is off-line.

Results are shown in Table 5-4.

The results show that under recent winter peak conditions, some feeders do not stay within the 15% criterion. However, some of the circuits with high imbalance are lightly loaded. It is recommended that MW&L continue to monitor the imbalance on all feeders during peak load conditions, with special attention given to those with imbalance above 15% in Table 5-4. If the imbalance on these feeders continues to exceed 15%, action should be taken to shift load and reduce imbalance to below 10%. A period of monitoring is necessary following field changes to any feeder to identify the effect of the change on feeder balance. Additionally, phase balance should be considered prior to adding or reconfiguring any feeder loads.

Table 5-4
MW&L Peak Load Phase Imbalance

Feeder	Peak (kW)	Imbalance (%)
1 1	456	10.9%
12	1003	62.7%
13	3376	13.9%
14	1494	23.6%
21	1490	29.2%
22	4287	21.4%
23	1635	6.5%
24	5922	28.5%
31	5765	7 .6%
32	2199	0.9%
33	4266	4.4%
34	6992	4.7%
41	1658	8.1%
42	2251	8.5%
44	4472	6.0%
45	3619	13.8%
51	8660	8.2%
52	917	27.5%
53	7632	3.6%
54	6339	7.0%
62	6156	9.7%
63	4462	16.7%
65	6204	5.9%
66	6573	12.4%
71	5009	6.8%
72	1531 NA	
73	2005	10.8%

SERVICE RELIABILITY

The IEEE has developed specific guidelines through Standard 1366, Guide for Power Distribution Reliability Indices, to evaluate distribution reliability consisting of measures for monitoring outage duration and frequency. These reliability indices have received industry-wide acceptance and are divided into two categories, customer-based and load-based.

Customer-based indices record the frequency and duration of outages for individual customers and are used mainly in residential areas. Load-based indices record the frequency and duration of load

outages and are relevant for circuits that serve industrial and commercial loads. The following industry standard reliability indices have been calculated and furnished by MW&L for 2011-2014.

SAIFI -- System average interruption frequency index

$$SAIFI = \frac{Total\ number\ of\ customers\ interrupted}{Total\ Number\ of\ Customers}$$

SAIDI -- System average interruption duration index

$$SAIDI = \frac{Sum\ of\ customer\ interruption\ duration}{Total\ number\ of\ customers}$$

CAIDI -- Customer average interruption duration index

$$CAIDI = \frac{Sum\ of\ customer\ interruption\ duration}{Total\ number\ of\ customer\ interruptions}$$

SAIFI describes the percentage of customers experiencing an interruption in a given time period. SAIDI describes the average outage time per customer if every outage was spread throughout the whole system. CAIDI describes the average interruption duration per outage.

Table 5-5 presents yearly average figures of monthly calculations made by MW&L for 2000-2004 and 2011-2014. Table 5-6 presents yearly figures for PacifiCorp customers in the Willamette Valley, and Portland General Electric (PGE) whose service territory surrounds MW&L. The MW&L indices for 2011 through 2014 are in the same general range as seen in the 2005 study and compare favorably with PGE and PacifiCorp indices for the same time period.

Table 5-5
MW&L Calculated Reliability Indices

Year	SAIFI	SAIDI	CAIDI
1999-2000*	4.0%	3.96	NA
2000-2001*	68.3%	45.96	NA
2001-2002*	43.6%	30	NA
2002-2003*	8.5%	4.44	NA
2003-2004*	16.5%	15.42	NA
2011	13.8%	16.14	117.34
2012	14.2%	14.25	99.63
2013	83.2%	50.33	92.30
2014	43.2%	48.32	121.93

^{*}Data from previous study issued in 2005.

Table 5-6
PGE & PacifiCorp Reliability Indices

Year	SAIFI	SAIDI	CAIDI			
Pacifi	PacifiCorp Willamette Valley Services					
2011	158.7%	273	NA			
2012	222.9%	444	NA			
2013	159.3%	189	NA			
2014	242.9%	597	NA			
	Portland Ge	neral Electric	;			
2011	51%	66	129			
2012	55%	72	131			
2013	45%	62	138			
2014	69%	93	135			

It is clear that the number and duration of outages increased in 2013 and 2014 compared to 2011 and 2012. Table 5-7 and 5-8 provide a more clear idea of the cumulative duration and frequency of each type of outage in 2013 and 2014.

Table 5-7
2013 Outage Details

Cause	% of total 2013 customer minutes out	Number of Outages
Weather	58.74%	14
Animal	22.88%	32
Equipment	9.62%	18
Faulted Cable	4.20%	5
Damage	3.03%	6
Trec	1.06%	8
Misc.	0.46%	7

Table 5-8
2014 Outage Details

Cause	% of total 2014 customer minutes out	Number of Outages
Weather	61.44%	25
Tree	15.14%	16
Accident	5.90%	6
Lightning	5.80%	1
Faulted Cable	5.65%	6
Equipment	3.08%	10
Animal	1.81%	32
Tree Trimmers	1.00%	1
Misc.	0.19%	5

Tables 5-7 and 5-8 show that weather was the number one cause of customer minutes out in 2013 and 2014; however the most common cause of outages was animals with 32 outages attributed to the animal category in each year. Animal outages for 2013 and 2014 were entered into Google Earth to determine if certain areas might need special guards or protection; the mapped outages show a large cluster in central and north central McMinnville as well as several on the western portion of the service territory served by Baker Creek Feeder 63. A Google Earth KMZ file is provided with the study so MW&L staff can view the visual representation of this data.

SYSTEM VOLTAGE LEVELS

In accordance with standards established by the American National Standard Institute (ANSI C84.1, Range A), the voltage ranges in Table 5-9, shown as acceptable voltage or allowable voltage drop, should be maintained throughout the MW&L electric system. As established in the planning criteria, the maximum secondary voltage drop allowed by MW&L is 3%. To comply with ANSI C84.1 and have a minimum planning voltage of 114 V (on a 120 V base) at the customer meter, the minimum primary voltage allowed should be 117.6 V.

The voltages shown are presented on a 120 Volt base, however the percentages indicated apply to any voltage base, for example 12.47/7.2 kV, 480/277 V, etc., that is applicable to the location.

Table 5-9 Acceptable Voltage Levels

	Acceptable Voltage or	
Location	Allowable Voltage Drop (120 V Base)	Acceptable Percentage
Bus voltage range at substation.	122 - 126	102% - 105%
Maximum voltage drop along		
a distribution feeder.	8	6.3%
Voltage range at primary terminals		
of distribution transformers.	118 - 126	98% - 105%
Maximum voltage drop across distribution		
transformer and service conductors.	4	3.3%
Voltage range at customer meter.	114 - 126	95% - 105%
Voltage range at customer's utilization equip.	110 - 126	92% - 105%

The power flow results indicate that present system voltages under peak conditions are at acceptable levels. However, all substation voltages should be monitored to ensure proper distribution voltage levels are maintained. In addition, during substation outages or feeder transfers, feeder voltage levels should be monitored to assure proper voltage levels are maintained.

System Energy Losses

In order to maintain consistency between studies, energy losses are provided and calculated similarly to the 2005 study. Not including direct industrial sales to Cascade Steel and Air Liquide, yearly losses for calendar years 2010 to 2014 varied from 2.9% to 3.8%. This is comparable to the average of 3.6% for 2000-2004, presented in the 2005 study, and also comparable utilities similar in size and density to MW&L. It is suggested that MW&L continue to calculate, record, and monitor system losses on an annual basis.

Losses were calculated using energy sales data provided by MW&L staff and from the Oregon PUC Public Utility Statbooks. Detailed sales data is not tabulated in order to protect the privacy of industrial customers.

D. EMERGENCY RESTORATION

Emergency restoration plan concepts are tabulated in Appendix B. These tables are based on the peak load Power Flow simulations detailed in Chapter 6 (Power Flow). For a discussion of results of the Power Flow for each outage situation at peak load, see Chapter 6.

E. REGULATORY

Public Utility Commission

MW&L staff requested a brief review of Public Utility Commission (PUC) safety requirements to aid with compliance. OAR 860-024 is the Oregon PUC Safety Standards document. Without performing an audit and inspections that are beyond the authorized scope, it is not possible for us to verify that all requirements have been met nor that they will be met in the future. MW&L should periodically monitor these safety standards for changes. In general, the safety standards filed through April 15, 2015 require the items in the simplified list below. This is not a comprehensive

list and is meant to be informational only. Official documents are available online in the Secretary of State Archives.

- Utilities must keep maps and records showing size, location, character, and date of install of major plant items. This includes location of all underground facilities.
- Utilities should have a defined service territory to prevent duplication of facilities.
- ANSI and NESC practices must be followed for facility construction.
- Utilities must maintain facilities in compliance with commission safety rules and maintain adequate written records of inspection policies, plans, and schedules.
- Utilities must inspect 100% of overhead facilities at a maximum interval of every ten years, and must report to the commission that 50% or more have been inspected at the five year point. A recommended rate of inspection is 10% of the system per year.
- Utilities must have inspections of UG facilities every ten years, with recommended inspection rate of 10% per year.
- Utilities must notify affected owners and occupants, in advance of inspection, of the geographic area to be inspected.
- Utilities must perform safety patrols of accessible facilities for hazards to the public at a maximum interval of two years.
- Utilities must inspect electrical supply stations at a maximum interval of 45 days.
- Utilities must correct violations no later than two years after discovery or they may defer correction for up to ten years if there is no foreseeable risk.
- Connection to ground may be used only for protection purposes, not for providing a return conductor for power purposes.
- Vegetation must be maintained at specified distance from conductors and readily climbable vegetation must also be trimmed or removed.
- Utilities must report incidents to the PUC immediately by facsimile/call/e-mail and in writing within 20 days based on the following criteria:
 - Operator owned and/or non-operator owned property damage exceeds \$100,000
 - Damage to property that causes loss of service to over 500 customers for over two hours, except for electric service loss restricted to single feeder line with an outage less than four hours
 - o Serious injury to person, loss of life or limb

NERC RELIABILITY STANDARDS REQUIREMENTS

Due mainly to seven existing under frequency load shed (UFLS) relays and participation in a UFLS scheme, MW&L is registered through the Western Electricity Coordination Council (WECC) and the North American Electric Reliability Corporation (NERC) as part of the Bulk Electric System (BES). In short, this means that MW&L must comply with all applicable NERC reliability standards.

Under the current definition and implementation of the BES, MW&L is registered as a Distribution Provider (DP) and a Load Serving Entity (LSE). The registration status of an entity determines the reliability standards that apply. However, requirements surrounding the BES are in flux and have changed year to year. The most recent change involved the NERC Risk-Based Registration (RBR) Initiative, approved Mach 19, 2015 by the Federal Energy Regulatory Commission (FERC). RBR sought to ensure, through a consistent approach to risk assessment and registration, that the right

entities are subject to the right set of applicable reliability standards. The direct effects of RBR on MW&L were:

- MW&L is no longer registered as a Purchasing-Selling Entity (PSE)
- Reliability Standard PRC-005, dealing with protection systems for BES elements and transmission and generation protection system maintenance and testing, has been included on the list of reliability standards potentially applicable to MW&L

MW&L staff is aware of these changes. We have reviewed available MW&L self-certification compliance documentation and believe to our best engineering knowledge that MW&L has met reasonable expectation for compliance. Due to the constantly changing nature of the standards, definitions, and interpretations we feel MW&L staff should be cognizant of the following:

- While NERC is the creator and steward of the applicable reliability standards and FERC approves and gives orders to NERC, WECC is the regional organization tasked with enforcing and auditing compliance in the western United States. WECC has several tools on its website that can be used to determine applicable standards, and publishes a list of reliability standards subject to active monitoring each year.
- PRC-005 is on the actively monitored list for 2015. While MW&L does not currently have any transmission or generation protection systems that affect the reliability of the BES, this interpretation could be subject to change with future transmission configuration changes on the BPA side and/or changes in transmission relaying related to MW&L owned breakers B-712, B-713, and B-710.
- PRC-008, UFLS Equipment Maintenance Programs, is also on the actively monitored list for 2015.
- The definition of "Protection System" as used in the reliability standards changed on 4/1/2013 to more explicitly define the component parts that need to be tested. A protection system has been defined to include not just the protective relay but also the voltage/current sensors, AC/DC power systems, batteries, and associated wiring. This specifically applies to the testing of MW&L UFLS relays and associated equipment. The definition is available at the following URL:

http://www.nerc.com/files/glossary of terms.pdf

SPILL PREVENTION CONTROL AND COUNTERMEASURES (SPCC) PLAN REVIEW

As a part of this project the SPCC plans identified in the scope of work have been reviewed, revised, and certified. These documents have been provided and are on file with the MW&L.

CHAPTER 6

Power Flow Analysis

In order to analyze the anticipated load growth and peak demands used in this Long Range Plan, a power flow analysis was performed. The main goals of the power flow analysis were:

- Determine if the MW&L system has adequate capacity under normal operating conditions to serve existing loads with no overload or undervoltage conditions
- Evaluate the adequacy of the system to accommodate future demand growth
- Evaluate the ability of the system to deal with loss of a single transformer or single feeder, with load appropriately sectionalized to other sources.
- Provide a review of power factor on all feeders

A. METHOD

The MW&L electric system (distribution substations and feeders) was modeled based on the following data:

- The existing MW&L Windmil distribution system model, provided by MW&L staff.
- BPA point-of-delivery (POD) meter data and MW&L SCADA and device data for the system, substations, and feeders. After peak coincident loading and power factor was determined for each feeder, load was allocated based on customer billing data using the load allocation tool in the Windmil software.
- Voltage at all substations was set to match existing voltage regulator settings or BPA delivery voltage. All substations were set at 123.5 V except for Windishar #1 which was set at 120.
- A coincidental distribution system peak demand of 106.3 MW (December 2009) was used for the Base Case.
- In the five-year growth case, a system peak demand of 119.7 MW was modeled based on the load forecast projections in Chapter 3.
- In the ten-year growth case, a system peak demand of 130.2 MW was modeled based on the load forecast projections in Chapter 3.
- To assess the loss of a substation transformer, the system was modeled under Base Case conditions with each substation transformer individually removed from service and load transferred to adjacent substation feeders. These cases are discussed in Section D of this chapter.

To assess the loss of a feeder, the system was modeled under Base Case conditions with each feeder circuit removed individually from service and its load transferred to adjacent feeder circuit(s). These cases are discussed in Section D of this chapter.

B. EVALUATING POWER FLOW RESULTS

In general, caution should be practiced when interpreting system problems indicated by the power flow analysis. Power flow results typically identify system problems such as heavily loaded or overloaded conductors and undervoltage conditions. The modeled conditions are the result of analysis under peak demand or other 'worst case' conditions that may be considered extreme. The goal is to evaluate system operation under realistic worst-case conditions. It is recommended that where problems are noted, MW&L should verify that the actual system components and conditions support the analysis conclusions. The peak demand conditions modeled have occurred in the past and the system must be designed to meet the historical peak demand as well as the projected future peaks, even if these events do not occur frequently.

As with any model, the results will only be as accurate as the data used. If there is inaccuracy in the map compilation or any parameter of the data characteristics, there will be inaccuracy in the results.

C. Power Flow Load Allocation and Results

BASE CASE

The Base Case Peak Winter Load power flow analysis was performed on the existing system in its normal configuration. A coincidental peak demand of 106.3 MW was modeled based on load and power factor data from BPA metering, the MW&L SCADA system, and information from MW&L staff.

The results of this analysis indicate that there are no conductor overload problems and only minor voltage violations under these conditions. The only undervoltage violations, as low as 116 V on a 120 V base, can occur at peak loading for the customers that are located on Peavine Road line (Fceder 71) but not past the Peavine line voltage regulator.

Some individual circuits including feeders 11 and 52 have power factors less than 0.97, but these feeders are very lightly loaded and the power factor at each respective BPA POD is acceptable. The feeder loading (kW) and power factor modeled for the Base Case are shown in Table 6-1.

Feeders 34, 51, and 53 are all loaded above 300 A, the preferred maximum feeder loading for normal peak conditions as outlined in the planning criteria. No new loads should be added to these circuits and an effort should be made to transfer some existing load to surrounding circuits so the system is better balanced between feeders. Feeders 24, 31, 54, 62, and 65 are all heavily loaded circuits but still remain under the planning threshold at peak.

Peak load at Booth Bend and Baker Creek substations exceeded 20 MW. Based on the criteria provided in Chapter 4, it is recommended that load be moved from Booth Bend and Baker Creek substations to surrounding substations. Additionally, attempts should be made to allocate future growth to different substations or shift more load as it occurs.

Table 6-1
Base Case Power Flow Details

<u> </u>				PF	
Substation	Sub Load (kW)	Feeder	Fdr Load (kW)	(%)	Amps
		11	456	56.9%	21
McMinnville 2	6,329	12	1,003	99.8%	46
(20/27/33/37)	0,329	13	3,376	99.2%	156
		14	1,494	99.1%	69
		21	1,490	98.1%	69
McMinnville 1	13,334	22	4,287	99.8%	198
(12/16/20)	15,554	23	1,635	98.4%	76
		24	5,922	99.9%	274
		31	5,765	99.8%	267
Windishar #1	19,223	32	2,199	99.7%	102
(20/27/33)		33	4,266	98.5%	198
		34	6,992	99.7%	324
	11,999	41	1,658	98.4%	77
Walnut City		42	2,250	99.0%	104
(20/27/33/37)		44	4,472	99.7%	207
		45	3,619	99.5%	168
	23,548	51	8,660	99.8%	401
Booth Bend		52	917	84.0%	42
(20/27/33/37)		53	7,632	99.3%	353
		54	6,339	99.3%	294
		62	6,156	99.6%	285
Baker Creek	23,394	63	4,462	99.3%	207
(20/27/33)	23,394	65	6,204	99.6%	287
	i	66	6,573	99.7%	304
		71	5,009	99.2%	23 2
Gormley (20/27/33)	8,545	72	1,531	96.3%	71
(20, 21, 00)		73	2,005	100.0%	93

Five-Year Growth (2020)

The five-year growth on the McMinnville System is outlined in Table 6-2. The amount of growth was determined using the load forecast in Chapter 3. In order to be conservative and provide a worst-case outlook, the high growth case was used. Areas of likely growth were determined using maps and information supplied by MW&L staff. The feeder loading (kW) and power factor modeled for the Five-Year Growth Case are shown in Table 6-3.

In addition to the comments made for the Base Case, the results of this analysis indicate the following potential issues:

- Feeders 31, 34, 62, and 65 are all expected to see significant load growth and are heavily loaded under existing peak conditions.
- Feeder 51: With an additional 3 MW of peak load on Feeder 51, the main backbone 336.4 AAC conductor will be loaded to 83% of winter capacity and minor voltage violations may be experienced past switch L137 on 3-Mile Lane. In the conditions studied, Feeder 51 is the most heavily loaded circuit in the whole McMinnville distribution system. As expected growth occurs in this area, the circuits should be reconfigured so that new and existing load is allocated to different circuits (such as 11 and 21).

Table 6-2 Five-Year Growth Case (2020)

Growth Description	Load Type	Feeder(s)	Added Load (Peak kW)	Amps
Baker Creek Area		62	500	23.15
Daker Creek Area	Residential, Commercial	65	1000	46.3
West 2nd Street	Residential	41	1500	69.45
west zha Sireet	Residential	44	500	23.15
3-Mile Lane	Industrial, Commercial	51	3000	138.9
Fox Ridge Rd. Pump Station	Pump Station	62	250	11.57
Grandhaven	Residential	34	750	34.72
Grandnaven	Residential	65	750	34.72
·		21	500	23.15
Riverside Drive Area	Industrial, Commercial	31	1000	46.3
Kivetside Diive Area	maustrai, Commercial	32	750	34.72
		33	750	34.72
		52	400	18.52
		63	400	18.52
Misc Growth	Residential, Commercial	71	400	18.52
		72	400	18.52
		73	400	18.52

Table 6-3 Five-Year Growth Case (2020)

Substation	Sub Load (kW)	Feeder	Fdr Load (kW)	PF (%)	Amps
		11	456	56.9%	21
McMinnville 2	6 220	12	1,003	99.8%	46
(20/27/33/37)	6,329	13	3,376	99.2%	156
		14	1,494	99.1%	69
		21	1,990	98.1%	92
McMinnville 1	12 024	22	4,287	99.8%	198
(12/16/20)	13,834	23	1,635	98.4%	76
		24	5,922	99.9%	274
	22,473	31	6,765	99.8%	313
Windishar #1		32	2,949	99.7%	137
(20/27/33)		33	5,016	98.5%	232
		34	7,742	99.7%	358
	13,999	41	3,158	98.4%	146
Walnut City		42	2,250	99.0%	104
(20/27/33/37)		44	4,972	99.7%	230
		45	3,619	99.5%	168
	04.040	51	11,660	99.8%	540
Booth Bend		52	1,317	84.0%	61
(20/27/33/37)	26,948	53	7,632	99.3%	353
		54	6,339	99.3%	294
		62	6,906	99.6%	320
Baker Creek	26 294	63	4,862	99.3%	225
(20/27/33)	26,294	65	7,954	99.6%	368
		66	6,573	99.7%	304
		71	5,409	99.2%	250
Gormley (20/27/33)	9,745	72	1,931	96.3%	89
(20/27/33)		73	2,405	100.0%	111

TEN-YEAR GROWTH CASE (2025)

The ten-year growth on the McMinnville System is outlined in Table 6-4. The amount of growth was determined using the load forecast in Chapter 3. In order to be conservative and provide a worst-case outlook, the high growth case was used. Areas of likely growth were determined using maps and information supplied by MW&L staff. The feeder loading (kW) and power factor modeled for the Ten-Year Growth Case are shown in Table 6-5.

In addition to the comments made for the Base Case and Five-Year Growth Case, the results of this analysis indicate the following potential issues:

McMINNVILLE WATER & LIGHT MEMORANDUM

TO: Sam Justice, MW&L General Counsel DATE: April 2, 2019

FROM: Jaime Phillips, Senior Power Analyst, MW&L RE: Baker Creek Substation

As Senior Power Analyst, I have a primary role in planning, directing, implementing, and managing the MW&L power supply program. I also manage the MW&L electric cost of service and rate design process. I report directly to the General Manager and work closely with the Senior Electrical Engineer and Electric Division Director. I write this memo to address the impact of anticipated load growth on our electric infrastructure, specifically the need for expansion of the Baker Creek substation.

The Baker Creek substation was built in 2000 to serve the area on the northwest side of the MW&L service territory. The existing transformer has a rating of 20/27/33 MVA. MW&L uses 20 MVA as its maximum load criteria. This maximum load rating ensures that there is adequate capacity on the substation transformers in case of emergency load. During a load emergency, MW&L may shift load from the overburdened substation to other substations and the load capacity rating above the 20 MVA base is reserved for to carry such an emergency load.

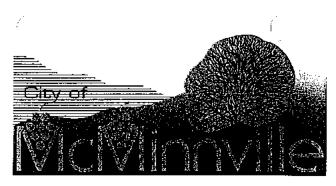
MW&L is a winter peaking electric system, with peak demand events predominantly caused by cold temperatures and residential load. There is a strong correlation between extreme cold temperatures and winter peak loading on the MW&L electric system. The Baker Creek substation has an average winter peak of approximately 20 MVA. In the winters of 2011 and 2013 loading on the existing transformer at Baker Creek exceeded 27 MVA.

City of McMinnville development projections show a residential build out potential of an estimated 772 additional units in west McMinnville. This appears likely to occur within the next five years. With a demand of 8 kW per unit, this translates to approximately 6 MVA of additional demand at the Baker Creek substation, pushing the peak load on the transformer well above the 20 MVA base rating. After build out of the additional units, the ability of the Baker Creek substation to respond to an emergency load event will be degraded. Commercial property and school district (high school and elementary school) development in the area of the substation will also create additional load growth. For example, the current McMinnville High School has the potential to create an additional 1-2 MVA of demand in a winter peaking scenario.

In 2015 McMinnville Water and Light (MW&L) commissioned Tri-Axis Engineering to update its Electric System Planning Study. The Tri-Axis study foresaw the potential load growth on the west side of McMinnville and recommended alternatives to accommodate this growth. One alternative was to expand the Baker Creek substation and add a second 20/27/33/38 MVA power transformer. According to the 2015 engineering study, the expansion of the Baker Creek substation was the least-cost alternative to accommodate the expected load growth. MW&L establishes its electric rates based on cost-of-service analysis. Lower capital improvement costs will translate to a lesser impact on electric rates.

The additional transformer at the Baker Creek substation will allow the substation to operate under the 20 MVA criteria threshold well into the future while at the same time accommodating continued development of residential, commercial, and publicly owned properties.

BLANK



230 NE Second Street • McMinnville, Oregon 97128 • www.ci,mcminnville.or.us

November 24, 1999

John Harshman McMinnville Water and Light P O Box 638 McMinnville OR 97128

Dear Mr. Harshman:

This is to advise you that at a meeting of the McMinnville Planning Commission on Thursday, November 18, 1999, your application for a conditional use permit to allow the construction of an electrical substation facility on a lot some 60 by 160 feet located north of Baker Creek Road and within the existing BPA transmission line easement and more specifically described as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M., was presented and carefully studied.

Based on the materials submitted by the applicant, the testimony received, the findings of fact, and the conclusionary findings for approval, the Planning Commission voted to approve your conditional use application subject to the following conditions:

1. That the applicant submit to the McMinnville Landscape Review Committee for review and approval a detailed landscape and irrigation plan prior to issuance of any building permits for the proposed facility. Eight-foot high cyclone fencing shall be provided and secured access gates shall be installed so as to prohibit direct public access from all sides. Such fencing shall be set back a minimum of 20 feet from the Baker Creek Road right-of-way. Vegetative screening in the form of an evergreen hedge or similar planting material shall be placed along the site's perimeter within a landscape strip a minimum of five feet in width. Extensive landscaping to include trees and screening shall be provided along the site's southern perimeter. All trees to be planted along the site's Baker Creek Road frontage shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for a particular planting area, and be spaced as appropriate for the selected species and as may be required for the location of underground utilities, above-ground utility vaults, transformers, light poles, and hydrants. All required landscaping and irrigation shall be installed prior to use of the substation.

Community Development Department
Planning Department (503) 434-7311 FAX (503) 472-4104

- 2. That all outside lighting shall have hoods or shall be "shoebox" type fixtures that will direct light beams both downward and away from neighboring residentially planned property.
- 3. That signage shall be limited to a maximum of one free-standing sign not more than two square feet in area. The sign, if illuminated, must be indirectly illuminated and non-flashing.
- 4. Construction of the proposed substation will require the applicant to gain a fill and grading permit from the City Building Division. All fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department.
- 5. That the applicant shall dedicate sufficient public right-of-way along the subject site's southern frontage to provide 50-feet from the centerline of Baker Creek Road. A waiver of remonstrance against assessment for the future improvement of Baker Creek Road shall be signed by the property owner. Said waiver shall be prepared by the City.
- 6. That the proposed entry drive to the facility from Baker Creek Road shall be paved.

Pursuant to the Zoning Ordinance of the City of McMinnville, an application approved by the Planning Commission may be appealed within fifteen (15) days of the day of such approval to the City Council. If no appeal is filed with the City Recorder on or before December 3, 1999, the decision of the Planning Commission will be final.

If you have any questions or comments, please call me at (503) 434-7311.

Sincerely,

Doug Montgomery, AICP

Planning Director

DRM:ral

After recording, return to:

McMinnville Water & Light P.O. Box 638, 855 Marsh Lane McMinnville, OR 97128

Send tax Statements to:

No change.

Yamhill County Official Records DMR-EDMR

201900620

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01/15/2019 04:03:00 PM

6Pgs \$30.00 \$11.00 \$5.00 \$60.00

\$106.00

i, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk

Brian Van Bergen - County Clerk

EASEMENT

THIS EASEMENT, is made this 14th day of January, 2019, by and between Baker Creek Development LLC an Oregon limited liability dompany, hereinafter called the Grantor, and the City of McMinnville, a Municipal Corporation of the State of Oregon. acting by and through its WATER & LIGHT COMMISSION, hereinafter called MW&L.

WITNESSETH:

WHEREAS: The Grantor is the record owner of the following described real estate in Yamhill County, State of Oregon, to-wit:

All that portion of the following described tract lying North of Baker Creek Road: Commencing at the Northeast corner of Section 18, Township 4 South, Range 4 West of the Witlamette Meridian in Yamhill County, Oregon, which place of beginning is also the Northeast corner of the T.J. Shadden Donation Land Claim; thence South 39.30 chains; thence West 38.16 chains to the center of the County Road; thence North 39.31 chains to the Northwest corner of the lands formerly owned by William L. Toney as described in deed recorded in Volume "W", Page 20, Yamhill County Deed Records, said corner being also on the North line of Section 18; thence East 38.16 chains to the place of beginning.

EXCEPTING THEREFROM a parcel of land located in the T.J. Shadden Certificate Claim No. 18 in the Northeast Quarter of Section 18, in Township 4 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon that is more particularly described as follows:

Beginning at a 5/8 inch iron rod on the East section line of Section 18, said iron rod being South 00°08'00" East 716.65 feet from the Northeast corner of Section 18. Township 4 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon; thence South 89°52'00" West 323.00 feet to a 5/8 inch iron rod; thence South 00°08'00" East 725.16 feet, more or less, to the North line of Baker Creek Road; thence South 84°16′23" East along said North line 324.69 feet, more or less, to the East line of Section 18; thence North 00°08'00" West along said East line 758.31 feet, more or less, to the place of beginning.

FURTHER EXCEPTING those parcels conveyed to VJ-2 Development, Inc., in the following: deed recorded January 28, 1997 as Instrument No. 199701382; deed recorded January 26, 1998 as Instrument No. 199801435; and deed recorded February 1999 as Instrument No. 199902487.

FURTHER EXCEPTING that parcel conveyed to the City of McMinnville in that dedication deed recorded August 10, 2017 as Instrument No. 201713023, Yamhill County Deed Records.

FURTHER EXCEPTING that parcel conveyed to the City of McMinnville in that dedication deed recorded September 10, 2018 as Instrument No. 201812980, Yamhill County Deed Records. Attachment 7, MW&L Applications Page Page 1 as being South 00°08'00" East 691.80 feet and South 89°52'00" West 323.00 feet and South 00°08'00" East 724.19 feet and North 84°07'51" West 1211.13 feet from the northeast corner of said Section 18, said point being on the north right of way line of N.W. Baker Creek Road 30.00 feet at a perpendicular distance Northerly of the centerline of said road; thence South 84°07'51" East 37.69 feet along said north right of way to the TRUE POINT OF BEGINNING of this description; and running thence:

North 84°07'51" West 211.08 feet along said north right of way; thence leaving said north right of way, North 0°02'49" East 242.92 feet; thence South 89°57'11" East 210.00 feet; thence South 0°02'49" West 264.33 feet to the TRUE POINT OF BEGINNING, containing 1,223 acres of land, more or less.

Bearings are based on Yamhill County Survey No. 10616 (along the centerline of N.W. Baker Creek Road).

and has the unrestricted right to grant the easement hereinafter described relative to said real estate:

NOW, THEREFORE, for good and valuable consideration; the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey unto MW&L: A perpetual easement to construct, maintain, re-construct, improve, repair and replace, operate, and make connections to an electric distribution system and related equipment, including but not limited to: conduit, transformers, vaults, primary conductors, secondary conductors, and meters ("the facilities").

Easement is for a right-of-way over, under and across Grantor's real estate described above and said easement is more particularly described as follows:

See the Attached EXHIBIT A for a description of both "BUMP OUT" EASEMENTS."

The easements are also as shown on the map attached hereto as **EXHIBIT B**. This Exhibit B is offered only for reference. Exhibit A controls.

MW&L shall have all rights of unobstructed ingress and egress to and from said easement (including the right to cut, trim and remove trees, bushes, brush, overhanging branches and other obstructions) necessary for the MW&L's use, operation and maintenance of the facilities and easement use hereby granted and all rights and privileges incident thereto.

The Grantor reserves the right to use the surface of the above-described easement, except Grantor shall not have the right to construct or locate any structures within the easement area.

The Grantor and the MW&L agree that the Grantor shall not have the authority to grant to any other third party, an easement over, under or through the easement area described above, without MW&L's written consent thereto. Any consent by the MW&L to a third party easement shall be subject to conditions required by MW&L to protect the MW&L's facilities line and the MW&L's unobstructed access to such facilities. The MW&L may require that all costs incurred by reason of the presence of such third party utility be borne by such third party upon the repair, replacement, construction or reconstruction of the MW&L's utility improvements.

The Grantor hereby covenants to and with the MW&L its successors and assigns that Grantor is lawfully selved and nossessed of the real premises and that the Grantor

this, the day and year first hereinabove written.
STATE OF OREGON) Ss. County of Auchumus)
This record was acknowledged before me on <u>Jay 14</u> , 201 <u>1</u> by Gordon C. Root as Manager of Baker Creek Development LLC, an Oregon limited liability company.
OFFICIAL STAMP JAMIE LEE WYLAND NOTARY PUBLIC OREGON COMMISSION NO. 961287 MY COMMISSION EXPIRES APRIL 17, 2021 My Commission Expires: My Commission Expires: A 7 21
Statement of acceptance:
Scott A. Hill Mayor & Ex-Officio Member of the Water & Light Commission ATTESTED BY: Trena McManus Clerk of Commission STATE OF OREGON ATTESTED BY:
) Ss. County of Yamhill)
This record was acknowledged before me on <u>January</u> 7, 201 <u>9</u> by SCOTT A. HILL as MAYOR and Ex-Officio Member of the Water and Light Commission.
MEGHAN KAYLENE HARPER MOTARY PUBLIC-OREGON COMMISSION NO. 951828A NOTARY PUBLIC-OREGON MY COMMISSION EXPIRES JULY 05. 2020 MY COMMISSION EXPIRES JULY 05. 2020 MY Commission Expires: 75/20
STATE OF OREGON)
) Ss. County of Yamhill)
This record was acknowledged before me on ANNAWY 7, 201 by Trena McManus as Clerk of the Water and Light Commission.

OFFICIAL STAMP

MEGHAN KAYLENE HARPER
NOTARY PUBLIC-OREGON
COMMISSION NO. 951828A
MY COMMISSION EXPIRES JULY 05. 2020 440

Notary Public for Oregon
Attachment 7, MWMy Application Expires: 7/5/29 age 3

IN WITNESS WHEREOF, the parties hereto have subscribed this instrument on this, the day and year first hereinabove written.

STATE OF OREGON)) Ss.	Gordon C. Root, Manager
County of)	
This record was acknowledged as Manager of Baker Creek De	d before me on _ evelopment LLC	, 201 by Gordon C. Root , an Oregon limited liability company.
		Before me:
		Notary Public for Oregon My Commission Expires:
Statement of acceptance:		
		ATTESTED BY:
Scott A. Hill Mayor & Ex-Officio Member of the Water & Light Commission		Trena McManus Clerk of Commission
STATE OF OREGON)) Sometimes () Sometimes (S.	
This record was acknowledge HILL as MAYOR and Ex-Offici	ed before me or o Member of the	Water and Light Commission.
MEGHAN KA NOTARY PL COMMISSIO	AL STAMP YLENE HARPER IBLIC-OREGON IN NO. 951828A (PIRES JULY 05, 2020 ()	Before me: WHOLL Notary Public for Oregon My Commission Expires: 75/20
STATE OF OREGON)		
) Society of Yamhill)	S.	
This record was acknowled McManus as Clerk of the Water	ged before me er and Light Con	on January 7, 2019 by Trena mission.

EXHIBIT A

TRACT

A 15.00 foot wide strip of land situated in the northeast one quarter of Section 18, Township 4 South, Range 4 West of the Willamette Meridian, Yamhill County, Oregon, more particularly described as follows:

Beginning at a point that is 58.00 feet Northerly of and opposite Centerline Station 8+52.77 of the herein described centerline of N.W. Baker Creek Road; and running thence:

North 82°10'07" West 20.00 feet parallel with said centerline;

thence NO7°49'53" East 15.00 feet;

thence South 82°10'07" East 20.00 feet parallel with said centerline;

thence South 07°49'53" West 15.00 feet to the Point of Beginning, containing 300 square feet of land, more or less.

TRACT II

A 15.00 foot wide strip of land situated in the northeast one quarter of Section 18, Township 4 South, Range 4 West of the Willamette Meridian, Yamhill County, Oregon, more particularly described as follows:

Beginning at a point that is 58.00 feet Northerly of and opposite Centerline Station 5+27.60 of the herein described centerline of N.W. Baker Creek Road; and running thence:

North 82°10'07" West 32.00 feet parallel with said centerline;

thence N07°49'53" East 15.00 feet;

thence South 82°10'07" East 32.00 feet parallel with said centerline;

thence South 07°49'53" West 15.00 feet to the Point of Beginning, containing 480 square feet of land, more or less.

The centerline of Baker Creek Road is described as follows:

Beginning at the centerline station 0+00.00, from which the centerline intersection of Baker Creek Road and N.W. Meadows Drive bears South 82°10'07" East, a distance of 115.50 feet, monumented by a 5/8" iron rod, with yellow plastic cap inscribed "BARKER PLS 636";

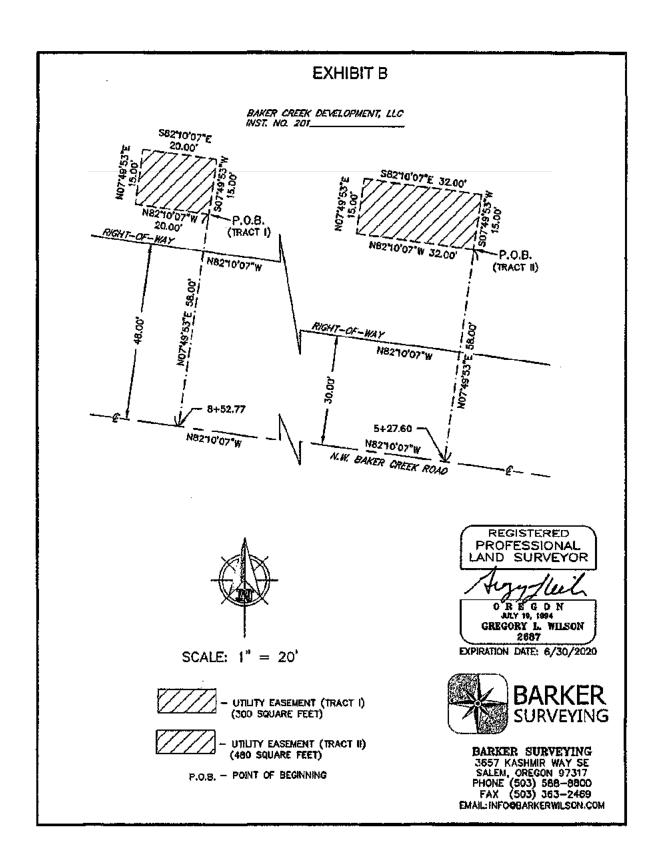
thence North 82°10'07" West, a distance of 982.02 feet, to the intersection of Baker Creek Road and NW Hill Road, from which a 5/8" iron rod, with a yellow plastic cap inscribed "BARKER PLS 636" bears North 02°15'10" East, a distance of 30.22 feet;

thence continuing North 82°10'07" West, a distance of 12.80 feet at centerline station 9+94.84; thence North 07°49'53" East, a distance of 5.19 feet at Centerline Station 10+00.00;

thence North 83°00'12" West, a distance of 334.21 feet to the Point of Curve at Centerline Station 13+34.20, of a 280.00 foot radius tangent curve to the right;

thence along said curve, through central angle of 58°45'54", a distance of 287.17 feet (chord bears North 53°37'15" West, a distance of 274.76 feet) at centerline station 16+21.38;

thence North 24°14'18" West a distance of Na Wasterland Station 17+00.00, forme 5



GRANTOR: McMinnville Water and Light GRANTEE: City of McMinnville, Oregon

CONSIDERATION: None

After recording return to: City of McMinnville 230 NE 2nd Street McMinnville Or 97128

Until a change is requested, all tax statements shall be sent to the following address: <u>No</u> change

Yamhill County Official Records
DMR-DDMR

201900623

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01/15/2019 04:20:00 PM

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φ100.00

I, Brian Van Bergen, County Clerk for Yambill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Brian Van Bergen - County Clerk

DEDICATION DEED

THE CITY OF McMINNVILLE, a Municipal Corporation of the State of Oregon, acting by and through its Water and Light Commission GRANTOR(S), conveys, and dedicates to the PUBLIC, a perpetual right-of-way for roadway, pedestrian and public utility purposes, as described in Exhibits "A" and shown on Exhibit "B", attached hereto and incorporated herein by this reference.

The true and actual consideration for this conveyance is NONE.

The above described property is conveyed free of encumbrances, except as specifically set forth.

The Grantor(s) hereby covenant that the Grantor(s) are lawfully seized of the estate in the property, that the Grantor(s) have good right to convey the same, that at the time of the delivery of the deed the property is free from encumbrances except as specifically set forth on the deed, and that the Grantor(s) warrant and will defend the title to the property against all persons who

may lawfully claim the same.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS

1 OF 6 - DEDICATION DEED

DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

Dated this 7 day of January, 2019.

Name: Scott A. Hill

Title: Mayor and Ex-Officio Member of the

Water and Light Commission

MINIA W

Name: Trena McManus

Title: Clerk of the Water and Light

Commission

Attested By:

State of Oregon) SS. County of Yamhill)

This record was acknowledged before me on (MMW) 7, 2019 by Scott A. Hill, as mayor and ex-officio member of the Water and Light Commission.

Notary Public for Oregon

My Commission Expires: 1(5)20

OFFICIAL STAMP
MEGHAN KAYLENE HARPER
NOTARY PUBLIC-OREGON
COMMISSION NO. 951828A
MY COMMISSION EXPIRES JULY 95, 2020 ()

State of Oregon) SS. County of Yamhill)

This record was acknowledged before me on <u>January</u>, <u>who</u> by Trena McManus, as clerk of the Water and Light Commission.



Notary Public for Oregon
My Commission Expires: 7 | 5 | 20

2 OF 6 - DEDICATION DEED

APPROVAL OF CONVEYANCE (ORS 93.808)

The City of McMinnville hereby approves of this conveyance and accepts title.

Name: Jeff Towery Title: City Manager

State of Oregon) SS. County of Yamhill)

This record was acknowledged before me on City Manager of the City of McMinnville.

OFFICIAL STAMP
ERICA LYNN THOMAS
NOTARY PUBLIC - DREGON
COMMISSION NO. 957053
M- COMMISSION EXPIRES DECEMBER 12, 2028

C 45 11

Notary Public for Oregon

My Commission Expires:

12-11-20

EXHIBIT A (page 1 of 2)

An 18.00 foot wide strip of land situated in the northeast one-quarter of Section 18, Township 4 South, Range 4 West of the Willamette Meridian, Yamhill County, Oregon, more particularly described as follows:

Beginning at the southeast corner of that property described in that instrument recorded as instrument No. 2002008810, Yamhill County Deed Records, said point recorded as being South 00°08′00″ East 691.80 feet and South 89°52′00″ West 323.00 feet and South 00°08′00″ East 724.19 feet and North 84°07′51″ West 1211.13 feet from the northeast corner of said Section 18, said point being on the north right of way line of N.W. Baker Creek Road at a perpendicular distance of 30.00 feet Northerly from the centerline of said road; thence South 82°10′07″ East 37.69 feet along said right of way to the southeast corner of that property described in that instrument recorded in Inst. No. 2019 - 2000 Name of this description; and running thence:

North 82°10′07" West 211.08 feet along said right of way to southwest corner of said property; thence North 02°00′32" East 18.09 feet along the west line of said property to a point that is 48.00 feet at a perpendicular distance Northerly from said centerline;

thence South 82°10'07" East 211.08 along a line parallel with said centerline to a point on the east line of said property;

thence South 02°00'32" West 18.09 feet along said east line to the True Point of Beginning, containing 3800 square feet of land, more or less.

Bearings are based on Yamhill County Survey No. 13244 (along the centerline of N.W. Baker Creek Road).

4 OF 6 ~ DEDICATION DEED

Exhibit A (page 2 of 2)

SAVE AND EXCEPT the following encumbrances noted as exceptions in First American Title Insurance Company report, Order No.: 1031-3121918:

14. Right to enter and erect, operate, maintain, repair, rebuild and patrol one or more electric power transmission lines and appurtenant signal lines, wires, cables and appliances necessary in connection therewith; together with right to clear said parcel and keep same clear of all brush, timber, structures and fire hazards; right to top, limb, fell and remove all growing trees, dead trees and snags (collectively called 'Danger Trees') which could fall on said line.

Recorded:

August 12, 1964

Recording Information:

Film Volume 39, Page 462, Deed and Mortgage Records

Grantee:

The United States of America

15. Right to enter and erect, operate, maintain, repair, rebuild and patrol one or more electric power transmission lines and appurtenant signal lines, wires, cables and appliances necessary in connection therewith; together with right to clear said parcel and keep same clear of all brush, timber, structures and fire hazards; right to top, limb, fell and remove all growing trees, dead trees and snags (collectively called 'Danger Trees') which could fall on said line.

Recorded:

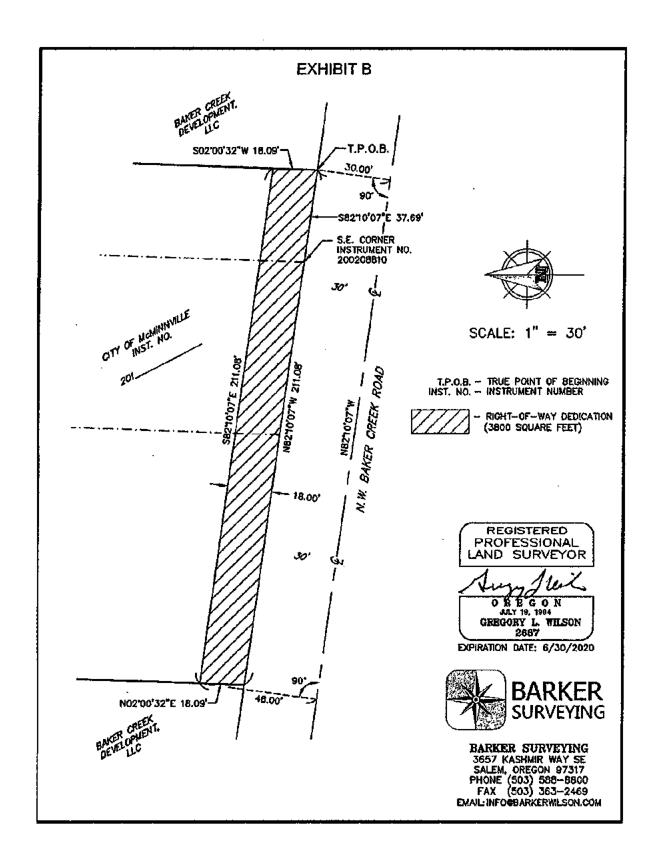
October 14, 1964

Recording Information:

Film Volume 40, Page 851, Deed and Mortgage Records

Grantee:

The United States of America



AFTER RECORDING RETURN TO:

City of McMinnville 230 NE 2nd Street McMinnville, OR 97128

<u>SEND TAX STATEMENTS TO</u>: No Change.

Yamhill County Official Records 201900622

DMR-EDMR
Stn=3 SUTTONS 01/15/2019 04:20:00 PM
4Pgs \$20.00 \$11.00 \$5.00 \$60.00 \$96.00

I, Brian Van Bergen, County Clerk for Yamhill County. Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Brian Van Bergen - County Clerk

UTILITY EASEMENT

That the Grantors, for and in consideration of the sum of No Dollars, (\$0.00), do hereby grant, bargain, sell and convey unto the Grantee, perpetual easement, as described herein, together with the right to go upon said easement area hereinafter described for the purpose of constructing, reconstructing, maintaining and using public and franchise utility facilities, on the following described property, to-wit:

See attached Exhibit "A" for legal description

Said utility easement is also shown on the map attached as Exhibit "B":

TO HAVE AND TO HOLD the above easement to the said Grantee, its successors and assigns forever.

Dated this 7 day of January , 2019.

Name: Scott A. Hill

Title: Mayor and Ex-Officio Member of the

Water and Light Commission

Attested By:

Name: Trena McManus

Title: Clerk of the Water and Light

Commission

State of Oregon) SS. County of Yamhill)



Notary Public for Oregon
My Commission Expires: 75/20

State of Oregon) SS. County of Yamhill)

This record was acknowledged before me on January 7, 2019 by Trena McManus, as clerk of the Water and Light Commission.



Notary Public for Oregon
My Commission Expires: 7/5/20

APPROVAL OF CONVEYANCE (ORS 93.808)

The City of McMinnville hereby approves of this conveyance and accepts title.

Name: Jeff Towery Title: City Manager

State of Oregon) SS. County of Yamhill)

This record was acknowledged before me on City Manager of the City of McMinnville.

OFFICIAL STAMP
ERICA LYNN THOMAS
-NOTARY PUBLIC - OREGON
COMMISSION NO. 957053
MY COMMISSION EXPIRES DECEMBER 15 7020

Page 2 of 4 Pages - Utility Easement

by Jeff Towery as

Notary Public for Oregon
My Commission Expires: 12.11.20

EXHIBIT A

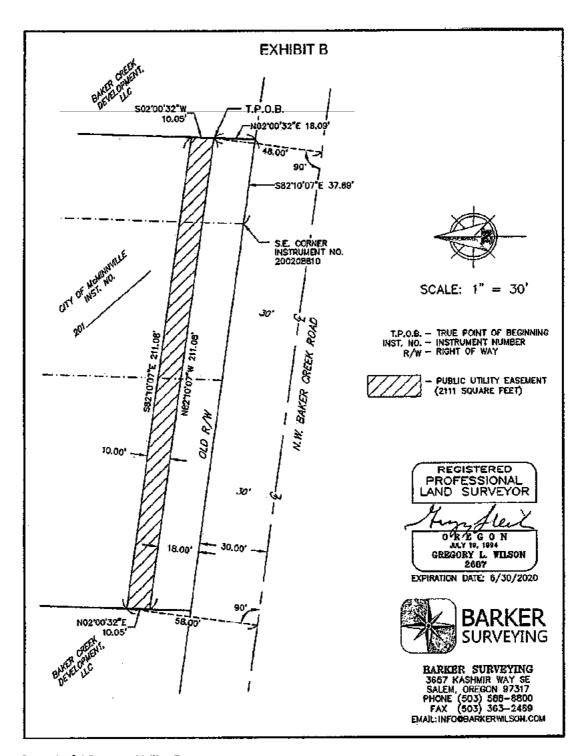
A 10.00 foot wide strip of land situated in the northeast one-quarter of Section 18, Township 4 South, Range 4 West of the Willamette Meridian, Yamhill County, Oregon, more particularly described as follows:

- Beginning at the southeast corner of that property described in that instrument recorded as instrument No. 2002008810, Yamhill County Deed Records, said point recorded as being South 00°08'00" East 691.80 feet and South 89°52'00" West 323.00 feet and South 00°08'00" East 724.19 feet and North 84°07'51" West 1211.13 feet from the northeast corner of said Section 18, said point being on the north right of way line of N.W. Baker Creek Road at a perpendicular distance of 30.00 feet from the centerline of said road; thence South 82°10'07" East 37.69 feet along said right of way to the southeast corner of that property described in that instrument recorded in Inst. No.

 2019— 0066 , Yamhill County Deed Records; thence North 02°00'32" East 18.09 feet along the east line of said property to a point that is 48.00 feet at a perpendicular distance Northerly from said centerline and the True Point of Beginning of this description; and running thence:
- North 82°10'07" West 211.08 feet, parallel with said centerline to a point on the west line of said property;
- thence North 02°00'32" East 10.05 feet along said west line to a point that is 58.00 feet at perpendicular distance Northerly from said centerline;
- thence South 82°10'07" East 211.08 feet parallel with said centerline to a point on the east line of said property;
- thence South 02°00'32" West 10.05 feet along said east line to the True Point of Beginning, containing 2111 square feet of land, more or less.

Bearings are based on Yamhili County Survey No. 10616 (along the centerline of N.W. Baker Creek Road).

Page 3 of 4 Pages - Utility Easement



Page 4 of 4 Pages - Utility Easement



Attachment 10 to Exhibt 1; NW 22ND ST

BLANK

After recording return to:
McMinnville Water and Light
Attn: Sam Justice
PO Box 638
McMinnville Or 97128

Send Tax Statements to: No change

 Yamhill County Official Records
 201900618

 DMR-DDMR
 01/15/2019
 04:03:00 PM

 6Pgs
 \$30,00 \$11.00 \$5.00 \$60.00
 \$106.00

t, Brian Van Bergen, County Clerk for Yamhili County, Oregon, certify that the instrument identified herein was recorded in the Clerk

Brian Van Bergen - County Clerk

WARRANTY DEED

Baker Creek Development, LLC, an Oregon limited liability company, GRANTOR, conveys and warrants to the City of McMinnville, a Municipal Corporation of the State of Oregon, acting by and through its Water and Light Commission, GRANTEE, the real property in Yamhill County, Oregon, as described as follows:

A tract of land situated in the northeast one quarter of Section 18, Township 4 South, Range 4 West of the Willamette Meridian, Yamhill County, Oregon, more particularly described as follows:

Beginning at the southeast corner of that property described in that instrument recorded as Instrument No. 200208810, Yamhill County Deed Records, said point recorded as being South 00°08'00" East 691.80 feet and South 89°52'00" West 323.00 feet and South 00°08'00" East 724.19 feet and North 84°07'51" West 1211.13 feet from the northeast corner of said Section 18, said point being on the north right of way line of N.W. Baker Creek Road 30.00 feet at a perpendicular distance Northerly of the centerline of said road; thence South 84°07'51" East 37.69 feet along said north right of way to the TRUE POINT OF BEGINNING of this description; and running thence:

North 84 °07'51" West 211.08 feet along said north right of way; thence leaving said north right of way, North 0°02'49" East 242.92 feet; thence South 89°57'11" East 210.00 feet; thence South 0°02'49" West 264.33 feet to the TRUE POINT OF BEGINNING, containing 1.223 acres of land, more or less.

Bearings are based on Yamhill County Survey No. 10616 (along the centerline of N.W. Baker Creek Road).

SAVE AND EXCEPT that real property Grantee currently owns within the above-described real property, as described in document No. 200208810 recorded in property records of Yamhill County, Oregon on May 1, 2002; and as described in the instrument recorded in property records of Yamhill County, Oregon at Film Volume 119, Page 241 on March 31, 1977.

The true and actual consideration in dollars for this conveyance is \$175,000.00.

The above described property is conveyed free of encumbrances, except as specifically set forth herein in Exhibit A. This conveyance is made solely as an adjustment of a common boundary

PAGE 1 OF 5 PAGES. - WARRANTY DEED.

between adjoining properties pursuant to City of McMinnville boundary line adjustment BLA 10-18 as shown on the map attached as Exhibit B.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS, BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195,300, 195,301 AND 195,305 TO195,336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

Gordon C. Root, Manager

) SS. .M State of Oregon County of Yambill) Och Komas

This record was acknowledged before me on

by Gordon C. Root as

Manager of Baker Creek Development, LLC, an Oregon limited liability company.

OFFIGIAL STAMP JAMIE LEE WYLAND NOTARY PUBLIC: OREGON **COMMISSION NO. 961287** MY COMMISSION EXPIRES APAIL 17, 2021 Notary Public for Oregon My Commission Expires:

PAGE 2 OF 5 PAGES. - WARRANTY DEED.

APPROVAL OF CONVEYANCE (ORS 93.808)

Name: Scott A. Hill

Title: Mayor and Ex-Officio Member of the

Water and Light Commission

Name: Trena McManus

Title: Clerk of the Water and Light

Commission

Attested By:

State of Oregon) SS. County of Yamhill)

This record was acknowledged before me on dhum 7 2019 by Scott A. Hill, as mayor and ex-officio member of the Water and Light Commission.



Notary Public for Oregon

My Commission Expires: 7-5-20

State of Oregon) SS. County of Yamhill)

This record was acknowledged before me on <u>January 7, will</u> by Trena McManus, as clerk of the Water and Light Commission.



manper

Notary Public for Oregon

My Commission Expires: 1-5-20

EXHIBIT A

From First American Title Insurance Company report Order No. 1031-3121918.

14. Right to enter and erect, operate, maintain, repair, rebuild and patrol one or more electric power transmission lines and appurtenant signal lines, wires, cables and appliances necessary in connection therewith; together with right to clear said parcel and keep same clear of all brush, timber, structures and fire hazards; right to top, limb, fell and remove all growing trees, dead trees and snags (collectively called 'Danger Trees') which could fall on said line.

Recorded:

August 12, 1964

Recording Information:

Film Volume 39, Page 462, Deed and Mortgage Records

Grantee:

The United States of America

15. Right to enter and erect, operate, maintain, repair, rebuild and patrol one or more electric power transmission lines and appurtenant signal lines, wires, cables and appliances necessary in connection therewith; together with right to clear said parcel and keep same clear of all brush, timber, structures and fire hazards; right to top, limb, fell and remove all growing trees, dead trees and snags (collectively called 'Danger Trees') which could fall on said line.

Recorded:

October 14, 1964

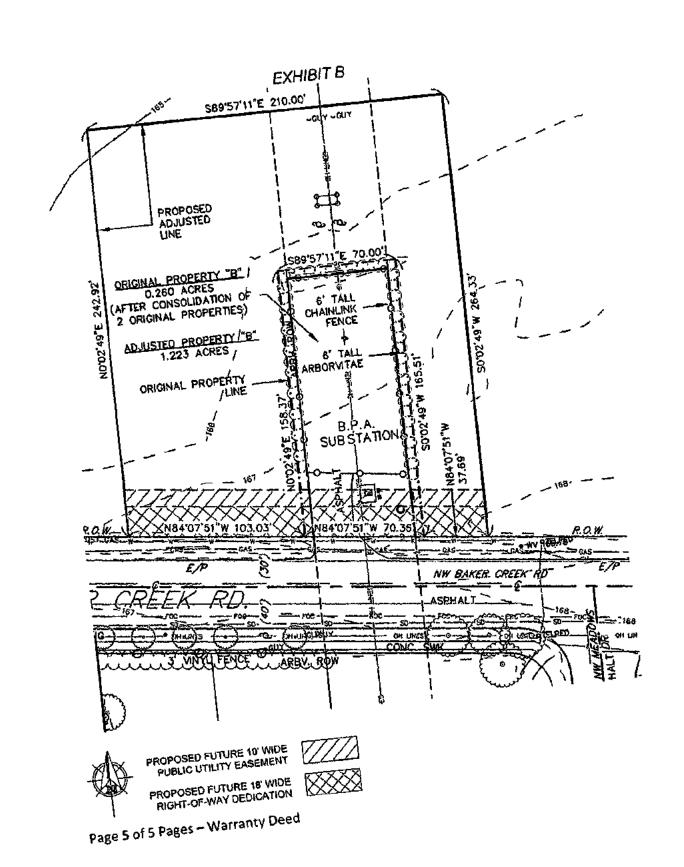
Recording Information:

Film Volume 40, Page 851, Deed and Mortgage Records

Grantee:

The United States of America

Page 4 of 5 Pages - Warranty Deed





Certification of Charges Paid

(2015 Oregon Laws Chapter 96)

Regarding the real property:			
(submitter must provide one of the foll			
Tax lot #	Tax Account / Property I	Identification Number	\neg
R4418 00100	643294		
			_
All charges against the real proper	ty have been paid f	for the property that is	the subject of the deed between:
Grantor			
Baker Creek Development, LLC	·		;
Baker Oleek Development, 220	, 		
Grantee			
City of McMinnville, acting by a	nd through its Wat	ter and Light Comm	nission
Oily 07 113011111111111111111111111111111111			
Signed on (date)		and for consideration of	
Signed on (date)		and for consideration of	
January 7, 2019		\$ 175,000.00	_
			
Authorized Assessor's representative signature	Name		Date .
	Rilean Slater.	Deputy Tax Collector	
(Cadren on) later	Etteen precer,	Deputy In Collector	1-15-2019

NOTICE: The accuracy of information on this form that was not provided by the Assessor is not warranted by the Assessor's Office. Please be sure the information provided, regarding property for which the certificate is sought and the parties to the transaction, is correct.



Public Utility Commission 550 Capitol Street NE, Suite 215 Mailing Address: PO Box 2148 Salem, OR 97308-2148 Consumer Services 1-800-522-2404 Local: 503-378-6600 Administrative Services 503-373-7394

December 29, 2000

To: All electric utilities in Oregon.

Re: Electrical substation security.

During recent inspection tours across the state, OPUC staff members have observed circumstances related to electrical substation security that constitute a significant safety hazard to the public. Specifically, within the last three months, staff members have been able to literally walk into five substations. Although all the gates had some type of locking mechanism, by pulling up and out, we were able to open them.

The purpose of this letter is to re-emphasize the requirements of the National Electrical Safety Code (NESC), as it relates substation security measures. Rule 110 is very specific regarding <u>minimum</u> protective requirements. Staff strongly recommends prompt and continuing compliance inspections of your substations.

As the minimum, inspections at monthly intervals are suggested for such crucial installations as electrical substations. Particular attention needs to be given to inspection of substation fences and gates to ensure that they, as stated in Rule 110, "limit the likelihood of entrance of unauthorized persons or interference by them with equipment inside."

Critical items to be aware of when performing inspections are:

- Gaps and erosion under fencing and gates.
- Adequate fence heights (at least six feet of fabric) and barbed wire top assemblies. A total height of not less than seven (7) feet is required.
- Gates capable of being securely locked. (Chains are recommended.)
- Suitable warning signs at all gates and on fencing as required. (Note: ANSI Z535,1-1991, ANSI Z535,2-1991, ANSI Z535,3-1991, ANSI Z535,4-1991, and ANSI Z535,5-1991 contain information regarding safety signs.)
- Proper grounding/bonding techniques for fences and gates.
- Substations free of stored material and equipment not essential to the maintenance of installed equipment.
- Outside perimeter of substation fences free of objects that would provide access.
 (i.e., trees, shrubs, vehicles, fences, buildings, etc.)

BLANK

		<u>1</u> Original Budget	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
Description W	ork Order#	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
RANSMISSION			····				
	20170136	150,000	125,000	125,000			
Pole Replacement	224422	52,000	56,000	58,800	62,900	100,000	105,000
Lawson Lane Transmission Pole Replacement Transmission Line 3-Mile Lane Substation (1,3 Mile Tap)	20110090	200,000	100,000	100,000			250,000
Purchase Walnut City 115 KV line			40,000				200,000
Walnut City Tap switch			,,,,,,	40,000			
Walnut City tap reconductor				·		250,000	
Total Tr	ansmission	402,000	321,000	323,800	62,900	350,000	355,000
UBSTATIONS	out contratains and Phil						
Walnut City Substation							
SCADA/Communications			5,000				
Sub Total - Wai Windishar Substation	nut City Sub		5,000		. i		
SCADA/Communications		30,000	5,000				
Bus Modifications (62.5% Cash CIAC)		30,000	0,000		30,000		
Breaker Modifications 98		30,000	5,000		-		
Sub Total - W	indishar Sub	90,000	10,000		30,000		
Cascade Substation							
Replace Protective Relays & 34.5 kV Breaker (Cash CIAC)				100,000 30,000			
SCADA/Communications (Cash CIAC) Circuit Switcher replacement (Cash CIAC)				30,000			50,000
Sub Total - C	ascade Sub			130,000			50,000
Booth Bend Substation				,		·	,
Replace 12.5 kV Breakers and Relaying					150,000		
SCADA/Communications		30,000			30,000		
Sub Total - Boo.	th Bend Sub	30,000			180,000		
East McMinnville Substation Replace E. Mac Bank 2 Transformer w/ 20/27/33 MVA		800,000	750,000				
SCADA Communications		000,000	100,000	30,000			
	20160055	60,000	15,000	15,000			
Replace 12.5 kV Breakers Relaying Feeders 11-14		-			175,000		
Replace Transformer /Relaying				100,000			
Sub Total - East McA Baker Creek Substation	tinnville Sub	860,000	765,000	145,000	175,000		

Description Work Order # 2017/18 2018/19 2019/20 2020/21 2021/22 2022/23						_	
Description Work Order # 2017/18 2018/19 2019/20 2020/21 2021/22 2022/23		<u>I</u>	<u>2</u>	3	4	2	2
Description							
Consultant Engineer	Description Work Order #		2018/19	2019/20	2020/21	2021/22	2022/23
Consultant Engineer	Acquire Additional Property	300,000	200,000				
Additional Power Transformer Construct Addition transformer bay SCADA/Communications Protective Relay Replacement Sub Total - Baker Creek Sub 30,000 30,000 30,000 30,000 125,000 800,000 1,000,000 1,000,000 1,000,000 1,000,000				125,000			
SCADA/Communications			}	1 1	800,000	;	1
SCADA/Communications	Construct Addition transformer bay		i			1,000,000	
Sub Total - Baker Creek Sub 330,000 230,000 125,000 800,000 1,000,000		30,000	30,000				
Sub Total - Baker Creek Sub 330,000 230,000 125,000 800,000 1,000,000							
Gormley Substation Sub Total - Gormley Sub Sub Total - Gormley Sub Total - Gormley Sub Sub Total - Gormley Sub		330,000	230,000	125,000	800,000	1,000,000	
SCADA/Communications Sub Total - Germley Sub 5,000 5,0				•	-		
Sub Total - Gormley Sub 5,000 250,000	SCADA/Communications		5,000				
Acquire Property 250,000 250,0		1	5,000				1
Construct Substation Sub Total - 3-Mile Lane Sub 250,000 250,000 250,000 300,000	3-Mile Lane Substation		1				l i
Sub Total - 3-Mille Lane Sub 250,000 250,000 250,000 300	Acquire Property	250,000		250,000		!	. '
Grandhaven Substation Acquire Property Engineering Consultant 300,000 300,00	Construct Substation						٠.
Acquire Property Engineering Consultant Construct Substation Sub Total - Granhaven Sub Total All Substations 1,560,000 1,015,000 550,000 1,185,600 1,090,000 300,000 DISTRIBUTION PLANT Line Rebuilds and Extensions Line Rebuilds - Service Line Rebuilds - Service Construct 1.4 mi. main fdr from 3-mi. to BB #51 Reconductor 2.0 miles along Peavine Road Re conductor Westside Rd 115 New Underbuild Baker Cr- Westside Meadows St. 750 Al UG (808) 3 Mile Ln Bridge Engineering 3 Mile Ln Bridge conduit Sub Total - Line Rebuilds & Extensions 245,000 140,000 300,000	Sub Total - 3-Mile Lane Sub	250,000	:	250,000			·
Engineering Consultant Construct Substation Sub Total - Granhaven Sub Total All Substations 1,560,000 1,015,000 50,000 1,185,000 1,185,000 1,000,000 300,000 1,000,000 350,000 1,000,000 1,000,000 1,000,000 1,000,000	Grandhaven Substation		Ī	·			
Construct Substation Sub Total - Granhaven Sub 300,000 300,000	Acquire Property						
Sub Total - Granhaven Sub 300,000 300,00	Engineering Consultant		ነ	1			300,000
Total All Substations					İ		
DISTRIBUTION PLANT Line Rebuilds and Extensions S6,000 50,000 54,000 58,000 62,000 66,000 129,000 20,000 33,000 35,000 35,000 35,000 35,000 35,000 35,000 300,00	Sub Total - Granhaven Sub			<u> </u>			300,000
DISTRIBUTION PLANT Line Rebuilds and Extensions S6,000 50,000 54,000 58,000 62,000 66,000 129,000 20,000 33,000 35,000 35,000 35,000 35,000 35,000 35,000 35,000 35,000 35,000 35,000 35,000 35,000 35,000 36	Total All Substations	1,560,000	1,015,000	650,000	1,185,000	1,000,000	350,000
Line Rebuilds							
Line Rebuilds - Service Construct 1.4 mi, main fdr from 3-mi, to BB #51 Reconductor 2.0 miles along Peavine Road Re conductor Westside Rd 1129,000 Reconductor Westside Rd 300,000 115 New Underbuild Baker Cr- Westside Meadows St. 750 Al UG (808) 3 Mile Ln Bridge Engineering 3 Mile Ln Bridge conduit Sub Total - Line Rebuilds & Extensions Conversion from O/H to U/G	Line Rebuilds and Extensions						
Construct 1.4 mi, main fdr from 3-mi, to BB #51 50,000 Reconductor 2.0 miles along Peavine Road Re conductor Westside Rd 300,000 115 New Underbuild Baker Cr- Westside Meadows St. 750 Al UG (808) 150,000 3 Mile Ln Bridge Engineering 70,000 3 Mile Ln Bridge conduit 100,000 Sub Total - Line Rebuilds & Extensions 245,000 140,000 387,000 543,000 547,000 366,000 Conversion from O/H to U/G	Line Rebuilds	66,000	50,000	54,000	58,000	62,000	66,000
Reconductor 2.0 miles along Peavine Road Re conductor Westside Rd 115 New Underbuild Baker Cr- Westside Meadows St. 750 Al UG (808) 3 Mile Ln Bridge Engineering 3 Mile Ln Bridge conduit Sub Total - Line Rebuilds & Extensions Conversion from O/H to U/G 300,000 300,000 150,000 100,000 100,000 387,000 543,000 547,000 366,000	Line Rebuilds - Service	129,000	20,000	33,000	35,000	35,000	
Re conductor Westside Rd 115 New Underbuild Baker Cr- Westside Meadows St. 750 Al UG (808) 3 Mile Ln Bridge Engineering 3 Mile Ln Bridge conduit Sub Total - Line Rebuilds & Extensions Conversion from O/H to U/G 300,000 150,000 150,000 150,000 150,000 150,000 387,000 543,000 547,000 366,000	Construct 1.4 mi, main fdr from 3-mi, to BB #51	50,000		200,000			
115 New Underbuild Baker Cr- Westside Meadows St. 750 Al UG (808) 3 Mile Ln Bridge Engineering 70,000 3 Mile Ln Bridge conduit Sub Total - Line Rebuilds & Extensions Conversion from O/H to U/G 300,000 150,000 150,000 150,000 150,000 150,000 150,000 150,000 150,000 150,000 150,000 150,000 150,000 150,000			ļ	1	300,000		
Meadows St. 750 Al UG (808) 150,000 150,000 3 Mile Ln Bridge Engineering 70,000 100,000 3 Mile Ln Bridge conduit 100,000 543,000 547,000 Conversion from O/H to U/G			}		i i	300,000	
3 Mile Ln Bridge Engineering 70,000 3 Mile Ln Bridge conduit 100,000 Sub Total - Line Rebuilds & Extensions 245,000 140,000 387,000 543,000 547,000 366,000 Conversion from O/H to U/G	115 New Underbuild Baker Cr- Westside		i				300,000
3 Mile Ln Bridge Engineering 70,000 3 Mile Ln Bridge conduit 100,000 Sub Total - Line Rebuilds & Extensions 245,000 140,000 387,000 543,000 547,000 366,000 Conversion from O/H to U/G	Meadows St. 750 Al UG (808)				150,000	150,000	ŀ
3 Mile Ln Bridge conduit Sub Total - Line Rebuilds & Extensions 245,000 140,000 387,000 543,000 547,000 366,000 Conversion from O/H to U/G			70,000				l l
Sub Total - Line Rebuilds & Extensions 245,000 140,000 387,000 543,000 547,000 366,000 Conversion from O/H to U/G				100,000			! !
		245,000	140,000	387,000	543,000	547,000	366,000
	Conversion from O/H to U/G	1					
Northeast Gateway Project 20160144 150,000	Northeast Gateway Project 20160144	150,000]				
Underground Fund Conversions 184,000 50,000 53,500 57,245 61,252 65,540		184,000	50,000	53,500	57,245	61,252	65,540

	<u>1</u> Originat	<u>2</u>	<u>3</u>	4	<u>5</u>	<u>6</u>
	Budget					
Description Work Order #	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Sub Total - OH to Underground Conversion	334,000	50,000	53,500	57,245	61,252	65,54
Relocation Required by Other Public Agency			-		·	
2nd St. @ Adams & Baker	600,000					
Hill Road from 2nd St. to Baker Creek	200,000	1,500,000				
Old Sheridan Rd			50,000			
Sub Total - Relocation	800,000	1,500,000	50,000			·
Underground Cable					·	
Replace deteriorated Primary URD Cables (801)	131,000	200,000	214,000	228,980	245,009	262,1
Elmwood Apts.	50,000	i				
Sub Total - Underground Cable	181,000	200,000	214,000	228,980	245,009	. 262,1
System Voltage Regulation						
Voltage Regulators/Capacitors		15,000	16,000	17,100	18,300	19,6
Sub Total - System Voltage Regulation	•	15,000	16,000	17,100	18,300	19,6
New Construction						
Residential Service (CIAC - Cash)	173,000	185,000	198,000	212,000	227,000	243,0
Subdivisions (CIAC - 80% Cash)	120,000	128,000	137,000	147,000	157,000	168,0
Subdivisions (CIAC - 20% In-Kind)	-	32,000	34,250	36,750	39,250	42,0
Commercial Projects (CIAC - 80% Cash)	280,000	300,000	321,000	343,000	367,000	393,0
Commercial Projects (CIAC - 20% In-Kind)	-	75,000	80,250	85,750	91,750	98,2
Sub Total - New Construction	573,000	720,000	770,500	824,500	882,000	944,2
Pole Replacements						
Pole Change outs (805)	268,000	230,000	246,000	263,000	281,000	301,0
Sub Total - Pole Replacements	268,000	230,000	246,000	263,000	281,000	. 301,0
Line Switches						
Line Switches/Reclosers	66,000	50,000	54,000	58,000	62,000	66,3
Sub Total - Line Switches	66,000	50,000	54,000	58,000	62,000	66,3
Transformers					·	
Transformers - Overhead	46,000	80,000	86,000	92,000	98,000	104,8
Transformers - Single-Phase UG	68,000	73,000	78,110	84,110	90,000	96,30
Transformers - 3-Phase UG	114,000	122,000	131,000	140,000	150,000	160,5
Sub Total - Transformers	228,000	275,000	295,110	316,110	338,000	361,6
Meters						
Single Phase Meters	60,000	60,000	64,000	68,000	73,000	83,5
Poly Phase Meters	40,000	40,000	43,000	46,000	52,400	56,1
Sub Total - Meters	100,000	100,000	107,000	114,000	125,400	139,6
Miscellaneous						

	1	2	3	4	<u>5</u>	6
	Original	1 -		<u> </u>	-	l * l
5 12	Budget					
Description Work Order		2018/19	2019/20	2020/21	2021/22	2022/23
Rental Lighting	20,000	10,000	11,000	12,000	13,000	14,000
Municipal Lighting Sub Total - Miscellaneous	92,000 112,000	15,000 25,000	16,000 27,000	17,000 29,000	18,000 31,000	19,000 33,000
Total Distribution	2,907,000	3,305,000	2,220,110	2,450,935	2,590,961	2,559,049
GENERAL PLANT Miscellaneous						
SCADA System Upgrade 20160082						l i
Engineering Consultant Work	80,000	30,000	32,000	34,000	36,000	39,000
Sub Total - Miscellaneous		30,000	32,000	34,000	36,000	39,000
Transportation Equipment	,	,	1	,	,	,
Electric Portion of Transportation Equipment	205,800	350,000	452,000	228,000	350,000	320,400
Sub Total - Transportation Equipmen	205,800	350,000	452,000	228,000	350,000	320,400
Tools and Test Equipment	40.000					
Various Sub Total - Tools & Test Equipmen	43,000 43,000	20,000 20,000	21,000 21,000	22,000 22,000	24,000 24,000	60,000 60,000
Facilities	43,000	20,000	21,000	22,000	24,000	80,000
Electric Portion of Facilities	273,000	339,000	900,000	42,000	168,000	117,000
Sub Total - Facilities	273,000	339,000	900,000	42,000	168,000	117,000
Information Technology						
Electric Portion- Information Technology	9,000	45,000	52,000		33,000	36,000
Sub Total - Information Technology	9,000	45,000	52,000		33,000	36,000
Total General Plan	610,800	784,000	1,457,000	326,000	611,000	572,400
TOTAL ELECTRIC DIVISION CAPITAL BUDGET	5,479,800	5,425,000	4,650,910	4,024,835	4,551,961	3,836,449
Contributions in Aid Construction - Cash	(573,000)	(613,000)	(786,000)	(683,250)	(751,000)	(854,000)
Contributions in Aid Construction - In-Kind Donation	(100,000)	, , ,	, , ,	(122,500)	(131,000)	(140,250)
Contributions in Aid Construction (BPA Utility Efficiency)	(75,000)	(75,000)	(75,000)	nusavinan ingan mela	Selff deskip en dakka sababir	14.85.75.389.55.55.55
TOTAL ELECTRIC DIVISION CAPITAL NET OF CIAC	4,731,800	4,630,000	3,675,410	3,219,085	3,669,961	2,842,199

SWT-2018-1 JANUARY 2018

RELATIVE COSTS OF DRIVING ELECTRIC AND GASOLINE VEHICLES IN THE INDIVIDUAL U.S. STATES

MICHAEL SIVAK BRANDON SCHOETTLE



RELATIVE COSTS OF DRIVING ELECTRIC AND GASOLINE VEHICLES IN THE INDIVIDUAL U.S. STATES

Michael Sivak Brandon Schoettle

The University of Michigan Sustainable Worldwide Transportation Ann Arbor, Michigan 48109-2150 U.S.A.

> Report No. SWT-2018-1 January 2018

Technical Report Documentation Page

1. Report No. SWT-2018-1	Government Accession No.	3. Recipient's Catalog No.		
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7. Author(s) Michael Sivak and Brande	on Schoettle	8. Performing Organization Report No SWT-2018-1		
9. Performing Organization Name and The University of Michig	10. Work Unit no. (TRAIS)			
Sustainable Worldwide To 2901 Baxter Road	11. Contract or Grant No.			
Ann Arbor, Michigan 481				
12. Sponsoring Agency Name and Addi The University of Michiga	13. Type of Report and Period Covered			
Sustainable Worldwide Tr http://www.umich.edu/~u	14. Sponsoring Agency Code			
15. Supplementary Notes				

16. Abstract

This study was designed to examine the variation across the individual U.S. states in the relative fuel cost of driving battery electric vehicles (BEVs) and gasoline vehicles. Also of interest was the state-by-state variation in the fuel economy that gasoline vehicles would have to exceed to make driving them less expensive than driving BEVs.

The following are the main findings:

- (1) The current average annual cost of driving a typical new gasoline vehicle in the United States is \$1,117, with a maximum of \$1,509 in Hawaii and a minimum of \$993 in Alabama.
- (2) The current average annual cost of driving a typical new BEV in the United States is \$485, with a maximum of \$1,106 in Hawaii and a minimum of \$367 in Louisiana.
- (3) The ratio of the current average costs of driving a typical gasoline vehicle and a typical BEV in the United States is 2.3, with a maximum of 3.6 in Washington and a minimum of 1.4 in Hawaii.
- (4) The required fuel economy that gasoline vehicles would need to exceed for driving them to be less expensive than driving BEVs is 57.6 mpg in the United States, with a maximum of 90.0 mpg in Washington and a minimum of 34.1 mpg in Hawaii.

17. Key Words Electric vehicles, BEV, gaso price of electricity	oline vehicles, cost, price of	gasoline,	18. Distribution Statement Unlimited
19. Security Classification (of this report)	22. Price		
None	None	9	

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Results	3
Key findings	6
References	7

Introduction

It is generally acknowledged that, in the United States, driving battery electric vehicles (BEVs) tends to be less expensive than driving gasoline-powered vehicles (e.g., INL, 2017). However, the variation in the price of gasoline across the individual states does not completely parallel the variation in the price of electricity. Therefore, this study was designed to examine the variation across the individual states in the relative fuel cost of driving BEVs and gasoline vehicles. Also of interest was the state-by-state variation in the fuel economy that gasoline vehicles would have to exceed to make driving them less expensive than driving BEVs.

Method

Approach

The analysis calculated the following measures for each state:

- Annual fuel cost of driving a typical gasoline vehicle
- Annual fuel cost of driving a typical BEV
- · Ratio of the above two costs
- Fuel economy that gasoline vehicles would have to exceed to make them less expensive to drive than BEVs

Underlying data

The following data were used in the calculations:

State data

- Average price of regular gasoline on December 23, 2017 (AAA, 2017)
- Average price of electricity for residential customers in October 2017 (EIA, 2017)

National data

- Average (sales-weighted) fuel economy¹ of all light-duty vehicles purchased in December 2017 (25.0 mpg;² Sivak and Schoettle, 2018)
- Average (not sales-weighted) electricity consumption for all BEVs listed in the 2017
 EPA Fuel Economy Guide³ (33.0 kWh/100 miles; EPA, 2017)
- Average annual distance driven per light-duty vehicle in 2015⁴ (11,443 miles; NHTSA, 2017)

¹ EPA combined fuel economy (city and highway).

² This average includes BEVs as well, but currently BEVs constitute less than 1% of all vehicles sold (EV Obsession, 2017). Therefore, using this measure for gasoline vehicles is a reasonable approximation. (This average also includes diesel vehicles.)

³ The 2018 edition of the Fuel Economy Guide is currently incomplete. It contains data for only a limited number of vehicle models.

⁴ The latest year for which data are available.

Results

Cost of driving gasoline vehicles

The average price of regular gasoline in the United States on December 23, 2017 was \$2.441/gallon (AAA, 2017). The price was highest in Hawaii (\$3.297) and lowest in Alabama (\$2.169). The ratio between these two extremes was 1.52.

The annual state-by-state fuel costs of driving a typical gasoline vehicle are listed in the second column of Table 1. The highest cost was in Hawaii (\$1,509), followed by Alaska (\$1,434), California (\$1,407), Washington (\$1,338), and Oregon (\$1,274). The lowest cost was in Alabama (\$993), followed by Texas (\$994), Mississippi (\$998), Arkansas (\$999), and South Carolina (\$1,003). The average cost for the United States overall was \$1,117.

Cost of driving BEVs

The average price of residential electricity in the United States in October 2017 was \$0.1284/kWh (EIA, 2017). The price was highest in Hawaii (\$0.2929) and lowest in Louisiana (\$0.0972).⁵ The ratio between the two extremes was 3.01.

The annual state-by-state costs of driving a BEV are listed in the third column of Table 1. The highest cost was in Hawaii (\$1,106), followed by Alaska (\$833), Connecticut (\$804), New Hampshire (\$751), and Rhode Island (\$737). The lowest cost was in Louisiana (\$367), followed by Washington (\$372), Arkansas (\$382), Idaho (\$390), and Tennessee (\$398). The average cost for the United States overall was \$485.

Ratio of the costs of driving gasoline vehicles and BEVs

The ratios of the costs of driving a gasoline vehicle and a BEV are shown in the fourth column of Table 1. The ratio was lowest in Hawaii (1.364), followed by New Hampshire (1.479), Connecticut (1.500), Rhode Island (1.565), and Massachusetts (1.579). The ratio was highest in Washington (3.602), followed by Oregon (3.075), Idaho (2.999), Louisiana (2.770), and Utah (2.765). The ratio for the United States overall was 2.304.

⁵ The correlation between the state prices in electricity and gasoline proved to be only moderate (r = 0.59).

Table 1

Annual fuel costs of driving a typical gasoline vehicle and a typical BEV, ratio of the costs, and fuel economy that gasoline vehicles would need to exceed to make driving them less expensive than driving BEVs. (The states are listed in increasing order of the

cost ratio and the required fuel economy.)

State	Gasoline cost (\$)	Electricity cost (\$)	Cost ratio	Required fuel economy (mpg)	
Hawaii	1,509	1,106	1.364	34.1	
New Hampshire	1,111	751	1.479	37.0	
Connecticut	1,207	804	1.500	37.5	
Rhode Island	1,154	737	1.565	39.1	
Massachusetts	1,154	731	1.579	39.5	
Vermont	1,148	678	1.694	42.3	
New York	1,200	708	1.694	42.4	
Alaska	1,434	833	1.720	43.0	
Maine	1,135	612	1.855	46.4	
Wisconsin	1,108	570	1.945	48.6	
Delaware	1,053	540	1.950	48.8	
Kansas	1,022	503	2.031	50.8	
Maryland	1,109	544	2.039	51.0	
New Jersey	1,141	555	2.055	51.4	
Alabama	993	481	2.065	51.6	
Michigan	1,196	574	2.084	52.1	
South Carolina	1,003	481	2.087	52.2	
Minnesota	1,088	511	2.129	53.2	
Arizona	1,064	485	2.193	54.8	
New Mexico	1,083	491	2.205	55.1	
Pennsylvania	1,234	555	2.224	55.6	
Virginia	1,023	454	2.253	56.3	
Ohio	1,103	475	2.321	58.0	
Texas	994	424	2.341	58.5	
Florida	1,078	458	2.355	58.9	
Mississippi	998	423	2.360	59.0	
Iowa	1,084	456	2.376	59.4	
South Dakota	1,120	469	2.387	59.7	
Georgia	1,040	431	2.413	60.3	

Table 1 (continued)

State	Gasoline cost (\$)	Electricity cost (\$)	Cost ratio	Required fuel economy (mpg)
North Carolina	1,066	441	2.414	60.3
District of Columbia	1,229	508	2.422	60.6
California	1,407	580	2.425	60.6
Illinois	1,182	486	2.431	60.8
Oklahoma	1,012	416	2.433	60.8
Colorado	1,115	454	2.454	61.4
Missouri	1,004	407	2.464	61.6
Nevada	1,212	484	2.506	62.6
Indiana	1,185	468	2.530	63.2
Wyoming	1,115	438	2.544	63.6
West Virginia	1,157	452	2.562	64.1
Tennessee	1,020	398	2.565	64.1
Kentucky	1,077	413	2.606	65.1
Arkansas	999	382	2.617	65.4
Nebraska	1,089	413	2.635	65.9
North Dakota	1,117	418	2.672	66.8
Montana	1,186	431	2.750	68.8
Utah	1,107	400	2.765	69.1
Louisiana	1,017	367	2.770	69.2
Idaho	1,171	390	2.999	75.0
Oregon	1,274	414	3.075	76.9
Washington	1,338	372	3.602	90.0
U.S.A.	1,117	485	2.304	57.6

Required fuel economy of gasoline vehicles

The fifth column in Table 1 lists the fuel economy that gasoline vehicles would need to exceed to make driving them less expensive than driving BEVs. The required fuel economy was lowest in Hawaii (34.1 mpg), followed by New Hampshire (37.0 mpg), Connecticut (37.5 mpg), Rhode Island (39.1 mpg), and Massachusetts (39.5 mpg). The required fuel economy was highest in Washington (90.0 mpg), followed by Oregon (76.9 mpg), Idaho (75.0 mpg), Louisiana (69.2 mpg), and Utah (69.1 mpg). For the United States overall, the required fuel economy was 57.6 mpg.

Key findings

- (1) The current average annual cost of driving a typical new gasoline vehicle in the United States is \$1,117, with a maximum of \$1,509 in Hawaii and a minimum of \$993 in Alabama.
- (2) The current average annual cost of driving a typical new BEV in the United States is \$485, with a maximum of \$1,106 in Hawaii and a minimum of \$367 in Louisiana.
- (3) The ratio of the current average costs of driving a typical gasoline vehicle and a typical BEV in the United States is 2.3, with a maximum of 3.6 in Washington and a minimum of 1.4 in Hawaii.
- (4) The required fuel economy that gasoline vehicles would need to exceed for driving them to be less expensive than driving BEVs is 57.6 mpg in the United States,⁶ with a maximum of 90.0 mpg in Washington and a minimum of 34.1 mpg in Hawaii.⁷

б

⁶ By comparison, the average fuel economy of new vehicles sold in December 2017 was 25.0 mpg (Sivak and Schoettle, 2018).

⁷ The EPA Fuel Economy Guide for model year 2017 vehicles (EPA, 2017) lists seven all-gasoline vehicles that have better fuel economy than 34.1 mpg. Therefore, driving any of those seven gasoline vehicles in Hawaii is currently less expensive than driving a typical BEV.

References

- AAA [American Automobile Association]. (2017). State gas prices averages (December 23, 2017). Available at:

 http://gasprices.aaa.com/state-gas-price-averages/
- EIA [Energy Information Administration]. (2017). Average price of electricity to ultimate customers by end-use sector, October 2017. Available at: http://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_06_a
- EPA [Environmental Protection Agency]. (2017). Fuel economy guide, model year 2017. Available at: http://www.fueleconomy.gov/feg/pdfs/guides/FEG2017.pdf
- EV Obsession. (2017). *Electric car sales (monthly reports)*. Available at: http://evobsession.com/electric-car-sales/
- INL [Idaho National Laboratory]. (2017). Comparing energy costs per mile for electric and gasoline-fueled vehicles. Available at:

 http://avt.inl.gov/sites/default/files/pdf/fsev/costs.pdf
- NHTSA [National Highway Traffic Safety Administration]. (2017). *Highway statistics* 2015. Available at: http://www.fhwa.dot.gov/policyinformation/statistics/2015/
- Sivak, M. and Schoettle, B. (2018). Monthly monitoring of vehicle fuel economy and emissions. Available at:
 - http://www.umich.edu/~umtriswt/EDI sales-weighted-mpg.html

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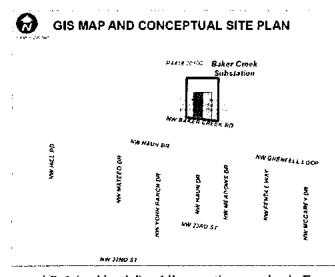
FO Box 631 655 NE Marsh Lane McMinnellis, Cik 5/121 503 4/2-6101 | mc powscom

February 27, 2019

City of McMinnville Attn: Planning Department 231 NE 5th St McMinnville, OR 97128

Dear Neighbor:

You are invited to a neighborhood meeting on Wednesday, March 27, 2019 at 6 PM at the office of McMinnville Water and Light, 855 NE Marsh Lane, McMinnville, OR 97128 for a conversation about the further development of MW&L's Baker Creek Substation. As part of the required land use process, Water and Light seeks a comprehensive plan amendment and zone change, as well as an amendment to a planned development overlay and conditional use permit, to expand the substation. You are receiving this invitation because you live or own property near the substation facility.



Currently, the substation facility hosts switchgear and transformer equipment at the facility to step down high voltage electricity to medium voltage electricity for distribution into the nearby neighborhoods. Due to growth in the north and west parts of the city, MW&L plans to place a second set of switchgear and a second transformer on the site. See the attached diagram.

Currently, the western part of the substation lot is designated for commercial development on the comprehensive plan map and the eastern part is designated residential. Likewise, a portion of the lot is

zoned R-1 (residential), while a portion remains in Farm Use zoning.

MW&L seeks to bring the entire lot under a residential designation (R-1). At the same time, MW&L will apply to remove the planned development overlay from the western half of the lot. MW&L will also apply for a conditional use permit to expand the substation facility. The lot is currently about 1.2 acres and is sized to accommodate an expansion of the facility. Water and Light welcomes your participation in this planning process and invites you to participate in this neighborhood meeting to learn about the facility and share your comments.

Sam Justice

Sincerely.

General Counsel

IOHN C. DE LA General Manager:



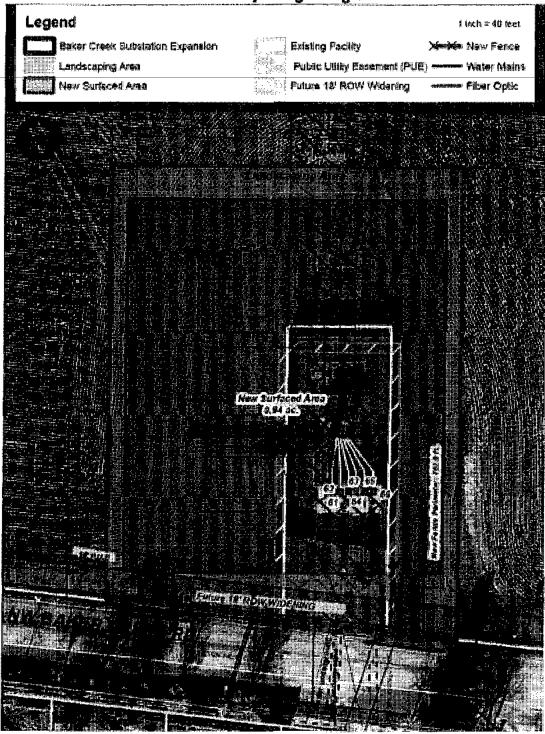
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PC Box 638 265 NE Marsh Lane McMiranville CR 97428 2458 | majobyet com

Preliminary Design Diagram



John (1916) Constal Manage 1774: Aldean III Charl



LOWEATES RELIABLE SERVICE

Map No. Tax Lot	Site Address	Owner	Attn:	Mailing Address	City State	Zip
1 R4418AD10900	n/a	MCMINNVILLE CITY	MCMINNVILLE CITY OF	230 NE 2ND ST	MCMINNVILLE OR	97128
2 R4418AD11200	1918 NW HAUN DR	LONG KRISTEN	LONG KRISTEN	625 ESKATON CR #343	GRASS VALLEY CA	95945
3 R4418AD07700	1865 NW GRENFELL LOOP	FISHER CHARLES E	FISHER CHARLES E	1865 NW GRENFELL LP	MCMINNVILLE OR	97128
4 R4418AD07900	2390 NW MEADOWS DR	HENSEL ETHELINDA	HENSEL ETHELINDA	PO BOX 810	GASTON OR	97119
5 R4418AD11300	2391 NW HAUN DR	LONG KRISTEN	LONG KRISTEN	625 ESKATON CR #343	GRASS VALLEY CA	95945
6 R4418AD07800	2412 NW MEADOWS DR	LEHDE JOHN S TRUSTEE	LEHDE JOHN S TRUSTEE	1015 E 4TH ST	YAMHILL OR	97148
7 R4418AD07600	1857 NW GRENFELL LOOP	HOWLETT ROGER D TRUSTEE	HOWLETT ROGER D TRUSTEE	1857 NW GRENFELL LP	MCMINNVILLE OR	97128
8 R4418AD07500	1845 NW GRENFELL LOOP	SOTO FLORENCIA (WROS)	SOTO FLORENCIA (WROS)	1845 NW GRENFELL LP	MCMINNVILLE OR	97128
9 R4418AD11100	1921 NW HAUN DR	HOLMES LOGAN R	HOLMES LOGAN R	1921 NW HAUN DR	MCMINNVILLE OR	97128
10 R4418AD11000	1903 NW HAUN DR	DRUUNER LARRY	DRULINER LARRY	1903 NW HAUN DR	MCMINNVILLE OR	97128
11 R4418AC03600		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
12 R4418AC00100		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
13 R4418AC00200		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
14 R4418AC00300		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
15 R4418AC00400		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
16 R4418AC00500		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
17 R4418AC00600		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
18 R4418AC00700		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
19 R4418AC00800		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
20 R4418AC05500		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
21 R4418AC05600		LGI HOMES-OREGON	TERRY LAMASTERS	1450 LAKE ROBBINS DR #430	THE WOODLANDS TX	77380
22 R4418 00101	1901 NW BAKER CREEK RD	MCMINNVILLE CITY OF	MCMINNVILLE CITY OF	PO BOX 638	MCMINNVILLE OR	97128
23 R4418 00100	1755 NW BAKER CREEK RD	BAKER CREEK	BAKER CREEK DEVELOPMENT LLC	8840 SW HOLLY LN	WILSONVILLE OR	97070
		CITY OF MCMINNVILLE	PLANNING DEPARTMENT	231 NE 5TH ST	MCMINNVILLE OR	97128

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SIGN IN SHEET

NEIGHBORHOOD MEETING BAKER CREEK SUBSTATION EXPANSION 6PM, Wednesday, March 27, 2019; 855 NE Marsh Lane, McMinnville, Oregon

	Print Name:	Address:	Email & Phone
1.	Sam Justice	2360 NW Grenfell Loop McMinnelle DV 97128	Svj@mc-power.com
2.	Scott Rosenbulm	1045 SU Tall Oaks Dr.	Sgramc-power.com
3.			
4.			
5.			
6.			
7.			
8.			
9.			

^{1 -}MW&L Baker Creek Expansion; Neighborhood Meeting- Sign-in Sheet -

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Notes on Neighborhood meeting

Time: 6:00PM

Date: March 27, 2019

Location; Commission Room, McMinnville Water and Light, 855 NE Marsh Lane, McMinnville, OR 97128

Attendees: Sam Justice (MW&L General Counsel); Scott Rosenbalm (MW&L Electric Division Director)

Action Items:

1. Old Business: No Old Business

- New Business: Mr. Justice opened the door at about 5:30PM, confirming that the public entrance to the Water and Light Commission room was open. Mr. Rosenbalm arrived at about the same time. Earlier in the day, Mr. Polzen (I.T. Manager) had set up the computer and screen for a PowerPoint presentation. Mr. Justice had the power point presentation ready to show.
- 3. Mr. Justice and Mr. Rosenbalm were present on behalf of applicant, at the meeting time of 6:00 PM.
- 4. Mr. Justice and Mr. Rosenbalm waited in the Commission room for over 30 minutes, and no one else arrived.
- 5. No PowerPoint presentation was made as Mr. Justice and Mr. Rosenbalm had already viewed the presentation.
- 6. At approximately 6:35PM Mr. Justice checked the front door. The parking lot, aside from MW&L employee cars, was empty. Mr. Justice secured the front door.

SUMMARY: No members of the public attended the neighborhood meeting.

These notes were prepared by Sam Justice.

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Welcome Neighbors Substation Expansion

Agenda:

6:00PM Welcome/sign in

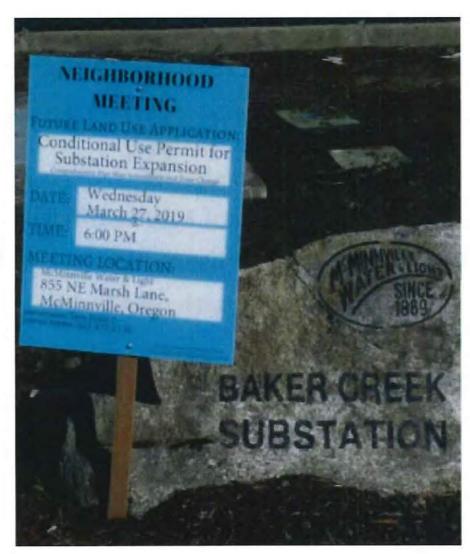
6:10PM Introduce W&L staff

6:15PM PowerPoint -Overview

\$6:30PM Conversation cont.

6:40PM Wrap Up Discussion

7:00PM Done



6

Agenda. Neighborhood Meeting, 6PM; 3/27/19 MW&L

- 6:00PM Welcome and sign in
- 6:10PM Introductions of MW&L officials
- 6:15PM PowerPoint Presentation
- 6:30PM Conversation with neighbors
- 6:40PM Wrap up
- 7:00PM Done



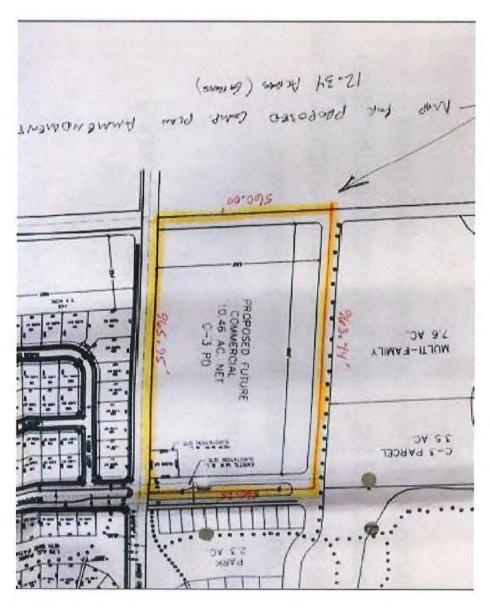
This is us.



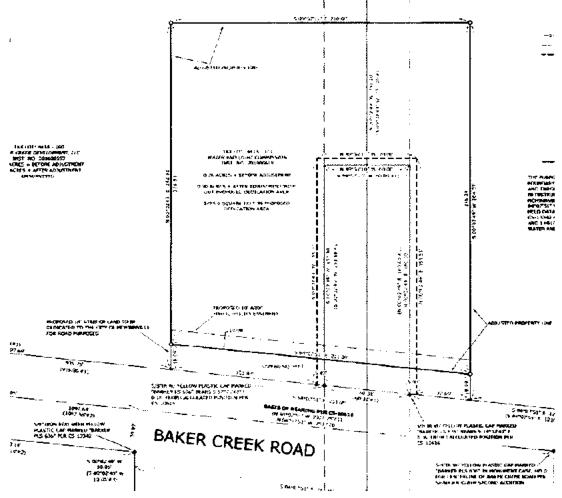
Electric history of substation site

- 1965- BPA Transmission Line Easements established
- 1977 MW&L purchased lot under BPA lines for substation
- 1996 Planning maps shows plans to expand footprint of substation
- 2000 MW&L constructs Baker Creek Substation
- 2001 First Electric Load on Substation
- 2002 Lot first expanded
- 2019 Lot again expanded (to present size; 1.22 acres)

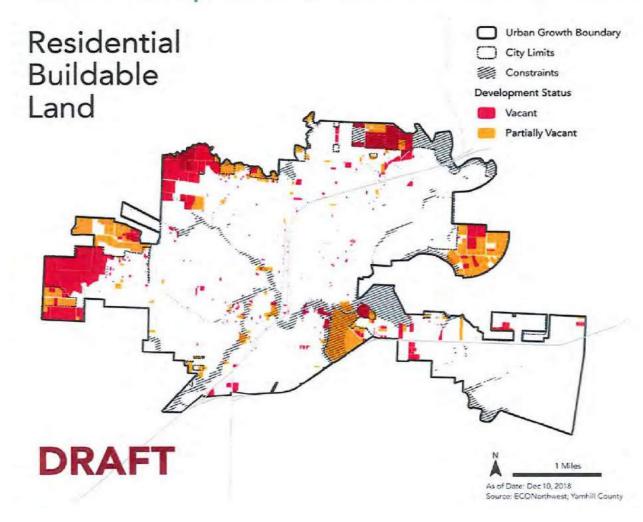
1996 — Comp Plan — Foresees Expanded Substat.



2019 Expansion of Substation Lot.



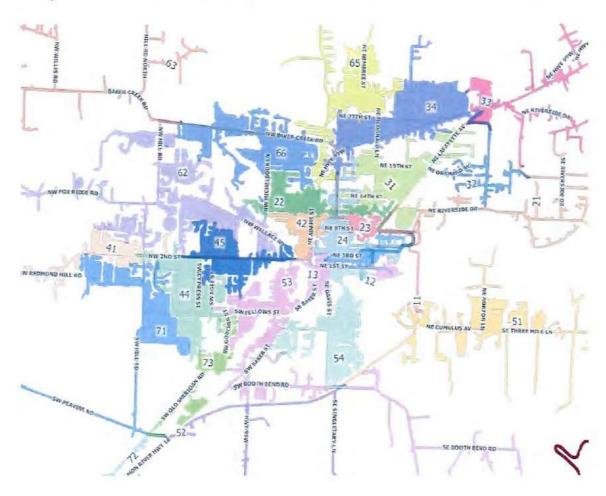
If you build it they will come. Where to build?



2015 – Electric System Planning Study (TriAxis Eng.)

	Description	Estimated Cost (\$2015)
S-20	Based on the best available growth forecasts and information on growth areas, feeders 31, 34, 62, and 65 are all likely to see load growth. These are heavily loaded feeders served by heavily loaded substation transformers with limited or no ability to transfer existing load to lightly loaded substations. A majority of the available MW&L transformer and circuit capacity is at East McMinnville #2 and Gormley substations; without major circuit reconfigurations, this capacity cannot be utilized for load growth on the north and west sides of town. If load develops in these areas as expected, single contingency criteria may not be met during peak events for transformer outages at these locations. It is recommended that MW&L be prepared for one of the following options as load growth occurs:	
	Construct the previously planned Grand Haven substation	\$1,900,000 (Sub)
		\$2,000,000 (Feeders & Transmission)
	 Construct the previously planned 3-Mile Lane substation 	\$2,040,000 (Sub & land)
		\$2,000,000 (Feeders & Transmission)
	 Expand Baker Creek Substation and add new transformer 	\$2,000,000

Why Expand? Baker Creek Feeders – 60's



Growth – As Predicted - News Register 3-22-2019

Burney road to development

Lake Oswego company plans 425 homes, 180 apartments

By TOM HENDERSON

Of the News-Register

McMinnville proved irresistible for developers at Stafford Land Company, said Gordon Root, the founder of the Lake Oswego firm.

But McMinnville wasn't quite as eager to allow Stafford to develop 136 acres at and near the corner of Hill and Baker Creek roads. In whole Northwest quadrant, which has been a long time coming," he said. "Development brings with it public improvements."

"It's a lot," Root said. "It's a significant investment in the community."

The land Stafford purchased in 2015 — which encompasses the northwest corner of McMin-

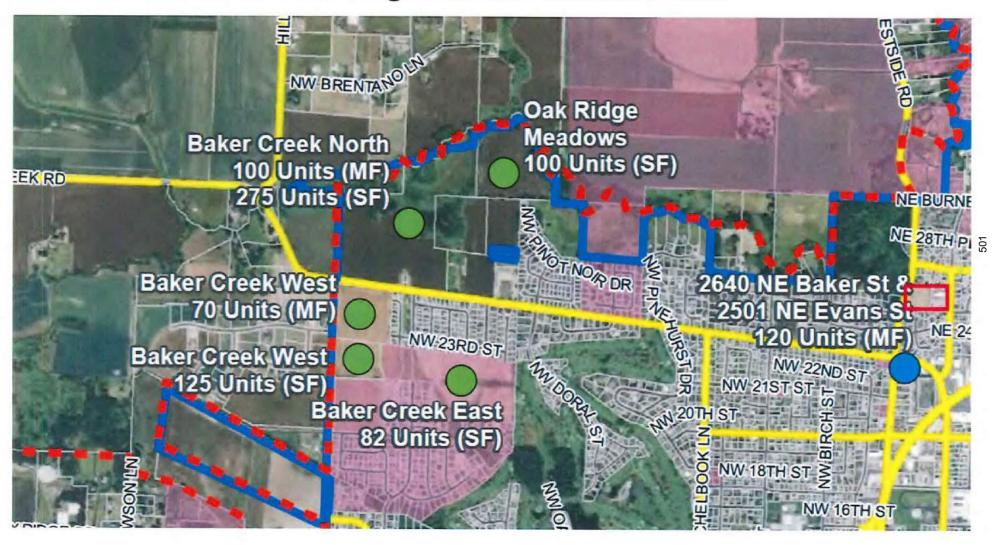
INSIDE

Current schools expected to suffice for years to come. A9

Editorial: A look at growth from all angles B2

a master plan that was praised for its thoughtful, community-friendly design, but criticized for being

Current residential building surrounds substation site.



Plan to put in a second Transformer and gear



Questions or Comments.



ORDINANCE NO. 4633

An Ordinance amending the City of McMinnville Comprehensive Plan Map from an existing residential designation to a commercial designation and enacting certain development conditions by placing a Planned Development overlay on approximately 12.34 acres of land located on the north side of Baker Creek Road and directly east of its intersection with Hill Road.

RECITALS:

The Planning Commission received an application from Don Jones for a comprehensive plan map amendment (CPA 2-96), dated July 9, 1996, for the property described as a portion of Tax Lot 100, Section 18, T. 4 S., R. 4 W., W.M.

A public hearing was held on September 12, 1996, at 7:30 p.m. before the Planning Commission after due notice had been given in the local newspaper on September 7, 1996, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, testimony was received, the application materials and a staff report were presented; and

The Planning Commission, being fully informed about said request, found that said change conformed to the applicable criteria listed in Ordinance No. 3380 based upon the material submitted by the applicant and findings of fact and the conclusionary findings for approval contained in the staff report, all of which are on file in the Planning Department, and that the plan map amendment is consistent with the Comprehensive Plan; and

The Planning Commission approved said plan map amendment and has recommended said change to Council; now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the Council adopts the findings and conclusions of the Planning Commission, staff report on file in the Planning Department, and the application filed by Don Jones.

Section 2. That the Comprehensive Plan Map shall be amended from an existing residential designation to a commercial designation for the property described in Exhibit "A" which is attached hereto and by this reference incorporated herein.

Section 3. That a planned development overlay which shall be noted on the Comprehensive Plan Map is hereby created and placed on the property described in "Exhibit A" which is attached hereto and is referenced in Section 2 above. The planned development overlay establishes the following conditions and limitations on development of the site:

- 1. That development of the site is subject to the requirements of McMinnville Ordinance No. 4605, Section 2(a) (g).
- 2. That no multiple-family residential use shall be allowed on the site.

Read and passed by the Council this 81h day of October 1996 by the following votes:

Ayes:	Hughes	. Ki	rchner,	Massey,	Payne,	Tomcho,	Windle
Nays:							
							· • • • • • • • • • • • • • • • • • • •
Annrov	ed this	Q p-h	day of	Octob	3 P	1996	

Attest:

REGORDER PRO TEM

Page 2 ORDINANCE NO.4633

ORDINANCE NO. 4506

An Ordinance adopting and approving certain changes to the McMinnville Comprehensive Plan Map, 1980, and the McMinnville Zoning Map, 1980; setting certain conditions of development; amending Ordinance Nos. 4082, 4214, and 4410; and repealing Ordinance Nos. 4381, 4441, 4453, and 4466 in their entirety.

RECITALS:

The City's periodic review notice from the Land Conservation and Development Commission requires that the City review its Comprehensive Plan for compliance with new or amended goals or rules. To comply with the commercial and economic development rule (OAR 660-09), the City completed an economic resources inventory and a land needs projection. It was concluded that an additional 98 acres of commercially designated land would be needed to accommodate the City's commercial land needs to year 2010.

The Citizens Advisory Committee worked on the topic to determine those areas where commercial expansion would be most logical over time. The product of their work was a recommendation to the Planning Commission that some 146 parcels located in several areas of town and totalling 98 acres be redesignated and rezoned to commercial.

The Planning Commission then held a public hearing and a special work session on the Citizen Advisory Committee's recommendation and ended up removing some of the recommended parcels while adding some others. The Planning Commission then forwarded their recommendation to the City Council.

The City Council reviewed the Planning Commission recommendation at an August 26, 1991 work session. A public hearing on the recommendation was held by the Council on October 8, 1991 and a public hearing on this Ordinance which implements the Council's decision on the matter was held on November 12, 1991.

It is the desire of the City Council to adopt the changes to the Comprehensive Plan Map within the City's urban growth boundary and to adopt the changes to the zoning map within the corporate limits of the City at this time in order to bring the City into compliance with the statewide planning statutes found in ORS Chapters 197 and 227, and specifically with the City's periodic review notice from the Land Conservation and Development Commission; now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the City's Comprehensive Plan Map shall be amended as follows:

(a) That parcels 1, 2, and 3 as shown on Exhibit "A," which is attached hereto and incorporated herein by this reference, be amended from a residential designation to a commercial designation; and that parcels 1, 2, 3, 4, 5, 6, 7, 21, 22, 23, 24 and 25, as shown on Exhibit "B," which is attached hereto and incorporated herein by this reference, likewise be amended from a residential designation to a commercial designation.

- (b) That parcels 1 through 22, inclusive; 24 through 32, inclusive; 35 through 48, inclusive; and 50 through 56, inclusive, as shown on Exhibit "C," which is attached hereto and incorporated herein by this reference, be amended from an industrial designation to a commercial designation; and that parcel 23 shown on Exhibit "C" be amended from a residential designation to a commercial designation.
- (c) That parcels 57, 60, 61, and 62 as shown on Exhibit "D," which is attached hereto and incorporated herein by this reference, be amended from an industrial designation to a commercial designation.
- (d) That parcels 1, 2, and 3 as shown on Exhibit "E," which is attached hereto and incorporated herein by this reference, be amended from a residential designation to a commercial designation; and that parcel 4 as shown on Exhibit "E" be amended from an industrial designation to a commercial designation.
- (e) That parcel 5 as shown on Exhibit "F," which is attached hereto and incorporated herein by this reference, be amended from a residential designation to a commercial designation.
- (f) That parcels 1, 2, 3, 4, and 6 as shown on Exhibit "G," which is attached hereto and incorporated herein by this reference, be amended from a residential designation to a commercial designation.
- (g) That parcels 1, 2, 3, 4, 5, and 6 as shown on Exhibit "H" which is attached hereto and incorporated herein by this reference, are hereby redesignated from the mixture of industrial and residential designations which encumber the property to a commercial designation and that Ordinance No. 4214, Section 2, be amended by striking all reference to the above described property and by amending the map adopted by said Ordinance to exclude the above described properties (CPA 1-82).

Section 2. That parcels 1, 2, and 3 as shown on Exhibit "A" are hereby rezoned from AH PD (Agricultural Holding Planned Development) to C-3 PD (General Commercial Planned Development), from R-1 PD (Single-family Residential Planned Development) to C-3 PD (General Commercial Planned Development), and from R-1 (Single-family Residential) to C-3 PD (General Commercial Planned Development), respectively, subject to the following conditions:

(a) That landscape plans be submitted to and approved by the McMinnville Landscape Review Committee. A minimum of 14 percent of the site must be landscaped with emphasis placed at the street frontage. An arborvitae hedge or some similar type of planted visual screen shall be required along the property lines where adjacent to residentially zoned lands.

- (b) Detailed plans showing elevations, site layout, signing, landscaping, parking, and lighting must be submitted to and approved by the Planning Commission before actual development may take place. The provisions of Chapter 17.51 of the McMinnville Zoning Ordinance may be used to place conditions on any development and to determine whether or not specific uses are permissible.
- (c) No use of any retail commercial use shall normally occur between the hours of 12:30 a.m. and 6:00 a.m.
- (d) No building shall exceed the height of 35 feet.
- (e) That if outside lighting is to be provided, it must be directed away from residential areas and public streets.
- (f) That signs located within the planned development site be subject to the following limitations:
 - All signs must be flush against the building and not protrude more than 12 inches from the building face, except that up to two free standing monument-type signs not more than six feet in height and which meet the requirements of (2) and (3) below are allowed;
 - All signs, if illuminated, must be indirectly illuminated and nonflashing;
 - 3. No individual sign exceeding thirty-six (36) square feet in size shall be allowed.
- (g) All business, service, repair, processing, storage, or merchandise displays shall be conducted wholly within an enclosed building except for the following:
 - Off-street parking and loading.
 - Temporary display and sales of merchandise, providing it is under cover of a projecting roof and does not interfere with pedestrian or automobile circulation.
- (h) That Section 3 of Ordinance No. 4082 is hereby amended by substituting the words "C-3 PD (General Commercial Planned Development)" for the words "AH PD (Agricultural Holding Planned Development)". All other applicable provisions of Ordinance 4082 remain in full force and effect.
- (i) That Ordinance No. 4410, Section 2, be amended by removing the above described parcel 2 as shown on Exhibit "A" from the adopted description and map of those properties effected by Ordinance No. 4410.

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Section 3. That the properties described as parcels 1, 2, 3, 4, 5, 6, 7, 21, 22, 23, 24, and 25 on Exhibit "B" of this Ordinance are hereby rezoned from an R-4 (Multiple-family Residential) zone to an O-R (Office/Residential) zone.

Section 4. That the properties described as parcels 1 through 22, inclusive; and 41 through 48, inclusive; as shown on Exhibit "C" of this Ordinance are hereby rezoned from an M-1 (Light Industrial) zone to a C-3 (General Commercial) zone. That the properties described as parcels 50 through 56, inclusive, as shown on Exhibit "C" of this Ordinance are hereby rezoned from an M-1 PD (Light Industrial Planned Development) zone to a C-3 (General Commercial) zone. That the properties described as parcels 25 through 32, inclusive; and 35 through 40, inclusive; as shown on Exhibit "C" of this Ordinance are hereby rezoned from an M-2 (General Industrial) zone to a C-3 (General Commercial) zone; and that the property described as parcel 23 on Exhibit "C" of this Ordinance is hereby rezoned from an R-4 (Multiplefamily Residential) zone to a C-3 (General Commercial) zone.

Section 5. That the properties described as parcels 57, 60, 61, and 62 on Exhibit "D" of this Ordinance are hereby rezoned from an M-2 (General Industrial) zone, an M-1 (Light Industrial) zone, an M-2 zone, and an M-1 zone, respectively, to a C-3 PD (General Commercial Planned Development) zone subject to the following condition:

- (a) All uses permitted in Chapter 17.33 of the McMinnville Zoning Ordinance (Ordinance No. 3380) are allowed subject to the provisions of that Chapter except for the following uses, which are not allowed:
 - Boarding house, lodging house, rooming house;
 - Public or private school;
 - Hotel or motel;
 - Single-family or multiple-family dwelling.

Section 6. That the properties described as parcels 1 and 2 on Exhibit "E" of this Ordinance are hereby rezoned from an R-2 (Single-family Residential) zone to a C-3 (General Commercial) zone. That the property described as parcel 3 on Exhibit "E" of this Ordinance is hereby rezoned from an R-4 (Multiple-family Residential) zone to a C-3 (General Commercial) zone. That the property described as parcel 4 on Exhibit "E" of this Ordinance is hereby rezoned from an M-1 (Light Industrial) zone to a C-3 (General Commercial) zone.

Section 7. That that portion of the property described as parcel 5 on Exhibit "F" of this Ordinance which is presently within the corporate limits of the City of McMinnville is hereby rezoned from an R-1 (Single-family Residential) zone to a C-3 (General Commercial) zone.

Section 8. That the properties described as parcels 1 and 2 on Exhibit "G" of this Ordinance are hereby rezoned from an R-3 (Two-family Residential) zone to an O-R (Office/Residential) zone. That the properties described as parcels 3 and 4 on Exhibit "G" of this Ordinance are hereby rezoned from an R-2 (Single-family Residential) zone to an O-R (Office/Residential) zone. That the property described as parcel 6 on Exhibit "G" of this Ordinance is hereby rezoned from an R-4 (Multiple-family Residential) zone to an O-R (Office/Residential) zone.

Section 9. That those portions of the properties shown as parcels 2 and 3 on Exhibit "H" of this Ordinance which are presently within the corporate limits of the City of McMinnville are hereby rezoned from an AH PD (Agricultural Holding Planned Development) zone to a C-3 PD (General Commercial Planned Development) zone, subject to the provisions of Section 10 below. That the property described as parcel 5 on Exhibit "H" of this Ordinance is hereby rezoned from a county AF-20 (Agricultural/Forestry 20-acre minimum) zone to a City C-3 PD (General Commercial Planned Development) zone, subject to the provisions of Section 10 below. That the property described as parcel 6 on Exhibit "H" of this Ordinance is hereby rezoned from an M-L PD (Limited Light Industrial Planned Development) zone to a C-3 PD (General Commercial Planned Development) zone, subject to the provisions of Section 10 below. That those properties shown on Exhibit "H" of this Ordinance as parcels 1 and 4, and those portions of the properties as shown on Exhibit "H" as parcels 2 and 3 but which are outside the corporate limits of the City, shall be zoned C-3 PD (General Commercial Planned Development) upon annexation to the City, shall be subject to the provisions of Section 10 below, and such requirements shall be noted on the face of the Comprehensive Plan Map.

Section 10. The provisions of Chapter 17.33 of Ordinance No. 3380 (the McMinnville Zoning Ordinance) shall apply to the development of the properties noted on Exhibit "H" of this Ordinance subject to the following conditions and limitations:

- (a) No individual use which according to the latest version of the Institute of Traffic Engineers Trip Generation Manual would generate in excess of 1,500 trips on an average week day is permitted.
- (b) No direct access onto Highway 18 (Three Mile Lane) is permitted.
- (c) All business, service, repair, processing, and merchandise displays shall be conducted wholly within an enclosed building except for the following:
 - Off-street parking and loading.
 - Temporary display and temporary sales of merchandise, providing it is undercover of a projecting roof and does not interfere with pedestrian or automobile circulation.

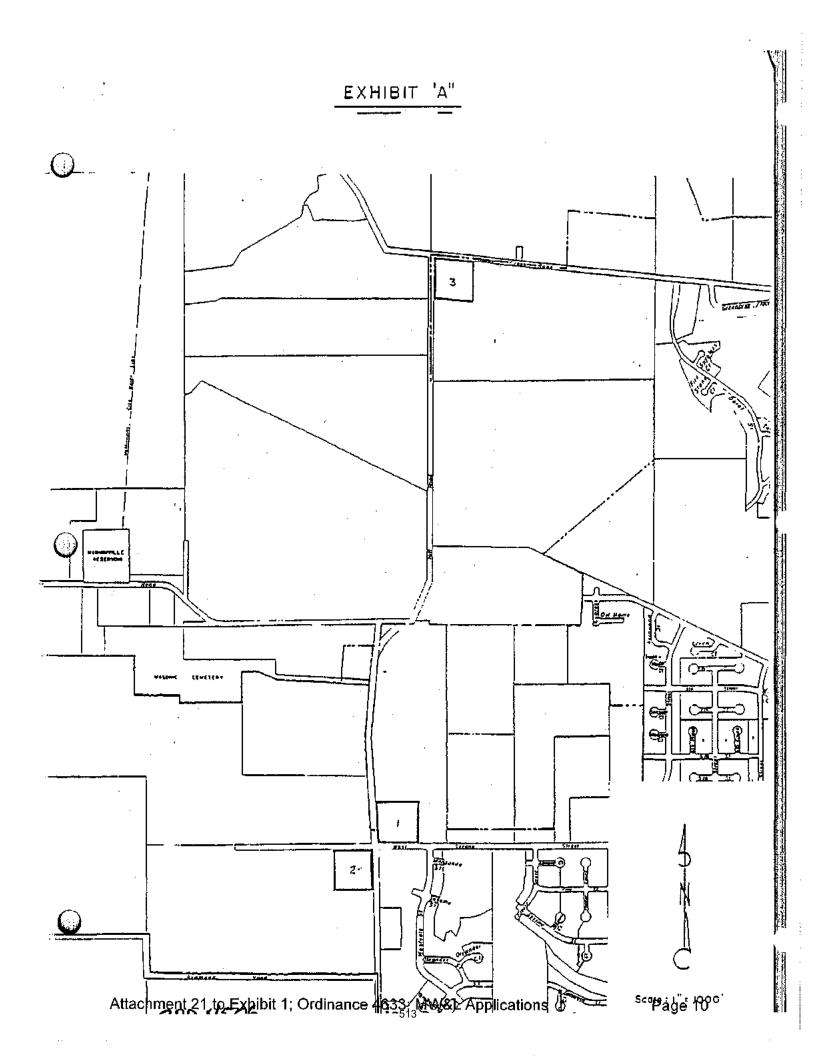
- Outside storage of non-retail goods, provided it is screened from visibility beyond the property lines.
- (d) That all outside lighting must be directed away from residential areas.
- (e) That landscape plans be submitted to and approved by the McMinnville Landscape Review Committee. A minimum of 14 percent of the site must be landscaped with emphasis placed on the street frontages. An arborvitae hedge or some similar type of planted screen shall be required along the north property line where the commercial zoning abuts residential zoning. Special attention shall be paid to the landscaping along Norton Lane where the commercial area is across the street from the residential portions of the Bend O'River Village First Addition subdivision.
 - (f) The following list is exempt from Section 10 (c) above: automobile, truck, trailer, boat, golf cart, or other type of implement sales, and nursery sales which require outdoor displays are allowed subject to strict interpretation and application of subsections (e) and (g) of Section 10.
 - (g) That plans and elevations for all buildings must be submitted to and approved through a design review process to be conducted by a person or persons to be appointed by the City Council before any development may take place. The provisions of Chapter 17.51 of the McMinnville Zoning Ordinance shall be used as the basis for such review. The decision(s) of the design review person or persons may be appealed to the Planning Commission.
 - (h) That only two free-standing signs, limited to a maximum of 30 feet in height, are allowed, one on the west side of Norton Lane and one on the east side of Norton Lane. All other signs must either be flush against the buildings and not protrude more than 12 inches from the building face, or they must be non-illuminated or indirectly illuminated monument-type signs not exceeding six feet in height nor 100 square feet in area.

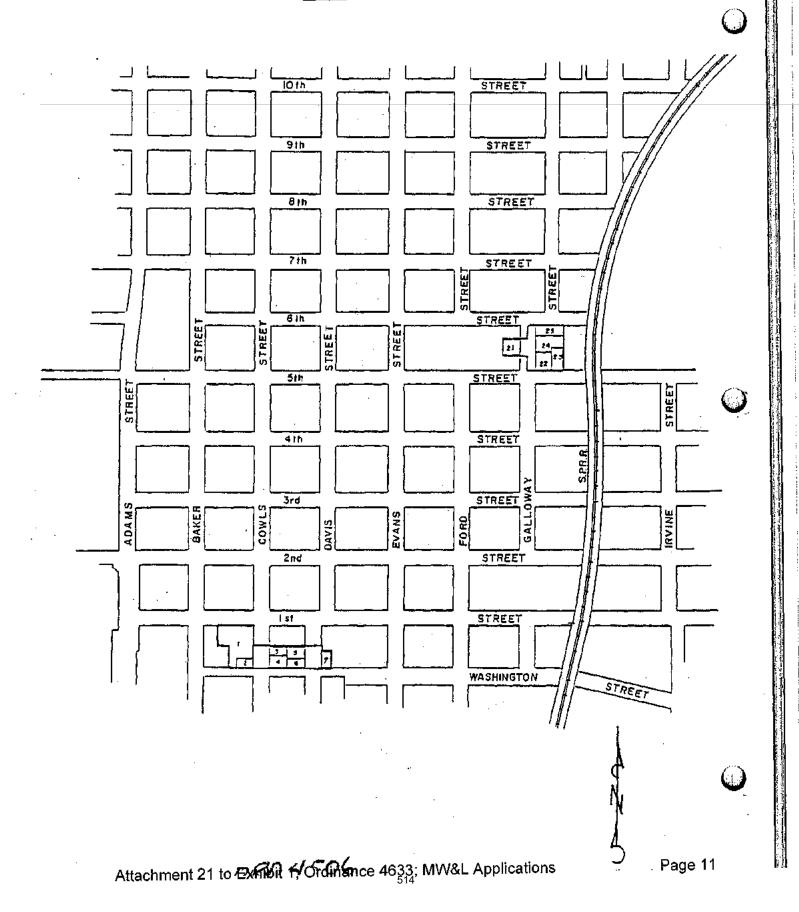
Section 11. That Ordinance Nos. 4381, 4441, 4453, and 4466 are hereby repealed in their entirety.

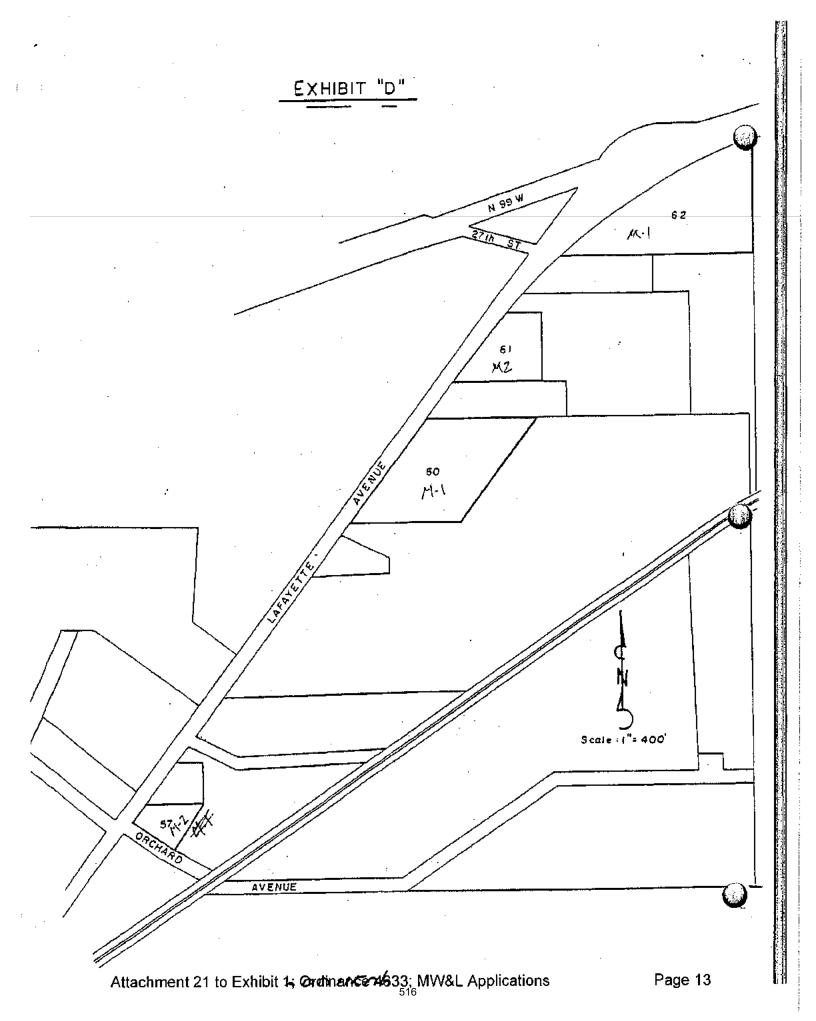
Section 12. That this Ordinance shall be subject to the terms and conditions of Ordinance No. 3823, entitled "Initiative and Referendum," for a period of 30 days.

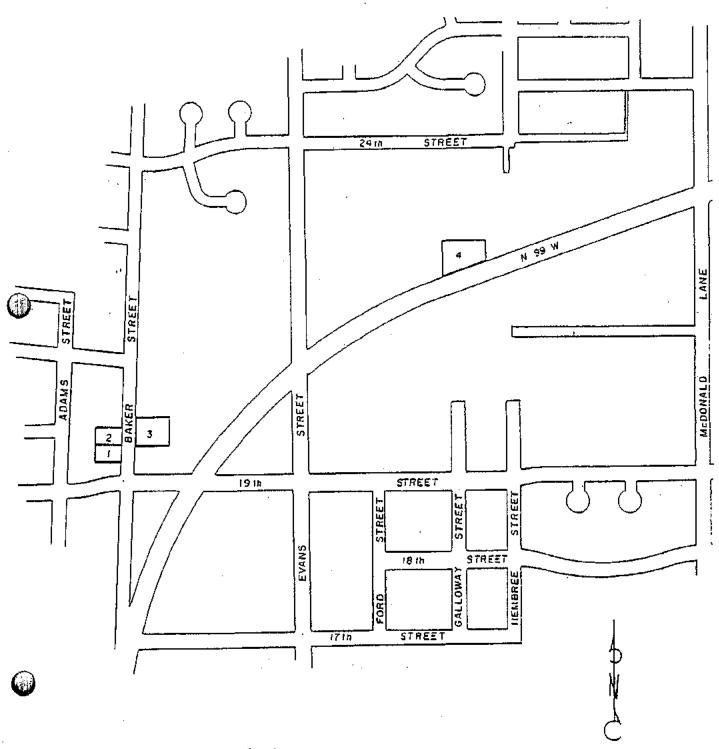
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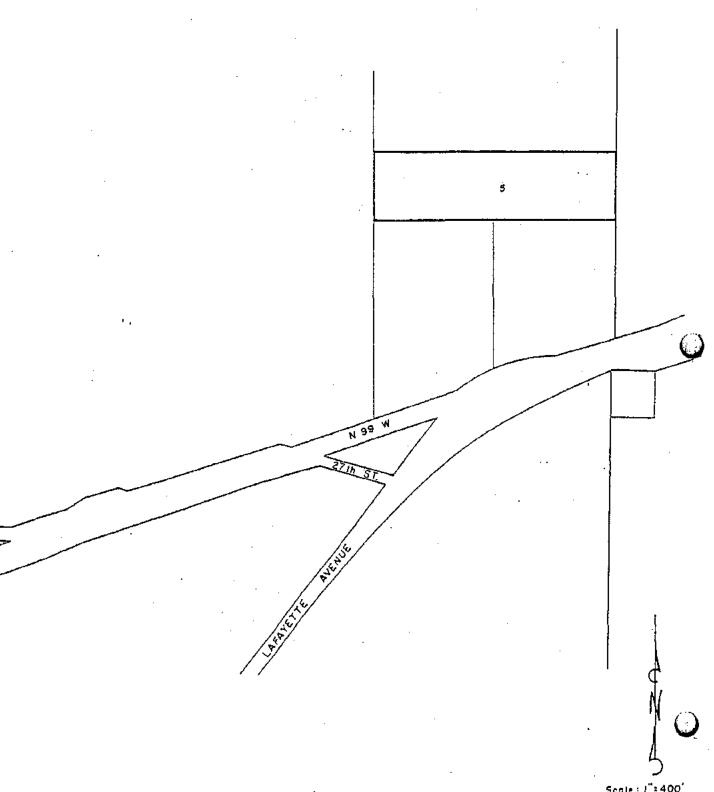






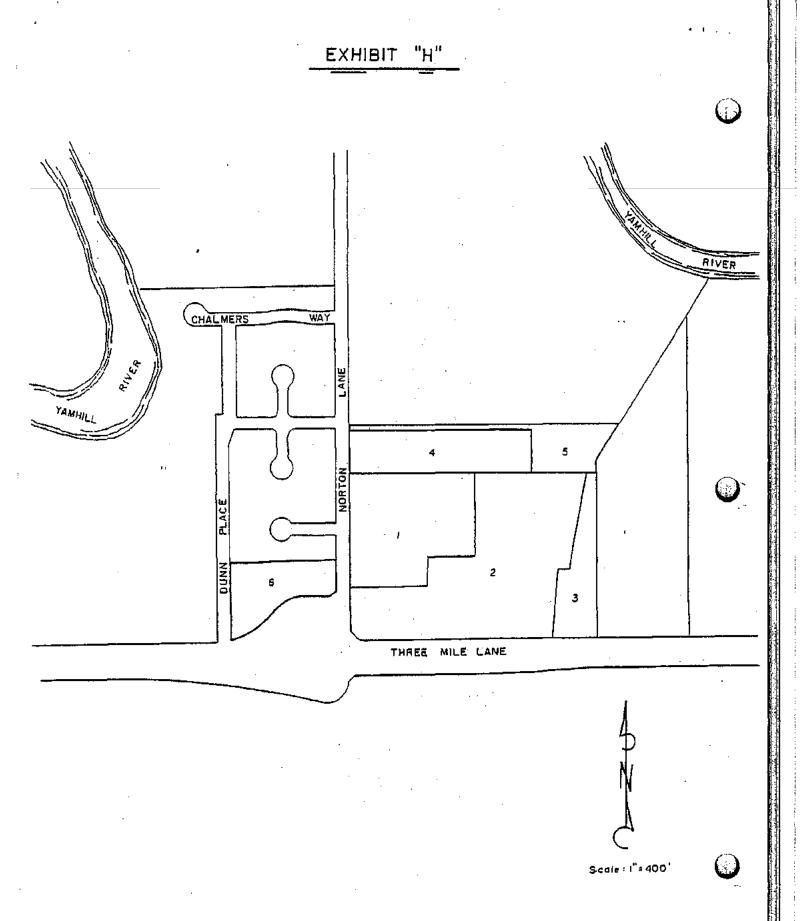
Attachment Dick Mish 5, Grainance 4633; MW&L Applications

Score Page 14



Attachment 21 to Exhibit, Ordinarice 4633; MW&L Applications

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MCMINNVILLE WATER & LIGHT

COMMINIST OWNER - COMMINITA POCESEN

PO Box 638 855 NE Marsh Lane McMinnville, OR 97128 503-472-6158 | mc-power.com

June 26, 2019

Chuck Darnell, Senior Planner City of McMinnville 231 NE 5th Street McMinnville, OR 97128

RE: CU 2-19; 1901 NW Baker Creek Rd.; Additional Comment on Landscaping

Thank you and City planning staff for your help in planning for the Baker Creek substation expansion. This expansion is needed for McMinnville Water and Light (MW&L) to continue to provide safe, reliable electric service. The substation will be designed and built in accordance with the National Electric Safety Code, IEEE standards and guidelines as well as MW&L standards for safety and reliability. Water and Light also takes pleasure in meeting planning criteria.

With regard to finding the right combination of neighborhood compatibility, safety and reliability, MW&L hired TriAxis Engineering to provide a landscape design. MW&L considered the importance of community standards for landscaping while also providing safe, reliable electric service.

Security is very important at substations. Total visibility screening at substations, while visibly pleasant, will provide cover for vandalism, theft, and dangerous mischief. Line of sight visibility to the perimeter fence is important for both MW&L personnel, law enforcement, and the unwary miscreant. We suggest that equipment lines at the substation be broken and obscured by landscaping, but not entirely blocked.

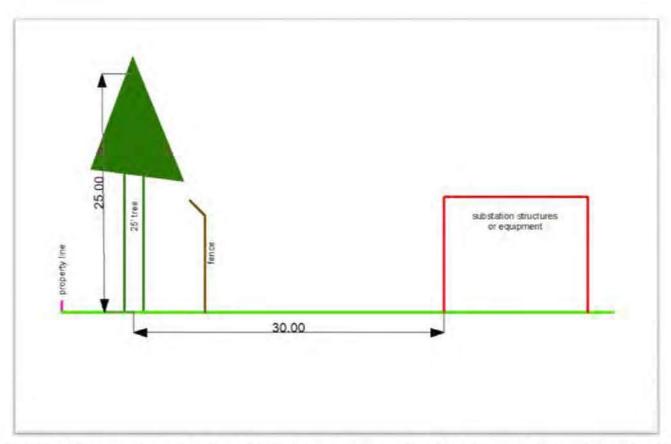
The proposed Landscape Plan design also describes landscape screening and provides for mature canopy tree height in this balance. Tree types with limited mature heights have been suggested (25-foot mature canopy).

Trees and electric infrastructure are at times in conflict. Substations are the source of distribution feeders serving electricity throughout the MW&L system. An outage or interruption at this central source will be widely felt across the system and may be harmful to individual customer equipment. Damage claims attributed to electricity surge caused by interruption is common. Tree limbs and debris present as a major cause of damage. Limbs and debris are much more likely to blow into the facility from a greater height, at a closer distance. To reduce the potential of limbs and debris falling or blowing into to the station, close-in tree canopies should be of a limited height. The nearest trees should be no higher than 25 feet.



COMMUNITY OWNER - COMMUNITY FOCUSED

The diagram below, demonstrates with approximate distances the parameters recommended by MW&L professional staff for the safety and reliability of the City's electric system at the Baker Creek substation.



MW&L staff recommends that in the landscape area surrounding the substation, tree canopies should not be over 25 feet. MW&L requests that conditions of approval not require higher minimum heights. Also, shrub placement in landscaping should be visibly pleasant without restricting line of sight to the fence. Conservative and safe design will allow Water and Light to meet the city's demand for electric power in a safe and reliable manner, while continuing to be a great neighbor.

Thank you for your help with this important facility.

Sincerely,

John Dietz General Manager





City of McMinnville Planning Department 231 NE Fifth Street McMinnville, OR 97128 (503) 434-7311

www.mcminnvilleoregon.gov

MINUTES

June 27, 2019 Planning Commission Regular Meeting 6:30 pm McMinnville Civic Hall, 200 NE 2nd Street McMinnville, Oregon

Members Present: Chair Roger Hall, Commissioners: Erin Butler, Martin Chroust-Masin,

Susan Dirks, Christopher Knapp, Gary Langenwalter, Roger Lizut, Amanda

Perron, and Lori Schanche

Members Absent: None

Staff Present: Chuck Darnell - Senior Planner, David Koch - City Attorney, Heather

Richards - Planning Director, and Tom Schauer - Senior Planner

1. Call to Order

Chair Hall called the meeting to order at 6:30 p.m.

2. Citizen Comments

None

3. Approval of Minutes

May 16, 2019 Planning Commission Minutes

6:32 Commissioner Dirks moved to approve the May 16, 2019 Planning Commission minutes. The motion was seconded by Commissioner Langenwalter and passed unanimously.

4. Public Hearing:

A. Legislative Hearing. G 3-19 (Zoning Ordinance Amendment "Floating Zone) (Exhibit 2)

Request:

Amendment to the McMinnville Zoning Ordinance to add a new Section, Chapter 17.49: Innovative Housing Pilot Project Floating Zone. This amendment would establish provisions for the Innovative Housing Pilot Project Floating zone, but it would not rezone any properties. It would establish a designated eligibility area. Only property owners within this area would be eligible to apply to have the floating zone designation applied to a property through a future land use application, which would require a separately noticed public hearing process.

Applicant: City of McMinnville

- 6:33 Opening Statement: Chair Hall read the opening statement and described the application.
- 6:35 Disclosures: Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter.

John Ashton, McMinnville resident, had talked with neighbors bordering the proposed floating zone who had not been notified of this hearing. Before a decision was made he thought they needed to be contacted for input as it directly impacted them.

2

Planning Director Richards said they had extended the notification procedures for this application by sending letters out to every property owner in this area. They could do another notice with a larger surrounding area since the hearing was being recommended to be continued.

City Attorney Koch clarified the City met what was legally required for notifications. He thought the Commission had jurisdiction to proceed with this matter.

There was consensus to direct staff to extend the notification to the properties bordering the proposed floating zone area.

Chair Hall asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

6:40 Staff Presentation: Planning Director Richards said this was a recommendation from the Affordable Housing Task Force to address housing deficiencies in McMinnville especially for lower income housing. There was a surplus of industrial land in the City and a deficit of residential land. It was not intended to rezone any property, but this was an overlay zone to encourage select projects on a few pieces of property within this specific area. It was a combination zoning ordinance amendment to put in place a floating zone and a competitive Request For Proposals process for specific projects. This was one potential solution to the housing issues in the City.

Senior Planner Schauer said this would create a new chapter in the zoning ordinance for a floating zone. The chapter would create provisions for the floating zone and would establish the area to be eligible to apply for the designation. It did not rezone any properties or approve any pilot projects. If approved, the City would solicit two pilot projects through a Request For Proposals process and the projects selected would be able to apply for the floating zone designation. That would happen concurrently with a development plan for the property. The applicant would be required to follow all of the requirements for a rezone application. He described the work of the Affordable Housing Task Force and the Homelessness Subcommittee in bringing forward opportunities for affordable housing for lowest income residents as well as to address homelessness for seniors, veterans, youth, and victims of domestic violence. The Task Force recommended that the floating zone and RFP process as well as associated fees be sent to the Planning Commission for consideration and public input. The objectives of the proposal were to provide innovative solutions to critical needs, provide opportunities for willing property owners to come forward with solutions, and provide services to house people and help them transition to permanent housing. There would be an RFP process to make sure the projects fit with the sites where they would be located and the regulations would be more flexible but they would still have to follow design and development standards so the projects matched the quality and character of the surrounding area. The hope was that these projects would become best practice and used as a model and replicated to meet needs. There was a shortage of residential land and the Economic Opportunities Analysis identified a surplus of industrial land, some of which could be used for this purpose. However, they wanted to make sure there were no adverse impacts on the industrial uses in the area.

Senior Planner Schauer then discussed the applicable approval criteria. The application had to be consistent with the Comprehensive Plan, compatible with surrounding uses, used innovative land use and regulations to address housing needs in the community, addressed adequate urban services, addressed transportation facilities, and was vetted by a public process. The application also had to comply with the purpose of the zoning ordinance including meeting all of the minimum requirements. Staff thought this application met all of the criteria. The number of pilot projects was limited to a maximum of two, there were criteria to address site selection, and there were design and development standards in place so the projects avoided conflicts and mitigated any potential impacts. Staff recommended a continuance of the hearing to July to provide an additional opportunity for public testimony.

7:04 Commission Questions: Commissioner Chroust-Masin asked if other cities had used this program before.

Senior Planner Schauer said they were putting two tools together, pilot projects and floating zone. The floating zone dated back to the 1930s and there had been recent proposals to use it for LEED sustainability standards in neighborhoods. Pilot projects were used fairly extensively for different housing types where they limited the number of projects to look at something that could be considered for a broader application, such as standards for Accessory Dwelling Units or cottage clusters.

Commissioner Chroust-Masin asked who the applicants would be.

Planning Director Richards said they had dialogue with non-profits like Hope on the Hill who wanted to do a transitional housing/vocational work force project and United Way who also wanted to do a project and were looking for property owners to partner with.

Commissioner Chroust-Masin said most likely the funding would come from these organizations.

Planning Director Richards said that was correct. The City did not have a project nor did they have funding for a project. The City's role was regulatory to help provide a tool for this need in the community. These projects had already been conceptualized and were out in the community.

Commissioner Chroust-Masin asked what the minimum expectations were for these projects.

Senior Planner Schauer said that was in the RFP criteria. There were minimum thresholds applications had to meet to qualify and there was ranking criteria that would evaluate which projects would rise to the top that would be selected.

Commissioner Dirks asked if the language in the RFP would be fleshed out, such as who would be reviewing the proposals and how they would decide on the issue of compatibility since it was not part of the ordinance to be approved.

Senior Planner Schauer said there were criteria for selecting the pilot projects and those selected would apply for land use approval where there were also applicable criteria and a public hearing. They had not established who the RFP review committee would be.

Planning Director Richards said the review committee would be established by the Council. They wanted to see if this was something the community wanted to move forward. It was always intended that the committee would be representative of community stakeholders. The RFP process would be enabled separately by resolution.

Commissioner Dirks asked how this would be temporary housing instead of permanent.

Senior Planner Schauer said it was intentionally undefined. This was intended to be transitional housing and the improvements made would be more temporary in nature. This was to allow the more permanent housing to be done in residential areas, especially if there was need for returning the property back to industrial use or more residential land became available. It would be projects such as tiny homes on smaller foundations or services in a building that might eventually be converted to an industrial use instead of a two story apartment building that would be a permanent fixture.

Planning Director Richards said they had not defined a timeframe for it. They did not want to lose their industrial land supply permanently. It was a way to meet an interim need, which was undefined at this time, but would not be a permanent loss of industrial land.

Commissioner Langenwalter stated if senior women were on a fixed income and the rents were getting too high, they could be in this temporary housing for the rest of their lives.

Senior Planner Schauer said this might be transitional housing for that population before finding permanent subsidized housing.

Commissioner Langenwalter asked who would want to create these transitional housing units. It was a possibility that no one would apply for this type of project.

Commissioner Schanche said they could have a very broad group reviewing the RFP proposals. She thought partial points should be allowed to be given.

Commissioner Chroust-Masin asked what would happen if a project was built, and six months later they wanted to build an industrial project in its place.

Planning Director Richards said this was private property and it would have to be worked out with the property owner and applicant. The City's role was regulatory and if the property owner decided they had a better offer for industrial, they would work it out with the organization that built the project. The City was just setting up the environment for the projects to occur.

Senior Planner Schauer said it was a straightforward process to remove the floating zone on a property.

7:28 Public Testimony:

Nick Scarla was a property owner in this area but had not been contacted. Not very many properties in this area were vacant and he questioned why they did not contact those with vacant property.

Planning Director Richards said they had sampled a few property owners and talked with economic development partners. They were not soliciting properties, but were trying to figure out if this was something that the community wanted as a potential tool. They had not spoken with every property owner.

Fred Plews, McMinnville resident, asked about the objective and identified need for this proposal.

Planning Director Richards explained the Affordable Housing Task Force put this together to provide immediate shelter for people while they were looking for permanent shelter that was most likely subsidized. It was also an opportunity to provide vocational workforce training and partner people with the industrial businesses that were in the City.

Mr. Plews had been in manufacturing all of his life and an active partner in developing over 30 acres of industrial land in McMinnville and some in Newberg. They needed industry in the City and it was not a simple process to develop a piece of land. He had lived in this town when there was no industrial land and had worked hard to create the current industrial area. He wanted to know if the objective still was to protect what had been developed. He did not think housing on this land was appropriate.

Alan Amerson, property owner in this area, had one of the original buildings in this area from 1985. He thought they needed the industrial land to be used as industrial. Residential did not fit the bill for this area, especially tiny homes. He then discussed the homeless situation in the area and how when he offered someone a job they did not want to take it and later threatened to burn his house down.

Walter Gowell, McMinnville resident, was representing his client, Joseph Cassen, who owned property in this area. Mr. Cassen was concerned about the floating zone concept and compatibility, especially if there were conflicts and incompatibility between a proposed residential project and industrial site. He wanted to know who would be responsible to mitigate that conflict and what protections the ordinance would provide to the existing property owners who had vacant industrial land or existing industrial buildings to assure the uses of their land were not limited by a floating zone project. He offered some suggested wording for the ordinance under purposes, adding that the floating zone would not materially affect the use of adjacent and nearby properties that were industrially zoned. He offered another change, this one to the development standards, that the 500 foot buffer zone between industrial and residential not apply. The ordinance should also assure that the industrial businesses were protected from nuisance complaints from people who moved into these projects as industrial sites had possible three shifts per day and might be noisy, smelly, and had traffic coming in and out. The responsibility for mitigation should be the residential developer, not the industrial businesses. Mr. Gowell also represented another property owner in this area and both that owner and Mr. Cassen bordered a potential floating zone site.

June 20, 2019

Commissioner Schanche asked how they could determine if a project would materially affect an industrial property.

Mr. Gowell explained it came down to the development conditions imposed on the project. These should be on the developer, not on the industrial neighbor.

Thomas Vail, property owner in this area, said he was making comments so he could be eligible to appeal to LUBA if needed. He owned a 2 acre parcel next to Mr. Cassen. He asked if there was no direct fiscal impact created by this proposal if that meant there would be no enforcement of anything put into code. He thought the current homeless issue was a failure to enforce laws that were currently on the books. It was stated this would not rezone any property, however the effect was to rezone up to two properties and he saw no difference. If residential was put in the industrial zone it was no longer an industrial zone. Only 7% of the jobs in McMinnville were production worker jobs. He did not think there would be much availability for workforce training. Many of the properties in this area bordered railroad right-of-way which was against the statement in the Planning Commission's goals for residential. Residential in an industrial zone changed the character of the industrial zone dramatically. He asked about the 20 foot yard requirement and thought a lot of the parcel would be eaten up by the parking and yard requirements and not much would be left for housing. There should be some method to indemnify the industrial property owners from the loss of value on their properties.

Planning Director Richards said the fiscal impact was relative to hard dollars out the door from the City budget. Because this action was just putting text into the zoning code and was not actually a land use action for a specific project there was no fiscal impact.

Mr. Vail objected to starting this process that had the effect of a code that did not have money set aside to enforce.

Bob Emerick, property owner in this area, discussed the impact of compatibility. He had a compost facility and transfer facility. These served the community as all of the waste and recycling generated in the City went through these facilities. They were in an industrial area, and were noisy, smelly, and people were working all hours of the day and night. He asked them to be careful because this change could impact the whole City.

Doug Hurl, property owner, stated this was an industrial area. They had not been able to expand the Urban Growth Boundary and there were very few developable residential acres. They were now looking to the industrial area. He did not think there was a surplus of industrial land and this area was not the right area for residential. They needed to focus on expanding the Urban Growth Boundary. He did not think they would fix the homeless situation through a floating zone.

Commissioner Chroust-Masin moved to continue the hearing for G 3-19 to July 18, 2019. The motion was seconded by Commissioner Langenwalter and passed unanimously.

- 8:21 The Commission took a short break.
 - B. Quasi-Judicial Hearing. CPA 2-19 (Comprehensive Plan Map Amendment), ZC 2-19 (Zone Change), PDA 1-19 (Planned Development Amendment), and CU 2-19 (Conditional Use Permit) (Exhibit 3)

Request:

Approval of four concurrent actions. The actions include: 1) Comprehensive Plan Map Amendment from a mix of Residential and Commercial designations to only Residential; 2) Zone Change from mix of R-1 (Single Family Residential) and EF-80 (remnant County Exclusive Farm Use zone from prior to annexation) to only R-1 (Single Family Residential); 3) Planned Development Amendment to remove the subject property from the Planned Development Overlay District governed by Ordinance 4633; 4) Conditional Use Permit to allow expansion of existing electrical power substation in the R-1 zone. The existing parcel contains multiple Comprehensive Plan and Zoning designations, and the proposal would bring the entire parcel under one Comprehensive Plan and Zoning designation to allow for the development of a use that is listed as a conditional use in the underlying R-1 zone. The site is the location of an existing electrical power substation, and the approvals listed above would allow for the expansion of the electrical power substation to serve future development in northern and western McMinnville.

Location: The subject site located at 1901 NW Baker Creek Road, and is more specifically

described as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

Applicant: Samuel Justice, on behalf of McMinnville Water & Light

8:32 Opening Statement: City Attorney Koch read the opening statement and reviewed the hearing procedures.

8:35 Disclosures: Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. He asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none. Chair Hall asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none. Chair Hall asked if any Commissioner had visited the site. If so, did they wish to discuss the visit to the site? Several members of the Commission had visited the site, but had no comments to make on the visits.

8:36 Staff Presentation: Senior Planner Darnell said this was a request for four concurrent land use applications, Comprehensive Plan Map amendment, Zone Change, Planned Development amendment, and Conditional Use Permit. He explained the site was the existing Baker Creek substation owned by McMinnville Water and Light. He then gave a history of the property's annexation, Comprehensive Plan Map amendment and Planned Development adoption, and Conditional Use for the current substation and how in 2018 the property lines had been adjusted in order to expand the substation. The requests tonight were for a Comprehensive Plan Map amendment from a mix of residential and commercial designations to only residential, zone change from the mix of R-1 (Single Family Residential) and EF-80 (remnant County Exclusive Farm Use zone from prior to annexation) to only R-1 (Single Family Residential), Planned Development amendment to remove the subject property from the Planned Development Overlay District governed by Ordinance 4633, and Conditional Use Permit to allow expansion of the existing substation in the R-1 zone. The expansion would double the current infrastructure to the west. He then discussed the review criteria. The applications had to be consistent with the Comprehensive Plan Goals and Policies. There was a deficit in the City in both commercial and residential land and the reduction of the .8 acres of commercial and putting it into residential was not substantial. Also the residential land would be used for public services and infrastructure to support residential

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growth. There was support for expansion of electrical facilities for growth in the Comprehensive Plan. The proposed amendment had to be orderly and timely and this change would allow for uniform planning in the development of the site. The surrounding area was a mix of residential and commercial and it was not inconsistent to make this property all residential. With the residential zoning there were stricter standards for use of the site. Other substations in the City were located on residential lands as well. R-1 zoning was identified as a needed zone in the Buildable Lands Inventory. Utilities and services could be provided to the site. The applicant recently dedicated rightof-way and public utility easements along Baker Creek Road for future improvements. Since the proposed use would be residential, it no longer aligned with the Planned Development area which was for commercial use. It made sense to remove the property from the Planned Development area. Staff recommended a condition of approval that all other provisions of Ordinance 4633 would remain in effect for the remainder of the property. The applicant had provided a site plan for the proposed expansion. There were specific policies and goals in the Comprehensive Plan for energy facilities and how they were incorporated into the community. To address issues with compatibility with the surrounding area, staff proposed conditions of approval. One was that the applicant complete rightof-way improvements on Baker Creek Road at the time of development. Another was that they coordinate and schedule the improvements of the right-of-way with the nearby property owner. Regarding the site design and operations, the setbacks were larger than they were for the existing substation, ranging from 40 to 50 feet from the surrounding property lines to allow for separation of the use. The applicant was also proposing screening and landscaping around the site. There would be a site obscuring fence around the perimeter and landscaping that would be a mixture of shrubs and trees around the fence. Along Baker Creek Road there would be denser plantings to provide additional screening between the public sidewalk and the facility. The improvements to Baker Creek Road would be sidewalks and planter strips with street trees where possible outside of the BPA easement which ran north to south along the site. Staff added conditions that required landscaping consistent with the submitted landscape plan, required planting of street trees in the right-of-way, and reiterated some of the lighting descriptions the applicant had provided which would eliminate the access and maintenance lighting. McMinnville Water and Light had suggested some changes to the conditions. There already was coordination with the surrounding property owner for the construction of Baker Creek Road. Staff suggested amending the condition to align with the timeframe that the applicant had in the purchase agreement with that property owner. The other suggested change was to the condition for landscaping. The concerns were related to the full screening and heights suggested due to security and functionality of the site. Staff proposed to keep the requirement for shrubs in a linear row around the perimeter, but take out that they had to grow to the six foot height at maturity. The shrubs would still need to be evergreen to provide year-round screening. The language about the trees would be changed to allow them to be a maximum height of 25 feet, but not so short that they did not provide screening above the fence level. Staff also suggested requiring the fence materials be submitted to the Planning Director for review. Staff recommended approval of the four applications with the conditions as amended.

8:55 Commission Questions: Commissioner Schanche had some concerns about the landscaping and being consistent with the surrounding area. There was also not much room for the landscaping and she was concerned about what would happen when the road and sidewalks came in. She asked about a road to the east and how the applicant would need an external 20 foot buffer.

Senior Planner Darnell clarified the road was Meadows Drive which would be extended to the north and there would be a road with sidewalks along the east side of the site. It was also the location of the BPA trail that ran north to south in this area.

Commissioner Butler asked why they were requesting to rezone the property to residential when no one would be living there and the majority of the site was commercial.

Senior Planner Darnell agreed the eventual use would not be residential. The code did not have a zone that was for public utilities. The applicant was proposing a zone that allowed the intended use through a Conditional Use which would be required to be reviewed against the criteria and applied conditions that would reduce some of the impacts of the development. The existing substation was zoned as R-1 as well as the other utility uses in the City.

Commissioner Dirks asked for clarification on the landscaping.

Senior Planner Darnell said the Landscape Review Committee would be looking at the landscaping plan. What was proposed in the plan was a mixture of shrubs.

Commissioner Langenwalter discussed Condition 4 and fencing.

Senior Planner Darnell clarified where the proposed perimeter fencing, landscaping, and white two rail fence would be located.

9:06 Applicant's Testimony: Sam Justice, representing the McMinnville Water and Light Commission, gave a history of Water and Light who had been a customer owned utility since 1889. These applications and future expansion of the substation were for long term planning. The substation transformer intended for the site was already on order. Construction of the site was largely going to be conducted by their own linemen. He supported staff's recommendation for approval. Their primary concern was for the safety and reliability of the site.

Public Testimony:

- 9:09 Proponents: None
- 9:10 Opponents: None
- 9:10 Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

9:11 Commission Deliberation: Commissioner Schanche was not thrilled with the landscape plan.

Commissioner Dirks said they had to consider the security of the site. The Landscape Review Committee would review the details and could make changes to the plan.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwalter MOVED to RECOMMEND the City Council APPROVE CPA 2-19 (Comprehensive Plan Map Amendment). SECONDED by Commissioner Dirks. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Butler MOVED to RECOMMEND the City Council APPROVE ZC 2-19 (Zone Change). SECONDED by Commissioner Langenwalter. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwalter MOVED to RECOMMEND the City Council APPROVE PDA

1-19 (Planned Development Amendment) subject to the conditions of approval provided in the decision document. SECONDED by Commissioner Perron. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Knapp MOVED to RECOMMEND the City Council APPROVE CU 2-19 (Conditional Use Permit) subject to the conditions of approval provided in the decision document with amendments. SECONDED by Commissioner Chroust-Masin. The motion PASSED 9-0.

5. Commissioner/Committee Member Comments

None

6. Staff Comments

9:22 Planning Director Richards gave an update on the Oakridge Meadows Planned Development amendment and tentative subdivision plan. The Commission had recommended approval of these applications to the Council, however staff found in the code the opportunity to bundle all the decisions and move them forward at the same time to avoid awkwardness with the appeals time period. The applicant chose to bundle the applications to the Council and there would be a public hearing on them on July 23. The applicant had extended the deadline to August 13.

7. Adjournment

Chair Hall adjourned the meeting at 9:24 p	o.m
Heather Richards	
Secretary	



City of McMinnville
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STAFF REPORT

DATE: August 13, 2019

TO: Mayor and City Councilors

FROM: Heather Richards, Planning Director

SUBJECT: Ordinance No. 5078, 5079 and Resolution No. 2019-54

STRATEGIC PRIORITY & GOAL:



COMMUNITY SAFETY & RESILIENCY

Proactively plan for & responsively maintain a safe & resilient community.

OBJECTIVE/S: Build a community culture of safety (consider safety best practices)

Report in Brief:

This is the consideration of Ordinances No. 5078, 5079 and Resolution No. 2019-54 to amend the McMinnville Municipal Code, Titles 2, 8, 9 and 17, amending the public nuisances section of the code for clarity and efficiency, reorganizing a code compliance procedure for timeliness, and establishing a code violation civil penalty schedule.

- Ordinances No. 5078 and 5079 amend the McMinnville Municipal Code.
- Resolution No. 2019-54 adds Code Violation Civil Penalties to the McMinnville Fee Schedule.

Background:

With the advent of the Fiscal Year 2018/19 City of McMinnville Budget, the Code Enforcement Division transferred to the Planning Department. This decision was made for several reasons:

- Planning did not have staff capacity to provide code enforcement for planning and building issues.
- The two positions in the division whose primary roles were code compliance relative to public nuisances were both vacant and the timing seemed appropriate to transfer the division from a public safety to community development program.
- In order to streamline timelines and resources, the City was interested in pursuing a civil code enforcement system that was administrative and not based in the Municipal Court criminal enforcement system.

Two new Code Compliance Officers were hired in August and September, 2018 - Claudia Martinez and Nic Miles.

In the past year, both Code Compliance Officers have been attending training, creating state-wide and national resource networks and taking notes on the job about how the program could be improved for efficiencies, both internally and externally.

The result is a recommended code amendment for the McMinnville City Code relative to public nuisances and process for correcting and enforcing civil code violations.

These code amendments have been vetted by all respective departments at the City of McMinnville and were prepared in conjunction with the City Attorney's office.

Staff hosted a work session with the City Council about the proposed amendments on February 12, 2019.

Discussion:

The attached proposed code amendments is a mixture of old and new, and replaces the following public nuisance chapters of the existing code, Sections 8.04 (Barns and Stables, 8.08 (Rat Control), 8.12 (Weed Control), 8.16 (Nuisances), 8.28 (Discarded Vehicles), 9.32.040 (Unnecessary noise), 17.54.090 (fences), and 17.54.140 (Keeping of Animals in a Residential Zone) in order to simplify and update the City of McMinnville's public nuisance code and abatement process, reordering everything into one section, Chapter 8.10 "Public Nuisances".

The proposed code amendments also structure an administrative notice, abatement and collection program that should save the City time and resources in processing civil code enforcement cases and establishes it as a new chapter, 2.50, "Code Compliance".

The new procedures provide for a 21 day program of notice and correction to ensure compliance in a timely manner.

The goal of the Code Compliance Division is voluntary compliance, but if needed, the proposed code amendments provide the opportunity to administratively correct public nuisances as necessary and then collect the full costs for those corrective actions from the property owner. If the property owner does not pay for the corrective action costs within thirty days of invoicing, a lien will be placed on the property.

The proposed code amendments also provide for administrative citations to be issued for code violations, representing eight different classes of civil penalties. The class of code violation is identified for each public nuisance in the proposed Title 8.10 McMinnville Municipal Code amendments for public nuisances, and are enumerated below. This civil penalty schedule will be approved separately by Resolution No. 2019-54, and updated periodically.

CODE VIOLATION CIVIL PENALTIES

ODDE VIOLATION OTHER ENACTIES				
TYPE OF CODE VIOLATION	CIVIL PENALTY			
Class 1 Code Violation	\$5,000.00			
Class 2 Code Violation	\$2,000.00			
Class 3 Code Violation	\$1,000.00			
Class 4 Code Violation	\$500.00			
Class 5 Code Violation	\$250.00			
Class 6 Code Violation	\$100.00			
Class 7 Code Violation	\$50.00			
Class 8 Code Violation	\$25.00			

Attachments:

- 1) Ordinance No. 5078 (Code Compliance); Exhibit 1 Code Amendments
- 2) Ordinance No. 5079 (Public Nuisance); Exhibit 1 Code Amendments
- 3) Resolution No. 2019-54 (Civil Penalty Schedule)

Fiscal Impact:

The revised code compliance procedures should result in a cost savings to the City of McMinnville for administering and managing a code enforcement program resulting in less Municipal Court time for compliance issues and resolutions.

Recommendation:

Ordinance No. 5078

- 1. Adopt Ordinance No. 5078 amending the McMinnville City Code, Title 2 to establish code compliance procedures that are efficient and transparent.
- 2. Request more information.
- 3. Choose not to adopt Ordinance No. 5078 retaining existing code enforcement provisions.

"I move to adopt Ordinance No. 5078."

Ordinance No. 5079

- 1. Adopt Ordinance No. 5079 amending the McMinnville City Code, Titles 8, 9 and 17 to organize the public nuisance code in a more coherent manner.
- 2. Request more information.
- 3. Choose not to adopt Ordinance No. 5079 retaining existing code provisions for public nuisances and abatement procedures.

"I move to adopt Ordinance No. 5079."

Resolution No. 2019-54

- 1. Approve Resolution No. 2019-54 establishing code violation civil penalties.
- 2. Request more information.
- 3. Choose not to approve Resolution No. 2019-54

"I move to approve Resolution No. 2019-54."

ORDINANCE NO. 5078

An Ordinance amending Title 2 of the McMinnville Municipal Code, creating Chapter 2.50 establishing a civil code enforcement process.

RECITALS:

In order to preserve the health, welfare and safety of the community, the City has adopted various civil code provisions that govern the conduct of business and personal activities within the City, which are codified in the McMinnville Municipal Code.

The city desires to ensure compliance with these non-criminal provisions of the code by establishing a fair, transparent and efficient process for identifying and enforcing civil code violations, separate from the process currently used to enforce criminal code violations.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

- 1. The amendments to the MMC set forth in the attached Exhibit 1, are incorporated into this Ordinance by this reference.
- 2. This ordinance will take effect September 12, 2019.

Passed by the Council August 13, 2019, by the following votes:

Ayes:		-
Nays:		<u>-</u>
Approved August 13,	2019.	
Effective Date: Septe	mber 12, 2019	
	MAYOR	
Attest:	Approved as to form:	
CITY RECORDER	CITY ATTORNEY	

ORD 5078 - Exhibit 1

Chapter 2.50 CODE COMPLIANCE

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2.50.010 Applicability of Chapter

- A. The provisions of this chapter apply to the enforcement of civil code provisions identified in the following portions of the McMinnville Municipal Code, including all plans, permits, or licenses adopted or issued pursuant to such provisions:
 - 1. All chapters of Title 5 (Business Taxes, Licenses and Regulations)
 - 2. All chapters of Title 8 (Health and Safety)
 - 3. All chapters of Title 17 (Zoning) and all ordinance adopted pursuant to Title 17 or the McMinnville Comprehensive Plan, regardless of whether such ordinance are codified in the McMinnville Municipal Code.
- B. Notwithstanding the provisions of subsection (A) of this section, the provisions of this chapter do not apply to the enforcement of any violation identified as a misdemeanor or for which the punishment may include any term of imprisonment, or to any criminal, traffic or parking laws, including the laws set forth in the following Titles of the McMinnville Municipal Code:
 - 1. Title 9 Public Peace, Morals and Welfare
 - 2. Title 10 Vehicles and Traffic

2.50.020 Definitions

As used in this chapter:

- A. "Code" or "McMinnville Municipal Code" means the provisions of all ordinances adopted by the City Council, regardless of whether codified into the McMinnville Municipal Code, that are subject to the provisions of this Chapter, as described in Section 2.50.010.
- B. "Code Violation" means any substance, condition or action that violates any requirement or prohibition set forth in the McMinnville Municipal Code, including the terms and conditions of any permit, license, or other grant of authority issued or executed pursuant to the provisions of such Code.
- C. "Compliance Officer" means any person designated by the City Manager or designee as having responsibility for enforcing the civil provisions of the McMinnville Municipal Code.
- D. "Corrective Action" means an action that is necessary and sufficient to bring any substance, condition or action into compliance with the provisions of the McMinnville Municipal Code.
- E. "Exigent Circumstances" means any circumstances that would cause a reasonable person to believe that immediate entry on a premises or other relevant action is necessary to prevent:
 - 1. physical harm to persons or property;
 - 2. destruction of evidence; or,
 - 3. other consequences that would improperly frustrate legitimate code compliance efforts.
- F. "Person" means a natural person, firm, partnership, association or corporation.
- G. "Person in charge of a premises" means an owner, agent, occupant, guest, tenant, lessee, contract purchaser, contractor, employee, squatter, or any other person having possession or control of a premises, or supervision over a construction project on a premises.
- H. "Post" or "Posting" means the action of physically placing or affixing a notice authorized or required to be posted by this chapter to any portion of the premises in a manner likely to be seen by any responsible person. In the event that the premises is occupied, posting of notice may be accomplished by personal delivery to any person in charge of the premises.
- I. "Premises" means any publicly or privately owned building, lot, parcel, real estate, land or portion of land, whether improved or unimproved.
- J. "Responsible person" means any person that is responsible for permitting, allowing, or causing to exist any substance, condition or action that is prohibited by the provisions of provisions of the McMinnville Municipal Code.
- K. "Warrant" or "administrative warrant" means a written order issued by the McMinnville Municipal Court Judge, authorizing entry onto a premises for the purpose of carrying any of the provisions of this Chapter related to the investigation or correction of a code violation.

2.50.110 Identification and Investigation

- A. Upon the receipt of a complaint or the proactive observance of any City employee, a Compliance Officer is authorized to investigate and determine whether a code violation exists by gathering and documenting evidence, as appropriate to the nature of the alleged violation.
- B. When the entry on private property is necessary or desirable for the identification or investigation of the code violation, a Compliance Officer is authorized as follows:

- 1. A Compliance Officer is authorized to enter onto public or private premises that is open to the public at all reasonable times to determine whether a code violation exists.
- 2. A Compliance Officer is authorized to enter onto a private premises that is not open to the public at reasonable times to determine whether a code violation exists when the Compliance Officer:
 - a. Has received permission from any person in charge of the premises;
 - b. An administrative warrant has been issued pursuant to the provisions of this chapter authorizing entry for inspection of the premises;
 - c. Determines that an emergency or other exigent circumstances exist requiring immediate entry.
- C. An Administrative Search Warrant may be issued by the Municipal Court Judge upon the oath and application of a Compliance Officer, which must include a sworn affidavit showing probable cause for the entry and inspection by stating the purpose and extent of the proposed inspection, citing the chapter(s) of the McMinnville Municipal Code that serve(s) as the basis for the inspection, and giving information concerning the code violation in question and/or the premises on which it is located.
- D. A person must not interfere with or attempt to prevent a Compliance Officer from entering onto any premises when such entry is authorized by the provisions of this section.

2.50.120 Notice of Code Violation

- A. If the City Manager or designee is satisfied that a code violation exists, the Compliance Officer will cause a Notice of Code Violation to be posted on the premises, or at the site of the code violation, directing the responsible person to correct the code violation.
- B. At the time of posting, the Compliance Officer must also cause a copy of the Notice of Code Violation to be forwarded by certified mail, postage prepaid, to any person in charge of the premises and to the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County. If the mailed Notice of Code Violation is returned as undeliverable or is unclaimed by the property owner, it will not preclude the city from taking enforcement or corrective actions as described in this chapter.
- C. The Notice of Code Violation must contain:
 - 1. A description of the real property, by street address or otherwise, on which the code violation exists.
 - 2. A description of the code violation found to exist by the Compliance Officer.
 - 3. A determination of whether the code violation presents an immediate threat to the public health, welfare or safety.
 - 4. A direction to correct the code violation within 10 days from the date of notice.
 - 5. If the code violation is for a public nuisance described in Chapter 8.10, a statement that unless the code violation is corrected by the deadline, the City may correct the code violation and assess the full cost of corrective action, including administrative charges, against all responsible persons and that such corrective action costs will become a lien on the property if not paid in full within thirty days of invoicing.
 - 6. A statement that failure to correct a code violation may warrant imposition of a civil penalty upon all persons responsible for the code violation.

- 7. A statement that the owner or any responsible person may protest the Notice of Code Violation by giving written notice to the City Manager within 10 days from the date of the notice, together with a written statement as to why a code violation does not exist.
- D. Upon completion of the posting and mailing of the Notice of Code Violation, the Compliance Officer must execute and place on file with the City Manager or designee a certificate stating the date and place of the mailing and posting.
- E. If the Compliance Officer meets all requirements for posting and mailing the Notice of Code Violation set forth in this Section, then the failure of any person to receive actual notice will not void any code compliance process set forth in this Chapter.
- F. If the owner or other responsible person fails to appeal the Notice of Code Violation in compliance with the procedures set forth at Section 2.25.510(A), then the violation will be deemed proved and no further appeal of the Notice of Code Violation will be allowed.

2.50.210 Corrective Action by Responsible Person

- A. All responsible persons must correct all violations described in the notice of code violation not later that the date set forth in the notice, or the date set forth in any final order or judgment issued on appeal.
- B. If a responsible person admits responsibility for the violation, they may submit a Voluntary Compliance Plan for correcting the violation to the Compliance Officer within ten (10) days after posting and mailing of the notice of violation. The Compliance Plan must contain the following:
 - 1. The Responsible Person's name, mailing address, telephone number and email address.
 - 2. A written admission of responsibility for the violation;
 - 3. A detailed plan for correction of the violation(s) over a reasonable period of time;
 - 4. Written consent for the Compliance Officer or their designee to enter the premises for the purpose of:
 - a. Verifying compliance with the terms of the Compliance Plan; or
 - b. Taking actions to correct the violation upon determining that the terms of the Compliance Plan have not been met.
- C. The Compliance Officer will review the Voluntary Compliance Plan and may approve the plan as presented, approve a modified plan, or reject the plan, at their discretion. The decision of a Compliance Officer regarding whether to accept, reject or modify a Voluntary Compliance Plan is final and not subject to appeal.

2.50.220 Corrective Action by Compliance Officer

A. The City may enter a premises as provided in this Section, and may take all necessary actions to correct code violation, whenever a Responsible Person fails to take corrective action as described in MMC 2.50.210(A), or upon the determination by a Compliance Officer that a person has failed to comply with the terms of a Voluntary Compliance Plan approved pursuant to Section MMC 2.50.210(C). Except when the Compliance Officer has received consent from a responsible person or as provided in subsection (B) of this section, a Corrective Action Warrant is required before a Compliance Officer may enter the premises.

- B. If the violation for which a Notice of Code Violation has been issued is determined to be an immediate threat to the public health, welfare or safety, and is not corrected within the specified timeframe, the City Manager may order the code violation to be corrected without a warrant. The following non-exclusive list of code violations may be corrected by the city without a warrant:
 - 1. Any structural element that has been significantly compromised as determined by the City Building Official or designee, and not governed by any other section of this code.
 - 2. Any fire hazard as determined by the Fire Marshall or designee, and not governed by any other section of this code.
 - 3. Any public nuisance violation identified Chapter 8.10, as determined by a Compliance Officer to present an immediate threat to the public health, welfare or safety, including but not limited to violations involving rat harborage and weed abatement.
- C. The McMinnville Municipal Court is authorized to issue a Corrective Action Warrant authorizing any Compliance Officer to make searches and seizures reasonably necessary to enforce any provision of the McMinnville City Code pertaining to code violations.

2.50.230 Obtaining a Corrective Action Warrant

- A. Every warrant authorized by this section must be supported by affidavit or sworn testimony establishing probable cause to believe that a code violation has occurred, describing:
 - 1. The applicant's status in applying for the warrant;
 - 2. The premises to be entered;
 - 3. A statement of the violation to be corrected;
 - 4. The ordinance or regulation requiring or authorizing the corrective action;
 - 5. The basis for taking the corrective action;
 - 6. A statement that consent to enter onto the property to correct the violation has been unsuccessfully sought from a responsible person or other facts and circumstances that reasonably justify the failure to seek or inability to obtain such consent.
- B. Probable cause to issue a warrant will be found when:
 - 1. There is reasonable belief that a code violation exists with respect to the premises;
 - 2. The City has complied with the Notice requirements set forth in Section 2.50.120; and,
 - 3. The time period for the owner or other responsible person to correct the violation has passed.
- C. The court may, before issuing a corrective action warrant, examine the applicant and any other witness under oath and must be satisfied of the existence of grounds for granting such application. If the court is satisfied that cause for correcting the violation(s) exists and that the other requirements for granting the application are satisfied, the court must issue the corrective action warrant, particularly describing the person or persons authorized to execute the warrant, the premises to be entered, and a statement of the general corrective actions that may be taken.
- D. In issuing a corrective action warrant, the court may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described premises to remove any person or obstacle and to assist a Compliance Officer in any way necessary to enter the premises to correct the violation.

2.50.240 Executing a Corrective Action Warrant

- A. Occupied Property. In executing a Corrective Action Warrant, the person authorized to execute the warrant must, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant must be left with the occupant or the person in possession. The warrant is not required to be read aloud.
- B. Unoccupied Property. In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person. In such case a copy of the warrant must be conspicuously posted on the property.
- C. Return. A warrant must be executed within 30 days of its issue and returned to the court by whom it was issued within 30 days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant, unless executed, is void.
- D. A person must not interfere with or attempt to prevent a Compliance Officer from entering onto any premises when such entry is authorized by the provisions of this section.
- E. The City Manager has the final authority to decide whether or not to enter onto a premises to correct or abate a code violation in each particular case.

2.50.250 Notice and Collection of Corrective Action Costs

- A. The owner, all persons in charge of the premises, and all other Responsible Persons are jointly and severally liable for all costs associated with corrective actions taken by the City, including administrative costs, warrant costs, and attorney fees.
- B. The City Manager or designee must keep an accurate record of the full cost recovery expense incurred by the City for all corrective actions.
- C. After the code violations have been determined by the City to be corrected, the City Manager or designee must cause a Notice of Corrective Action Costs to be posted on the premises, or at the site of the code violation.
- D. At the time of posting, the City Manager or designee must also cause a copy of the Notice of Corrective Action Costs to be forwarded by certified mail, postage prepaid, to any person in charge of the premises and to the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County.
- E. The Notice of Corrective Action Costs must contain:
 - 1. A copy of the Notice of Code Violation and any Final Orders issued in the matter;
 - 2. The total costs of corrective actions due and payable within thirty (30) days of the Notice of Corrective Action Costs;
 - 3. Notification that the costs of corrective actions will become a lien against the premises if not paid when due; and
 - 4. Notification that if any owner or other responsible person objects to the Notice of Corrective Action Costs, a written protest must be filed with the City Manager within ten (10) days from the date of the notice.

- F. Collection and Abatement Costs.
 - The costs listed in the Notice of Corrective Action Costs will become delinquent if not paid within thirty (30) days of the date of the notice or within ten (10) days of the date set forth in any final order or judgment issued on appeal of the Cost Notice, whichever comes later.
 - Assessment of the delinquent Correction Action Costs must be made by City Council
 resolution to be entered in the docket of city liens. When the entry is made, it will
 constitute a lien on all real property on which the corrective action occurred.
 - 3. The lien will be enforced in the same manner as liens for street improvements, as described in Chapter 3.12, and will bear interest at the rate of nine percent per year, accruing from the date of the entry of the lien into the lien docket.
- G. If the Compliance Officer meets all requirements for posting and mailing the Notice of Corrective Action Costs set forth in this Section, then the failure of any person to receive actual notice will not void the assessment of any corrective action costs.
- H. If the owner or other responsible person fails to appeal the Notice of Corrective Action Costs in compliance with the procedures set forth at Section 2.25.510(A), then the cost assessment shall be deemed proved and no further appeal of the Notice of Corrective Action Costs will be allowed.

2.50.260 Corrective Action Remedies Not Exclusive

- A. The correction of code violations and the assessment of any costs associated with corrective actions are not a penalty, but are an additional remedy.
- B. The imposition of a civil penalty does not relieve a person of the duty to correct a code violation or pay all corrective action costs assessed by the City.
- C. The correction of a code violation within ten (10) days of the date of the Notice of Code Violation or the Final Order issued upon any appeal of the Notice, will relieve a Responsible Person from the imposition of any civil penalty under this Chapter.

2.50.310 Notice of Civil Penalty

- A. Upon finding the a Code Violation exists and has not been voluntarily corrected within ten (10) days of the date of the Notice of Code Violation or the Final Order issued upon appeal of the Notice, the City Manager or designee may impose a civil penalty
- B. Each day that a code violation continues to exist will constitute a separate violation and a new civil penalty may be assessed for each consecutive day the violation continues without correction.
- C. The Compliance Officer shall cause the Notice of Civil Penalty to be posted on the premises and forwarded by certified mail, postage prepaid, to any person in charge of the premises and the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County.
- D. If the certified Notice of Civil Penalty is returned as undeliverable or is unclaimed by any person, it will not preclude the city from imposing a civil penalty as described in this chapter.
- E. The Notice of Civil Penalty must contain the following:

- 1. A description of the real property, by street address or otherwise, on which the code violation exists.
- 2. A description of the code violation found to exist by the Compliance Officer.
- 3. A copy of the Notice of Code Violation and any Final Orders issued in the matter.
- 4. A statement indicating whether the code violation has been corrected or is considered a continuing violation subject to the imposition of a daily civil penalty.
- 5. A calculation of the total amount of the civil penalty or, in the case of a continuing violation, the amount of civil penalty that has accrued as of the date of the Notice.
- 6. A statement that the amount of the civil penalty may become a lien on the premises if not paid in full within thirty days of invoicing.
- 7. A statement that the owner or any responsible person may protest the Notice of Civil Penalty by giving written notice to the City Manager within 10 days from the date of the notice, together with a written statement as to why the civil penalty should be modified or not assessed.
- F. If the Compliance Officer meets all requirements for posting and mailing the Notice of Civil Penalty set forth in this Section, then the failure of any person to receive actual notice will not void the assessment of any Civil Penalty.
- G. If the owner or other responsible person fails to appeal the Notice of Civil Penalty in compliance with the procedures set forth at Section 2.25.510(A), the amount of the civil penalty will be deemed final and no further appeal of the notice of civil penalty will be allowed.

2.50.320 Civil Penalty Classification Levels

- A. The penalty for committing a code violation that is subject to the provisions of this Chapter is a civil penalty. The amount of the Civil Penalty will be established by City Council resolution.
- B. Code Violations are classified for the purpose of assessing a civil penalty into the following categories:
 - 1. Class 1 code violations;
 - 2. Class 2 code violations;
 - 3. Class 3 code violations;
 - 4. Class 4 code violations;
 - 5. Class 5 code violations;
 - 6. Class 6 code violations;
 - 7. Class 7 code violations;
 - 8. Class 8 code violations;
 - 9. Unclassified code violations as described in subsection (B); and,
 - 10. Specific fine code violations, as described in subjection (C).
- C. The violation of any code provision that is subject to this chapter and that does not specify the classification of the code violation is an unclassified code violation. An unclassified code violation may be assessed a civil penalty in lieu of a fine as a class 3 code violation, except that when a code violation is classified in accordance with ORS 153.012, then:
 - 1. A Class A violation may be assessed a civil penalty as a Class 3 code violation;
 - 2. A Class B violation may be assessed a civil penalty as a Class 4 code violation;

- 3. A Class C violation may be assessed a civil penalty as a Class 5 code violation; and,
- 4. A Class D violation may be assessed a civil penalty as a Class 6 code violation.
- D. The violation of any code provision that is subject to this chapter, and that specifies a specific fine amount or maximum fine amount, may be assessed a civil penalty in lieu of the fine, in a daily amount not to exceed the specific fine.

2.50.510 Protests and Appeals

A. Protest to the City Manager

- An owner or other responsible person of a premises may protest a Notice of Code Violation issued pursuant to MMC 2.50.120, a Notice of Corrective Action Costs issued pursuant to MMC 2.50.250, or a Notice of Civil Penalty issued pursuant to MMC 2.50.310 by submitting a written protest to the City Manager within ten (10) days of the date of the Notice.
- 2. The written protest must, at a minimum, contain the following information:
 - a. The name, mailing address, telephone number and email address of the person submitting the protest;
 - b. A description of the real property, by street address or otherwise, on which the code violation is alleged to exist;
 - c. A written statement, and all supporting evidence, specifying the basis for the protest.
- 3. The City Manager will review the Notice and the Protest, together with all supporting evidence in the record, and will issue a final order that either upholds, amends, or dismisses the findings and determination set forth in the Notice.
- 4. If the City Manager issues a Final Order that upholds or amends the Notice, the owner or responsible person must comply with the terms of the order within 10 days from the date of the order.

B. Appeal to the Hearings Officer

- 1. An owner or other responsible person of a premises may dispute a Final Order issued by the City Manager pursuant to subsection (A) of this section, by submitting a written appeal to the City Recorder within ten (10) days of the date of the Final Order. A Hearings Officer will preside over the appeal hearing.
- 2. The written appeal must, at a minimum, contain the following information:
 - a. The name, mailing address, telephone number and email address of the person submitting the protest;
 - b. A description of the real property, by street address or otherwise, on which the code violation is alleged to exist;
 - c. A written statement, and all supporting evidence, specifying the basis for appealing the City Manager's Final Order.
- 3. Subject to the requirements of this code section, the McMinnville Hearings Officer may adopt additional procedures for the conduct of any hearings before them, but at a minimum, must allow:
 - Each party to introduce evidence, including rebuttal evidence, that is relevant to prove or refute any matter raised in the underlying Notice or City Manager's Final Order; and,

- b. An opportunity for each party to cross-examine all witnesses who testify.
- 4. Following the close of the record, the McMinnville Hearings Officer will issue a decision within ten (10) days that either upholds, amends, or dismisses the City Manager's Final Order.
- 5. If the Hearings Officer decision upholds or amends the City Manager's Final Order, then the Hearings Officer's Final Order must include:
 - a. A brief statement of the findings of fact;
 - b. The amount of any assessed corrective action costs, civil penalties, and associated administrative costs;
 - c. The date by which any costs and assessments must be paid; and,
 - d. An order directing the Responsible Person to correct the code violation, pay the assessed corrective action costs or pay the assessed civil penalty, as appropriate to the nature of the appeal;
- 6. If the Hearings Officer decision dismisses the City Manager's Final Order, then the Hearings Officer's Final Order must include:
 - a. An order that any incurred fees be refunded; and,
 - b. An order that all costs of the abatement will be dismissed or refunded.
- C. <u>Appeal of Hearings Officer's Final Order</u>. Any party to the appeal may obtain review of the Hearings Officer's Final Order by writ of review pursuant to ORS Chapter 34.

ORDINANCE NO. 5079

An Ordinance amending Titles 8, 9 and 17 of the McMinnville Municipal Code, relating to public nuisances.

RECITALS:

In order to preserve the health, welfare and safety of the community, the City has adopted various civil code provisions related to public nuisances, which are codified in the McMinnville Municipal Code.

The city desires to consolidate, amend and update the public nuisance code in order to improve the fair, transparent and efficient enforcement of such nuisances.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

- 1. The amendments to the MMC set forth in the attached Exhibit 1, are incorporated into this Ordinance by this reference.
- 2. This ordinance will take effect September 12, 2019.

Passed by the Council August 13, 2019, by the following votes:

Ayes:		
Nays:		
Approved August 13, 2019.		
Effective Date: September 12, 2	019	
	MAYOR	
Attest:	Approved as to form:	
CITY RECORDER	CITY ATTORNEY	

ORD 5079 - Exhibit 1

Section 1. Add the following provisions of Title 8:

Chapter 8.10 PUBLIC NUISANCES

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8.10.010 Definitions

As used in this chapter:

- A. "Abate" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such manner and to such an extent as the compliance officer in their judgment determines is necessary in the interest of the public health, welfare and safety.
- B. "Compliance officer" means any person designated by the City Manager or designee as having responsibility for enforcing the civil provisions of the McMinnville Municipal Code.
- C. "Person" means a natural person, firm, partnership, association or corporation.
- D. "Person in charge of a premises" means an owner, agent, occupant, guest, tenant, lessee, contract purchaser, contractor, employee, squatter, or any other person having possession or control of a premises, or supervision over a construction project on a premises.
- E. "Person responsible" means the person responsible for permitting, allowing, or causing to exist any public nuisance prohibited by the provisions of this chapter.
- F. "Premises" means any publicly or privately owned building, lot, parcel, real estate, land or portion of land, whether improved or unimproved.
- G. "Public way" means any portion of an alley, street, roadway, highway, or public right-of-way located within the City of McMinnville, and includes all public parking lots owned or operated by any government agency. For the purposes of this Chapter, "public way" includes private roads and driveways that serve two or more lots or parcels under separate ownership.

8.10.100 Declaration of Public Nuisance.

- A. It is unlawful and a public nuisance within the City of McMinnville for any person in charge of a premises to permit, allow or cause to exist, any substance, condition or act on the premises that is injurious or detrimental to the public health, welfare or safety.
- B. It is unlawful and a public nuisance within the City of McMinnville for any person to cause to exist any substance, condition or act on a public way or on a premises that is not under the person's possession or control that is injurious or detrimental to the public health, welfare or safety.
- C. The substances, conditions and acts specifically enumerated and defined in Sections 100 through 490 of this chapter are declared public nuisances and may be abated by any of the procedures set forth in this Chapter.
- D. In case of conflicting code citations in the McMinnville Municipal Code relative to public nuisances, this chapter of the McMinnville Municipal Code will prevail.
- E. Whenever a compliance officer determines that a public nuisance exists upon any premises or public way, the officer may require or provide for the corrective action of the public nuisance pursuant to this title and collect full costs of the corrective action from the responsible person or make the costs of corrective action a lien upon the premises.

F. The corrective action procedures in MMC Chapter 2.50 are nonexclusive remedies for all public nuisances.

8.10.110 Alleys

- A. A person in charge of a premises that abuts an alley must not permit, allow or cause to exist any substance, condition or act in the area between the property line of the premises and the centerline of the alley, which serves as an impediment to travel through the alley.
- B. For the purposes of this Section, "impediment" includes but is not limited to the following substances, conditions or acts:
 - 1. Any material including, but not limited to, debris, motor vehicles, waste products or firewood;
 - 2. Weeds, grasses or other vegetation more than 10 inches high.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.120 Animals and Animal Excrement.

- A. It is prohibited for any person to permit, allow or cause any animal owned by, or under the care of, the person to run at large in the city.
- B. It is prohibited for any person to permit, allow or cause excrement from an animal owned by, or under the care of, the person to remain on any public way or premises not owned by the person. A person must remove all excrement from an animal under their ownership or control from the public way premises within a reasonable period of time.
- C. A person in charge of a premises must not permit, allow or cause to exist any accumulation of animal excrement on the premises that is:
 - 1. Injurious or detrimental to the public health, welfare or safety; or,
 - 2. Not removed from the premises within a reasonable time.
- D. The prohibition described in this Section does not apply to animal excrement from livestock that:
 - 1. Is accumulated for farm or agricultural purposes,
 - 2. Does not produce odors on adjacent properties, and
 - 3. Is not otherwise a danger to public health, welfare or safety.
- E. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.130 Animals in Residential 7ones

A. A person in charge of a residential premises must not permit, allow or cause to be kept any exotic, dangerous or wild animals not commonly considered as pets or commonly raised for food or agricultural purposes, which threatens the public health, welfare or

- safety, as determined by the either the Yamhill County Animal Control Officer or the City Manager or their designees.
- B. A person in charge of a residential premises must not permit, allow or cause to be kept any animals at their residence except for the following:
 - 1. Domestic dogs;
 - 2. Domestic cats;
 - 3. Gerbils, hamsters, rats or similar rodents kept in cages;
 - 4. Non carnivorous fish kept in tanks and ponds;
 - 5. Non venomous reptiles;
 - Domestic rabbits, consistent with the requirements of subsection (D) of this section, provided that rabbits must not be kept for commercial purposes or for food production;
 - 7. Vietnamese potbellied pigs (one per residence);
 - 8. Domestic fowl or birds for non-commercial purposes excluding roosters and peacocks, consistent with the requirements of subsection (D) of this section;
 - 9. Livestock, consistent with the requirements of subsection (D) of this section.
- C. A person in charge of a residential premises must not permit, allow or cause to be kept four (4) or more dogs over six months of age or older for commercial reasons such as breeding, buying, selling or boarding.
- D. A person in charge of a residential premises must not permit, allow or cause to be kept on the premises:
 - 1. More than one (1) horse or cow over six months of age for each half acre (21,780 square feet) over the minimum lot size for the premises.
 - 2. More than two (2) sheep or goats (or similar size livestock) over six months of age for each half acre (21,780 square feet) over the minimum lot size.
 - 3. Any fowl or rabbits on a lot with an area less than five-thousand (5,000) square feet.
 - 4. More than two (2) rabbits or fowl (excluding roosters and peacocks) on a on a lot with an area less than five-thousand (5,000) square feet, provided that one (1) additional rabbit or fowl is allowed per additional one-thousand 1,000 square feet of lot area.
 - 5. Any enclosure or pen for animals:
 - a. In the front yard of the premises;
 - b. Within 70 feet to a front property line;
 - c. Within 15 feet to a side property line; or,
 - d. Within 10 feet to a rear property line.
- E. A person in charge of a residential premises must not permit, allow or cause the cremation or slaughtering of animals on the premises.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.140 Attractive Nuisances

- A. A person in charge of a premises must not permit, allow or cause to exist any attractive nuisance that could cause injury or death to children playing on the premises.
- B. For the purposes of this Section, "attractive nuisance" includes but is not limited to the following substances, conditions or acts:
 - 1. Unguarded machinery, equipment or other devices attractive, dangerous and accessible to children.
 - 2. Lumber, logs or piling placed or stored in a manner as to be attractive, dangerous and accessible to children, except for materials that are stored in conjunction with authorized construction projects that have employed reasonable safeguards to prevent injury or death to playing children.
 - 3. Vacant or unoccupied buildings or structures that are open, unlocked, or otherwise accessible.
 - 4. Containers accessible to children with a capacity of more than one cubic foot and a door or lid that locks or fastens when closed and that cannot be easily opened from the inside, unless said containers are securely locked shut.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.150 Bees

- A. A person in charge of a premises may maintain or keep not more than three (3) bee hives and/or colonies per nine thousand square feet (rounded down) of contiguous land (lot or parcel) comprising the premises, if the activity is otherwise complies with the provisions of this Section. It is declared a public nuisance for any person to keep a bee hive or colony in a manner that does not comply with the requirements of this Section.
- B. A person must not keep or maintain any bee hives or colonies on any premises comprised of less than nine thousand square feet of contiguous land.
- C. A person in charge of a premises may keep or maintain bee hives or colonies on the ground of the premises in any location that is either:
 - 1. Not less than thirty feet (30') from a public way or other premise, or
 - 2. Not less than fifteen feet (15') from a public way or neighboring premises when there exists a fence, hedge, or structure at the property line that:
 - a. Is not less than six feet (6') in height;
 - b. Is located immediately adjacent to the hive or colony; and
 - c. Is effective at forcing bees from the bee hive or colony to raise their flight path over the neighboring public way or premises.
- D. A person in charge of a premises may maintain or keep bee hives or colonies on premises in any location that is elevated to a height of not less than eight feet (8') and is located not less than fifteen feet (15') from a public way or neighboring premises.
- E. A person in charge of a premises must not permit, allow or cause to exist any unused bee equipment on the premises that is accessible to bees.

- F. A person in charge of a premises must not permit, allow or cause to exist any bee hive or colony on a vehicle that is parked on the premises to be located less than thirty feet (30') from a public way or other premises.
- G. It is prohibited for any person that is transporting bee hives or colonies through the city with a motor vehicle during daylight hours to park the motor vehicle or leave the motor vehicle unattended on a public way or on any premises open to the public use.
- H. A person in charge of a premises must not permit, allow or cause to exist bee hives or colonies on the premises after they have been notified that a person who resides within three hundred feet from the hive or colony has a medically certified allergy to the sting of bees. An individual that is allergic to bee stings may request the enforcement of this provision by:
 - 1. Filing a medical certificate with the Code Compliance officer attesting to their allergy; and,
 - 2. Providing information to the Code Compliance officer concerning the location of the bee hive or colony and its distance from their property.
- I. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.160 Burning

- A. A person in charge of a premises must not permit, allow or cause to exist:
 - 1. An outdoor fire, bonfire, rubbish fire, burn barrel fire, or garbage fire on the premises.
 - 2. A fire for the purpose of burning grass, hay, straw, tree parts or trimmings on the premises.
 - 3. A fire for land clearing operations or for commercial burning.
 - 4. Any other type of open burning, except as allowed in this Section.
- B. The prohibition described in subsection (A) of this Section does not apply to the following situations:
 - 1. Burning of yard debris between March 1 and June 15, and between October 1 and December 1, or other time period designated by the Fire Chief or designee, when the burning is conducted on a day that is designated by the Department of Environmental Quality as an approved burn day.
 - 2. Outdoor recreation fires conducted in accordance with the provisions of the Oregon Fire Code and McMinnville City Code.
 - 3. Fires set and maintained for firefighting training or training fire protection personnel.
 - 4. Fire requested by law enforcement personnel for the destruction of evidence when the evidence is no longer needed for law enforcement purposes.
 - 5. Fire used to remove a fire hazard, when authorized by a permit issued by the Fire Chief or designee.

- 6. Ceremonial fires, when authorized by a permit issued by the Fire Chief or designee.
- C. A person in charge of a premises must not permit, allow or cause to exist any burning on the premises that:
 - 1. Causes smoke emissions to leave the premises to the injury or detriment of persons and property surrounding the premises;
 - 2. If the burning is determined to be hazardous by the Fire Chief or designee; or,
 - 3. If the burning is determined to be detrimental to the public health by the City Manager or designee.
- D. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.170 Commercial Notices and Advertisements

- A. It is prohibited for any person to place or cause to be placed any advertising paper, handbill, circular, poster or any other form of commercial advertising on any premises without permission from a person in charge of the premises.
- B. It is prohibited for any person to place or cause to be placed any advertising paper, handbill, circular, poster or any other form of commercial advertising on any motor vehicle standing or parked in any public way in the City without permission from the owner or occupant of the motor vehicle.
- C. The prohibitions described in subsections (A) and (B) of this Section do not apply to
 - 1. The distribution or delivery of any newspaper of general circulation;
 - 2. The delivery of any such commercial advertising material through the United States Postal Service or a commercial postal carrier.
 - 3. The delivery of commercial advertising material enclosed within a personally addressed envelope on the porch or stoop of any occupied residence.
- D. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.180 Construction Dust and Debris

- A. A person in charge of a premises that is being developed for construction or where construction is in progress, must not permit, allow or cause to exist any construction debris of any kind to blow, spread, or otherwise disseminate from the premises onto nearby properties or public ways.
- B. For the purposes of this section, "construction debris" includes, but is not limited to, lumber, roofing materials, cans, glass, bottles, garbage, trash, and any other materials brought onto the property or created by or through construction, remodeling or demolition activities.

C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.190 Debris, Junk and Garbage

- A. A person in charge of a premises must not permit, allow or cause to exist any accumulation of debris, junk, or garbage on the premises that is:
 - 1. Injurious or detrimental to the public health, welfare or safety; or,
 - 2. Not removed from the premises within a reasonable time.
- B. A person in charge of a premises must not permit, allow or cause to exist any accumulation of debris, junk, or garbage on the premises that constitutes a fire hazard, as determined by the Fire Chief or designee.
- C. The prohibitions described in subsections (A) Section do not apply to:
 - 1. Yard cuttings, other than grass clippings, that are accumulated to be burned during the first available open burning season and that meet the size and location requirements of the fire code.
 - 2. Yard cuttings and other organic material that are accumulated for composting, if the material:
 - a. Is not visible from a street or sidewalk,
 - b. Is maintained in a manner that does not attract vermin, and
 - c. Does not produce an offensive odor.
 - 3. Garbage or recycling material that is accumulated in order to be hauled by a licensed solid waste hauler or to be taken by the person to a landfill, if the garbage:
 - a. Is secured within a covered or sealed container that is kept clean and in good repair, and
 - b. Is removed within 14 days.
 - 4. Debris or junk that is kept in a building that is wholly or entirely enclosed except for doors used for ingress or egress.
 - 5. Debris or junk that is stored in a back yard of a residential property if the debris or junk:
 - a. Is screened by a sight-obscuring fence so that it is not visible from adjoining properties, streets and public right of ways, and
 - b. The debris or junk is maintained in a manner that does not attract vermin, produce an offensive odor, or otherwise become a danger to public health or safety.
 - 6. Debris or junk that is kept in a licensed and/or permitted junkyard or automobile wrecking house, in compliance with the terms of the license and/or permit.
- D. As used in this section, "junk," means any machinery, machinery part, appliance or appliance part, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

E. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.200 Excavations and Open Pits

- A. A person in charge of a premises must not permit, allow or cause to exist a well, cistern, pit, quarry, excavation, or other hole of a depth of three feet or more with a top width of 12 inches or more on the premises, unless:
 - 1. It is fenced or securely covered; or
 - 2. The excavation is part of an authorized construction project and during the course of construction reasonable safeguards are maintained to prevent injury.
- B. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.210 Fences

- A. A person in charge of a premises must not permit, allow or cause to exist:
 - 1. A fence located in a required front yard of the premises that exceeds three feet (3') in height, as measured from grade, unless the fence either:
 - a. conforms to the front yard setback requirements set forth in MMC, Title
 17, or
 - b. is set back to the front building line of the existing building.
 - 2. A fence located in a required exterior side yard of a corner lot premises that exceeds three feet (3') in height, as measured from grade, unless the fence:
 - a. would allow adequate vision clearance for vehicles travelling on all public ways adjacent to the premises,
 - b. is not more than six feet (6') in height, as measured from grade, and
 - c. the Planning Director or designee has authorized construction of the fence.
 - 3. A fence located in a required interior side or rear yard of the premises that exceeds seven feet (7') in height, as measured from grade.
 - 4. A fence on any portion of the premises that exceeds seven feet (7') in height, as measured from grade, unless the fence is authorized by a building permit issued by the City.
 - 5. A fence located in a sloped property that exceeds ten feet (10') in height, as measured from the downhill side of the fence.
- B. The height restrictions set forth in subsection (A) of this section do not apply to public utility fences or to chain link fences enclosing schools and public playgrounds.
- C. A person in charge of a premises must not permit, allow or cause to exist an electric fence:
 - 1. Along any sidewalk or public way abutting the premises; or,

- 2. Along the boundary of any real property abutting the premises.
- D. A person in charge of a premises must not permit, allow or cause to exist barbed wire on any fence:
 - 1. Along any sidewalk or public way abutting the premises in a residential or commercial zone; or
 - 2. Unless placed on top of a fence that is not less than six feet, six inches (6'6") in height, as measured from grade, on a premises used for public utilities or located in an industrial zone.
- E. A person in charge of a premises must not permit, allow or cause to exist a fence on the premises that is structurally unstable, or otherwise determined by the City Manager or designee to be injurious or detrimental to the public health, welfare or safety.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.220 Graffiti

- A. A person in charge of a premises must not permit, allow or cause the premises to be a graffiti nuisance property.
- B. For the purposes of this section, the following definitions apply:
 - "Graffiti" means any inscription, word, figure, design painting, writing, drawing
 or carving that is marked, etched, scratched, drawn, painted, or otherwise
 applied to property without the prior authorization of the owner of the property,
 and/or is not allowed per the McMinnville City Code, regardless of the graffiti
 content, or nature of the material used in the commission of the act, of the
 material of the property.
 - 2. "Graffiti Nuisance Property" means property to which graffiti has been applied, if the graffiti is visible from any public right of way, from any other public or private property or from any premises open to the public, and if the graffiti has remained for at least ten days.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.230 Hazardous and Noxious Vegetation

- A. A person in charge of a premises that abuts a public way must not permit, allow or cause to exist vegetation on the premises that:
 - Is a hazard to pedestrian use of a public sidewalk or is a hazard to bicycle or vehicular use of a public or private street by impeding passage or vision per MMC Section 17.58.120(D) and 17.54.080;

- 2. Obstructs drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catch basins or culverts;
- 3. Has roots that have cracked or displaced a sidewalk, curb or street; or,
- 4. Is a weed, grass or dead plant more than 10 inches high and is located the area between the property line and the back edge of curb or the edge of an improved roadway or right-of-way.
- B. A person in charge of a premises must not permit, allow or cause to exist vegetation on the premises that is a weed or grass more than 10 inches high at any time during the year.
- C. The prohibition described in subsection (B) does not apply to the following types of vegetation unless the vegetation obstructs, blocks, or impedes any visual sight lines or signs required to ensure safe and efficient vehicular and pedestrian movement upon City streets, or the vegetation creates a safety hazard as determined by the City Manager or designeee:
 - 1. Agricultural grasses that are not a fire hazard and are actively used for grazing livestock;
 - 2. Crops that are being commercially grown;
 - 3. Areas identified by the McMinnville Zoning Ordinance as open space or natural resource areas;
 - 4. Portions of lots used for flower or vegetation gardens, or shrubbery;
 - 5. Naturally wooded or native forest remnant area;
 - 6. Wetlands;
 - 7. Lands within a designated 100-year floodplain;
 - 8. Lands encumbered by Conservation easements;
 - 9. Public parks or private or municipal golf courses;
 - 10. Drainage ponds or ditches designed to meet City storm water conveyance requirements.
 - 11. Any vegetation that the City Manager or designee determines would not create a public hazard; or otherwise be detrimental to the public safety, health or welfare of the public. In making this determination, the City Manager may seek input from the Fire Chief, Fire Marshall, or other appropriate staff. The City Manager may also place appropriate conditions upon such approval.
- D. A person in charge of a premises must not permit, allow or cause to exist vegetation on the premises that the City Manager or designee has declared to be a fire hazard or potential fire hazard to other properties.
- E. A person in charge of a premises must not permit, allow or cause to exist the growth of noxious vegetation on the premises. As used in this section, "noxious vegetation" means all plants identified by the City Manager or designee on an official list of noxious vegetation maintained by the City's Code Compliance office, which may incorporate by reference all of part of any existing list developed by any state or county entity, including the plant varieties listed in Oregon Department of Agriculture Noxious Weed Policy and Classification System.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil

penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.240 Human Waste

- A. A person in charge of a premises must not permit, allow or cause to exist any privies, cesspools, septic tanks, septic drain fields or other outdoor accumulation of human waste that:
 - 1. Is not constructed or maintained in compliance with State Health Code regulations;
 - 2. Is kept in an unsanitary condition;
 - 3. Causes the waste to drain into a body of water, well, spring, stream, drainage ditch or storm water outflow; or,
 - 4. Causes an offensive odor.
- B. It is prohibited for a person to permit, allow or cause human waste, sewage, industrial wastes or other substances to enter any body of water or drainage ditch.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.250 Motor Vehicles

- A. A person in charge of a premises must not permit, allow or cause to exist any discarded motor vehicle (including motor vehicles parts such as bodies, engines, transmissions and rear ends) on the premises, except that a person may store a discarded motor vehicle:
 - 1. Within in a building that is wholly or entirely enclosed except for doors used for ingress or egress
 - 2. In a back yard of a residential property if the discarded motor vehicle:
 - a. Is screened by a sight-obscuring fence so that it is not visible from adjoining properties, streets and public right of ways, and
 - b. Is maintained in a manner that does not attract vermin, produce an offensive odor, or otherwise become a danger to public health or safety.
 - 3. In connection with an authorized and permitted business dealing in junked vehicles.
- B. For the purpose of this section, "discarded motor vehicle" means any motor vehicle that:
 - 1. Has been inoperative for a period of more than 30 days;
 - 2. Is wrecked;
 - 3. Is dismantled, in whole or part;
 - 4. Is junked or abandoned; or,
 - 5. Has a vehicle registration sticker expired for more than two (2) months.
- C. A person in charge of a premises in a residential zone must not permit, allow or cause to exist motor vehicles, RVs, boats or trailers to be parked or placed in front yards or

- exterior side yards of the premises, unless the area used for parking or storage consists of non-erodible surfaces such as asphalt, concrete or pavers.
- D. A person in charge of a premises in a residential zone must not permit, allow or cause to exist parking or storage areas consisting of non-erodible surfaces in front or exterior side yards of the premises to use more than 40% of the yard area. For the purposes of this section, "yard area" is measured as the space between the front and side building lines to the property line of the premises.
- E. A person in charge of a premises in a residential zone must not permit, allow or cause to exist parking or storage areas that are less than twenty feet in depth from the property line of the premises when the parking or storage area is perpendicular to the property line.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.260 Noise

- A. A person in charge of a premises must not permit, allow or cause to exist any loud, disturbing or unnecessary noise that is injurious or detrimental to the health, safety or peace of other persons or property.
- B. It is prohibited for any person on a public way to cause to exist any loud, disturbing or unnecessary noise that either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of other persons or property.
- C. For the purposes of this Section, noise exceeding the following thresholds when measured twenty-five feet (25') from the source if in the right of way or twenty-five feet (25') from the property line if the source is on private property, is presumed to be a nuisance in violation of Subsection (A) of this section:

ZONE	7:00 a.m. to 8:00 p.m.	8:00 p.m. to 7:00 a.m.
Residential	55 dBA	50 dBA
Commercial	60 dBA	55 dBA
Light Industrial	70 dBA	65 dBA
Industrial	80 dBA	75 dBA

- D. For the purposes of this Section, "loud, disturbing or unnecessary noise" includes but is not limited to the following substances, conditions or acts:
 - Animals and Birds. The keeping of any bird or animal that disturbs the comfort and repose of any person in the vicinity by causing frequent or long continued noise;
 - Dog Barking. The keeping of a dog that barks for more than ten minutes during any one-hour period when such barking is audible off the premises of the dog's owner or keeper;

- 3. Animal Bells. The attaching of a bell to any animal or allowing a bell to remain on any animal that is disturbing to any person in the immediate vicinity;
- 4. Vehicle Noises. The use of any vehicle or engine, either stationary or moving, in a manner that causes or creates any loud or unnecessary grating, grinding, rattling or other noise, including the discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;
- 5. Horns and Signaling Devices. The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger;
- 6. Nonemergency Signaling Devices. The sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place for more than ten consecutive seconds in any hourly period, except that the reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the City for traffic control purposes are exempt;
- 7. Construction Noise. The erection, including excavation, demolition, alteration or repair, of any building in residential districts, other than between the hours of seven a.m. and eight p.m., except upon special permit granted by the City Manager or designee;
- 8. Noise Sensitive Areas: Adjacency to Schools, Churches and Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients;
- 9. Loudspeakers, Amplifiers, Public Address Systems and Similar Devices. The use or operation of any automatic or electric piano, phonograph, radio, television, loudspeaker or any instrument for sound producing or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that upon application to the City Manager, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment;
- 10. Blowers, and Similar Devices. The operation of any noise-creating blower, power fan, power tools, or any internal combustion engine in a manner the operation of which causes noise due to the explosion of operating gases or fluids:
 - a. In a residential district or noise sensitive areas between the hours of 8:00 p.m. and 7:00 a.m., and
 - b. In a manner that can be heard by persons on nearby residential property.
- 11. Commercial Establishments Adjacent to Residential Property. Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment,

between the hours of 10:00 p.m. and 7:00 a.m., that is plainly audible to persons on any nearby residential property.

- E. The prohibition described in this Section do not apply to:
 - 1. Activities occurring within the scope of any permit issued by the City under the provisions of the McMinnville Municipal Code.
 - 2. Emergency response activities;
 - 3. Vehicles performing repairs or upgrades in the right-of-way, including but not limited to street sweeping, sewer cleaning, construction and maintenance activities occurring between the hours of 7:00 a.m. and 8:00 p.m.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.270 Public Health

- A. It is prohibited for any person to offer decayed or unwholesome food for human consumption on any premises or public way.
- B. A person in charge of a premises must not permit, allow or cause to exist any offensive odor to emanate from the premises that is injurious or detrimental to the health, safety or peace of other persons or property;
- C. A person in charge of a premises must not permit, allow or cause any sewage, industrial wastes or other harmful substances to drain from the premises onto any surrounding premises or public way.
- D. A person in charge of a premises must not permit, allow or cause any stagnant water to exist on the premises that affords a breeding place for mosquitoes, insects or other disease carrying animals.
- E. It is prohibited for any person to permit, allow or cause the carcass of an animal owned or controlled the person to remain exposed upon a public way or premises for a period of time longer than is reasonably necessary to remove or dispose of the carcass.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.280 Radio and Television Interference.

- A. It is prohibited for any person to operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.
- B. The prohibitions described in this section do not apply to devices licensed, approved, and operated under the rules and regulations of Federal Communications Commission.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil

penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.290 Rats

- A. A person in charge of a premises must not permit, allow or cause to exist any substance, act or condition that allows for the harborage of rats.
- B. Each person in charge of a premises has an independent duty to maintain the premises in a rat-free condition and to repair all breaks or leaks that may occur in the rat proofing.
- C. A person in charge of a premises must institute
 - 1. Ratproofing measures within fifteen (15) days after they have discovered or been notified by the City Manager or designee of evidence of the need of ratproofing the premises.
 - 2. Rat eradication measures within five (5) days after they have discovered or been notified by the City Manager or designee of an actual or suspected rat infestation on the premises, and must continuously maintain the measures until the premises is declared free of rat infestation by the City Manager or designee.
- D. A person in charge of a premises must not permit or allow the removal of ratproofing from any premises that is not closed or sealed against the entrance of rats.
- E. For the purposes of this Section, "rat harborage" includes but is not limited to the following substances, conditions or acts on a premises that provide shelter or protection for rats, thus favoring their multiplication and continued existence on the premises:
 - 1. Floors in basements of buildings that are not constructed from cement or similar ratproofing material.
 - 2. Animal food and feed that is not stored in rat-free and ratproof containers, compartments, rooms or building.
 - 3. Accumulated garbage, trash, dead animals, waste vegetables, or animal matter of any kind.
 - 4. Accumulated lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts, or similar materials, rubbish or articles of junk.
- F. For the purposes of this Section:
 - "Rat eradication" means the elimination or extermination of rats within buildings
 of any kind by any of all measures, such as poisoning, fumigation, trapping or
 clubbing.
 - 2. "Ratproofing" means and applies to a form of construction to prevent the ingress of rats into buildings from the exterior or from one building to another. It consists of the closing of all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.
- G. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil

penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.300 Sidewalks

- A. A person in charge of a premises must maintain all sidewalks adjacent to that premises in good repair and safe condition.
- B. A person in charge of a premises must not permit, allow or cause to exist on a public sidewalk adjoining the premises any defective or dangerous condition that impedes the public use of the sidewalk, including but not limited to the following:
 - 1. Any accumulations of snow and/or ice on sidewalks on commercial property.
 - Sand or cinders (except when temporarily used to cover ice), rocks, leaves, or other debris.
 - 3. Cracks, holes, unevenness that impairs pedestrian traffic per the Americans with Disability Act (ADA) standards.
 - 4. Drainage, drainpipes or a drainage system that permit, allow or cause water accumulating on the premises to flow or be carried across the sidewalk.
 - 5. Property, debris, or any other accumulation or activity.
- C. A person in charge of a premises must not permit, allow or cause to exist on a public sidewalk adjoining the premises any substance, condition or act that the City Manager or designee deems injurious or detrimental to the public health, welfare or safety.
- D. A person in charge of a premises must not permit, allow or cause to exist any dumping or storage of dirt, sand, rocks, gravel, bark dust, or other similar material on any sidewalk adjacent to the premises.
- E. A person in charge of a premises must not permit, allow or cause to exist any ice or snow to fall onto any public way adjacent to the premises from any building or structure located on the premises.
- F. The city is not liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions.
- G. All sidewalk repairs made by any person must be performed in accordance with all requirements of the City.
- H. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.310 Trash, Recycling and Yard Debris Containers.

- A. A person in charge of a premises must not permit, allow or cause any trash, recycling or yard debris collection container serving the premises to:
 - 1. Obstruct sidewalks or bike lanes.
 - 2. Blow, spread, or otherwise disseminate from the container any garbage, rubbish, waste, debris or other materials onto nearby properties or public ways.

- 3. Remain on a public way for more than 24 hours before and after the scheduled collection time for the premises.
- B. For the purposes of this section, "collection container" means a bin that is provided by a waste collection company to service a premises and that is placed by a person in charge of the premises on a public way adjacent to the premises to be serviced by the company.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.320 Trees

- A. A person in charge of a premises must not permit, allow or cause to exist a dead or decaying tree to stand on the premises that is a hazard to the public or to persons or property on or near the premises.
- B. A person in charge of a premises must not permit, allow or cause to exist a tree that is diseased or insect infested, if the disease or infestation:
 - 1. Compromises the tree's health or longevity;
 - 2. Is capable of being transmitted to other trees; and,
 - 3. Is a hazard to persons, trees or property located on any public way or real property adjacent to the premises.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.490 Other Public Nuisances

- A. In addition to the public nuisances specifically enumerated within this Chapter, every other substance, condition or act that is determined by the City Council to be injurious or detrimental to the public health, welfare or safety of the City may be declared a public nuisance by the City Manager or designee and may be abated by any of the procedures set forth in this Chapter.
- B. Unless otherwise specified by the Council in its determination, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

Section 2. Delete the following provisions of Titles 8, 9 and 17:

Chapter 8.04

BARNS AND STABLES

Sections:

8.04.010	Unsanitary conditions prohibited.
8.04.020	Removal of offensive matter.
8.04.030	Complaint filing.
8.04.040	Violation—Penalty—Nuisance declared when

8.04.010 Unsanitary conditions prohibited. It is unlawful for any person or persons, firm or corporation, either as owner, proprietor, lessee or manager thereof to maintain or use any barn, stable, stall or place within the corporate limits of the city where any horse or horses, cow or cattle, or other domestic animals of any kind are kept, in any place or upon any premises within the corporate limits of the city in such a manner or under conditions such as to constitute an unclean or unsanitary place. (Ord. 2017 §1, 1941).

8.04.020 Removal of offensive matter. Any barn, stable stall or place mentioned in section 8.04.010 shall be conclusively deemed and considered to be unsanitary where any excreta from animals, manure decaying animal or vegetable matter or filth of any kind Is allowed to accumulate or remain in any barn, stable, stall or place, or upon any adjacent premises thereto for a period of twenty-four hours, so as to make an offensive odor or a breeding place for flies, or any other insect, microbe or germ which shall in any way be injurious, detrimental or offensive to any of the inhabitants of said city or to the traveling public. All excreta from such animals, manure, decaying animal or vegetable matter or filth of any kind shall be removed from such barn, stable stall or place each and every twenty-four hours, and shall be placed in a container sufficiently tight and covered over in such a manner as to prevent the escape of any offensive or obnoxious odor therefrom, and to prevent the same from becoming a breeding place for flies or any other insect, microbe or germ which will in any way be injurious, detrimental or offensive to any inhabitants of the city. Said container shall not be permitted to remain within twenty-five feet of any dwelling house or other building or place occupied by human inhabitants, and each and every said container shall be emptied and cleaned out at least once in every three days during the months of May, June, July, August, September and October of each year, and shall be emptied and cleaned out at least once in every ten days during the remaining portion of the year. The contents of the container shall be removed out of the city, and the container shall at all times be kept in such sanitary condition as may be necessary to prevent the same becoming a breeding place for flies or other insects, microbes or germs and to prevent the same from giving off offensive or obnoxious odor, or in any way being injurious to

the health, safety, convenience or sanitation of any person or persons within the corporate limits of the city. (Ord. 2017 §2, 1941).

8.04.030 Complaint filing. Any resident of the city feeling aggrieved by reason of the existence of any barn, stable, stall or place in an unsanitary condition and in violation of the provisions of this chapter shall make written complaint which shall be addressed to the owner, occupant or party. in charge of or responsible for such barn stable, stall or place so complained of, setting forth the conditions then existing for which such complaint is made. The same shall be signed and verified by the complainant, and the recorder of the city shall attach thereto a notification to such owner, occupant or party in charge of or responsible for the condition of said barn, stable, stall or place of lodging of said complaint, that said barn, stable, stall or place and the premises surrounding same shall be put in such sanitary condition as required by this chapter within twenty-four hours from the date of the service of such notice. The complaint made by such citizen, as well as said notification, shall be served upon such owner, occupant or party in charge of or responsible for said barn, stable, stall or place by the chief of police or other police officer or the street commissioner of the city. If said barn, stable, stall or place and the surrounding premises are not put in a sanitary condition to comply with the requirements of this chapter within said period of twentyfour hours, the owner, occupant or party in charge of or responsible for the condition of said premises shall thereupon be subject to arrest for violation of the provisions of this chapter, and upon conviction shall be subject to the penalties as provided by Section 8.04.040A. (Ord. 2017 §3, 1941).

8.04.040 Violation—Penalty—Nuisance declared when.

- A. Any person or persons, firm or corporation who maintains any barn, stable, stall or place within the corporate limits of the city where horse or horses, cow or cattle, or other domestic animals of any kind are kept contrary to the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof before the city recorder shall be punished by a fine of not less than ten dollars nor more than fifty dollars, and in default in the payment thereof shall be imprisoned in the city jail one day for each two dollars of such fine; each additional day in which such condition is permitted to remain or continues to exist thereafter shall constitute a new offense.
- B. In addition to the penalties provided in subsection A of this section for violation of this chapter and for failure on the part of the owner, occupant or party in charge of or responsible for the conditions of said building to comply with the terms of this chapter, in causing such barn, stable stall or place to be put into such sanitary condition as by this chapter required, said barn, stable, stall or place shall be deemed a nuisance. (Ord. 2017 §4, §5, 1941).

RAT CONTROL

Sections:

8.08.010 Definitions.
8.08.020 Eradication—Required.

Eradication—Notice—Compliance required. 8.08.030 8.08.040 Ratproofing—Time limit for compliance. Ratproofing—Maintenance required. 8.08.050 8.08.060 Ratproofing—Removal prohibited. Cement floors required when. 8.08.070 8.08.080 Feed storage. 8.08.090 Garbage accumulation and dumping prohibited. 8.08.100 Rubbish or junk accumulation prohibited—Exception. 8.08.110 Inspection authority.

<u>8.08.010</u> <u>Definitions</u>. For the purposes of this chapter the following definitions shall apply:

- A. "Building" means any structure or dwelling, whether public or private, which is devoted to or designed for occupancy, or for the transaction of business, for the rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, apartment buildings, roominghouses, motels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, outhouses, sheds, barns and other structures on premises used for business or dwelling purposes, whether the same are occupied or not.
- B. "Health officer" means the city health officer or any duly authorized representative.
- C. "Occupant" means the individual, partnership or corporation using or occupying any building or part thereof, whether owner or lessee. In the case of a vacant building, the term "occupant" means the owner or the person who as agent of the owner undertakes to care for the same for the owner.
- D. "Owner" means the actual owner or owners of a building within the city, whether individuals, partnerships or corporations and the agent thereof, and also the lessee or lessees thereof when, under the terms of a lease, the lessee is responsible for maintenance and repairs.
- E. "Rat eradication" means the elimination or extermination of rats within buildings of any kind by any of all measures, such as poisoning, fumigation, trapping or clubbing.
- F. "Rat harborage" means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a building of any kind.
- G. "Ratproofing" means and applies to a form of construction to prevent the ingress of rats into buildings from the exterior or from one building to another. It consists essentially of the closing of all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing. (Ord. 2396 §1, 1950).

- <u>8.08.020</u> <u>Eradication—Required.</u> It is ordained and required that buildings or structures in the city shall be freed of rats, and maintained in a rat-free condition to the satisfaction of the chief of police. (Ord. 2396 §2, 1950).
- 8.08.030 Eradication--Notice--Compliance required. Whenever the chief of police notifies the occupant or occupants of a building in writing that there is evidence of rat infestation of the building, said occupant or occupants shall immediately institute rat eradication measures, and shall continuously maintain such measures in a satisfactory manner until the premises is declared by the chief of police to be free of rat infestation. Unless aid measures are undertaken within five days after receipt of notice, it shall be construed as a violation of the provisions of this chapter and the occupant shall be held responsible therefor. (Ord. 2396 §3, 1950).
- 8.08.040 Ratproofing—Time limit for compliance. Whenever the chief of police notifies the owner of any building in writing that there is evidence of the need of ratproofing of the building, said owner shall take immediate measures for ratproofing the building, and unless said work and improvements have been completed by the owner in the time specified in the written notice, in no event to be less than fifteen days, or within the time to which a written extension may have been granted by the health officer, then the owner shall be deemed guilty of an offense under the provisions of this chapter. (Ord. 2396 §4, 1950)
- <u>8.08.050</u> Ratproofing—Maintenance required. The owner, agent or occupant In charge of all rat-freed and/or ratproofed buildings or structures shall maintain them in a rat-free and/or ratproof condition and repair all breaks or leaks that may occur in the ratproofing without a specific order of the chief of police. (Ord. 2396 §5, 1950).
- <u>8.08.060</u> Ratproofing—Removal prohibited. It is unlawful for the owner, occupant, contractor, public utility company, plumber or any other person to remove the ratproofing from any building or structure for any new openings that are not closed or sealed against the entrance of rats. (Ord. 2396 §6, 1950).
- 8.08.070 Cement floors required when. Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the chief of police deems it necessary to eliminate such harborage, he may require the owner or occupant in charge of any such building or structure to install suitable cement floors in basements, or to require such owner or occupant to correct such rat harborage as may be necessary in order to facilitate the eradication of rats. (Ord. 2396 §7, 1950)
- <u>8.08.080</u> Feed storage. All food and feed within the city for feeding chickens, cows, pigs, horses and other animals shall be stored in rat-free and ratproof containers, compartments or rooms unless stored in a ratproof building. (Ord. 2396 §8, 1950).
- 8.08.090 Garbage accumulation and dumping prohibited. It is unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building, structure or premises so that the same affords food or harborage for rats, or to

dump or place on any premises, land or waterway any dead animals or waste vegetable or animal matter of any kind. (Ord. 2396 §9, 1950)

8.08.100 Rubbish or junk accumulation prohibited—Exception. It is unlawful for any person to accumulate or permit the accumulation on any open lot, or other premises, of any lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts, or similar materials, rubbish or any articles of junk which provide rat harborage, unless the same are placed on open racks that are elevated not less than eighteen inches above the ground, evenly piled or stacked. (Ord. 2396 §10, 1950).

8.08.110 Inspection authority. The chief of police is empowered to make such inspections of the interior and exterior of any building or structure as in his opinion may be necessary to determine full compliance with this chapter. The chief of police may make periodic inspections at intervals of not more than forty-five days of all ratproofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in the ratproofing. When any evidence is found indicating the presence of rats or openings through which rats may enter such buildings again, the chief of police shall serve the owner or occupants with written notice to abate the conditions found. (Ord. 2396 §11, 1950).

8.08.120 Violation—Penalty. Any person who violates any provision of this chapter shall be punished by a fine of not more than three hundred dollars or imprisonment of not more than ninety days or both constitute a separate offense. Each day's violation shall (Ord. 2396 §12, 1950).

Chapter 8.12

WEED CONTROL

Sections:

8.12.005 Intent
Sections: (Continued)

8.12.010 Cutting weeds required when—Notice.

8.12.020 Duty to cut weeds.

8.12.030 Notice to cut and service.

8.12.040 Noncompliance—Code Enforcement Officer or Designee to take action when.

8.12.050 Removal by city—Cost assessment.

8.12.060 Source and disposition of funds for city work.

8.12.070 Violation - Procedure - Penalty.

- <u>8.12.005</u> Intent. The provisions of this Chapter are intended to reduce the problems associated with uncontrolled vegetation growth including fire hazards, rodents, insects, and its effect on the appearance of the community. (Ord. 4923 §1, 2010).
- 8.12.010 Cutting weeds required when—Notice. Unless otherwise provided in this Chapter, the owner or occupant of any lot or parcel of land in the city shall cut close to the ground and remove or destroy all brush, weeds, thistles, grass, or other rank or noxious vegetation (as classified by the Oregon State Weed Board) growing to a height greater than 10 (ten) inches upon said lot or parcel of land when directed to do so in accordance with this Chapter. (Ord. 4923 §1, 2010; Ord. 4138 §1, 1981).

8.12.020 Duty to cut weeds.

- A. Any person, firm or corporation owning, possessing, or having the care or custody of any lot or parcel of land within the city shall be in violation of this chapter if he fails or neglects to remove those items enumerated in Section 8.12.010 upon receipt of notice from the City. (Ord. 4923 §1, 2010; Ord. 4138 §2, 1981).
- B. Provided the vegetation does not obstruct, block, or impede any visual sight lines or signs required to ensure safe and efficient vehicular and pedestrian movement upon City streets, or create a safety hazard as determined by the Fire Department, the provisions shall not apply to vegetation located upon or within:
 - 1. Portions of lots used for flower or vegetation gardens, or shrubbery.
 - 2. Naturally wooded or native forest remnant area.
 - 3. Wetlands.
 - 4. Lands within a designated 100-year floodplain.
 - 5. Conservation easements.
 - 6. Public parks or private or municipal golf courses.
- 7. Drainage ponds or ditches designed to meet City stormwater conveyance requirements. (Ord. 4923 §1, 2010)
- C. An exemption from the requirements of this ordinance may be made by the City Manager upon determining that the vegetation would not create a public hazard, or otherwise be detrimental to the public safety, health or welfare. In making this determination, the City Manager may seek input from the Fire Chief, Fire Marshal, or other appropriate staff. The City Manager may also place appropriate conditions upon such approval. (Ord. 4923 §1, 2010)

8.12.030 Notice to cut and service.

- A. Notice shall be provided by the City in a written form directing the person to remove said brush, grass, or weeds, etc., within five days of receipt of the communication or the city will cause the same to be done and it shall charge the cost thereof as a lien against the property. Notice to so perform may be served upon the owner or occupant in person if he be found upon the premises or within the city.
- B. As an alternative to personal service, such notice shall be mailed by certified mail to the last known address of such owner or occupant as shown by the records of the Yamhill County assessor's office. In the event the said owner or

occupant or person having the care or custody of any lot or parcel of land within the city cannot be located or refuses service of said certified mail, such notice shall be posted in a conspicuous place upon said premises and a copy thereof mailed to the last known address of said owner or occupant. (Ord. 4923 §1, 2010; Ord. 4138 §3, 1981).

8.12.040 Noncompliance Code Enforcement Officer or designee to take action when. If any person, firm or corporation owning, possessing, or having care or custody of any lot or parcel of land within the city fails or neglects to destroy the brush, grass or weeds within 10 (ten) days of the notice specified in Section 8.12.030, the Code Enforcement Officer or designee may go upon such lots or parcels with such assistance as he may deem necessary and destroy and eradicate said brush, grass or weeds in such manner as in his judgment shall be most effective. (Ord. 4923 §1, 2010; Ord. 4138 §4, 1981).

<u>8.12.050</u> Removal by city—Cost assessment.

- A. Upon the completion of the work, the Code Enforcement Officer or designee shall file with the City Finance Department an itemized statement of the cost thereof plus 25 (twenty-five) percent to cover the expense of inspection, overhead, enforcement of this chapter and the service or posting of the notice required in Section 8.12.030, but the minimum charge for any lot or parcel of land shall be 50 (fifty) dollars.
- B. The City Finance Department, after having received an itemized statement from the Code Enforcement Officer or designee, shall place a lien upon the property involved to be enforceable against said property in the same manner as provided for the enforcement of liens for street improvements. (Ord. 4923 §1, 2010; Ord. 4138 §5, 1981).
- 8.12.060 Source and disposition of funds for city work. The cost of the cutting and removal of brush, grass, and weeds shall be paid from the Police Department abatement fund and all income resulting from the enforcement of this chapter and the collection of the cost of such cutting and removal shall be credited to said fund. (Ord. 4923 §1, 2010; Ord. 4138 §6, 1981).

8.12.070 Violation – Procedure – Penalty.

- A. A uniform complaint or citation to appear may be issued to the owner or occupier of property used in violation of this ordinance, requiring said owner or occupier to appear in court regarding a violation of the Weed Control Ordinance.
- B. A trial shall be held before the judge without a jury. No appeal from the decision may be taken. The standard of proof required shall be by a preponderance of the evidence.
- C. A person convicted of violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than 500 (five hundred) dollars for each day that the violation continues. (Ord. 4923 §1, 2010)

Chapter 8.16

NUISANCES*

Sections:		
	ARTICLE I.	DEFINITIONS
8.16.010	Definitions.	
	ARTICLE II. MISC	ELLANEOUS NUISANCES
Sections: (cor	rtinued)	
		rulation of Materials Constituting a Fire Hazard.
	ARTICLE III.	ANIMALS
8.16.152 8.16.155	Removal of carcass Fowl.	Ses.
	ARTICLE IV.	NUISANCES AFFECTING PUBLIC HEALTH
8.16.158 Nuisances affecting public health.		
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	reating a hazard.	
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	Defective sidewalks.	
8.16.170	Scattering rubbish.	
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	Surface waters, dra	inage.
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	16.178 Radio and television interference. 16.180 Junk.	
	ARTICLE VII. UNE	NUMERATED NUISANCES

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For statutory provisions on city power to control noise, see ORS 467.100(1); for provisions on city dog control see ORS 609.015(1).

8.16.182	Unenumerated nuisances.	
,	ARTICLE VIII. ABATEMENT PROCEDURE	
8.16.185	Abatement procedure—Notice issuance.	
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8.16.190	Entry on private property.	
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	ARTICLE IX. PENALTY	
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8.16.240	Violation—Penalty	

ARTICLE I. DEFINITIONS

8.16.010 Definitions. As used in this chapter:

- A. "Person" means a natural person, firm, partnership, association or corporation.
- B. "Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.
- C. "Person responsible" means the person responsible for abating a nuisance including:
 - 1. The owner;
 - 2. The person in charge of property, as defined in this section;
- 3. The person who caused a nuisance to come into or continue in existence, said nuisance being defined in this chapter or another ordinance of the city.
- D. "Public place" means a building, way, place or accommodation, publicly or privately owned, open and available to the general public. (Ord. 4409 §I, 1987; Ord. 2963 §1,1961).

ARTICLE II. MISCELLANEOUS NUISANCES

8.16.040 Bees.

- A. Beehives or bee colonies shall not be maintained or kept on the ground closer than thirty feet from a public right-of-way, alley, public property, private building or place open to the public other than that of the beehive or bee colony keeper.
- 1. Bees may be kept on the ground not closer than fifteen feet from neighboring property provided there exists a six-foot or higher fence, hedge, or structure at the property line immediately adjacent to the hive or colony to force the bees to raise their flight path over the neighboring property.
- 2. A hive or colony may be maintained not closer than fifteen feet from the above-enumerated places on a deck, attic, roof or balcony at least eight feet above ground.
- B. Not more than three bee colonies shall be kept on a city lot of nine thousand square feet or less. Three additional hives may be kept on each additional nine thousand square feet of property that constitutes a part of one lot.
- 1. Unused bee equipment shall not be left out in the open where accessible to bees.
- C. Bees shall not be kept on a property where a person who resides within three hundred feet from the hive or colony has a medically certified allergy to the sting of bees.
- 1. An individual who is allergic to bee stings shall file with the city police a medical certificate attesting to his allergy and shall provide information concerning the location of the beehive or colony and its distance from his property.
- 2. The city shall attempt to resolve the matter before commencing any legal action authorized under this chapter, however, failure to so attempt shall not be a defense to a violation filed under this section.
- D. Beehives or colonies being transported through or within the city shall not be left on a vehicle which is parked or left unattended during daylight hours on a city street, public parking lot, or private property left open to the general use of the public. Beehives or colonies on a vehicle which is parked on private property shall be more than thirty feet from a public right-of-way, alley, public property, private building, or place open to the public other than that of the beehive or bee colony keeper.
- E. Penalty. An individual convicted of violating this chapter shall be fined not less than twenty-five dollars nor more than one hundred dollars for each day that the violation occurs. Trial shall be before the judge without a jury. The city may seek a mandatory injunction to enforce the terms of this chapter in a court of competent jurisdiction, (Ord 4151 §I-§5, 1981).

8.16.060 Burning and Accumulation of Materials Constituting a Fire Hazard.

A. No person shall kindle, maintain, or allow to be maintained, an outdoor fire, bonfire, rubbish fire, burn barrel fire, or garbage fire, nor shall any person kindle, maintain or allow to be maintained a fire for the purpose of burning grass, hay, straw, tree parts or trimmings, nor shall any person kindle, maintain, or allow to be maintained a fire for land clearing operations or for commercial burning, nor shall any person kindle, maintain, or allow to be maintained any other type of open burning with the following exceptions:

- 1. Between October 15 an November 15 and between May 1 and May 31, burning of yard debris is allowed on any day which is a Department of Environmental Quality approved burn day. These time periods may be extended by the Fire Chief, at his or her sole discretion.
- 2. Outdoor recreation fires shall be allowed in accordance with the provisions of the Uniform Fire Code.
- 3. Fires set and maintained for fire fighting training or training fire protection personnel.
- 4. Fire requested by law enforcement personnel for the destruction of evidence when the evidence is no longer needed for law enforcement purposes.
- 5. In cases of fire hazard that can not, in the judgment of the Fire Chief or designee, be removed or disposed of in any other practical manner, a fire may be allowed by written permit only. This permit is to be issued by the Fire Chief or designee.
- 6. The Fire Chief of designee is authorized to issue special permits for ceremonial fires.
- 7. The Fire Chief or designee is authorized to require that burning be immediately discontinued if it is determined that smoke emissions are offensive to occupants or surrounding property, if the burning is determined to be hazardous, or if the burning is determined to be detrimental to the public health.
- A. No person shall accumulate or suffer or allow to accumulate material which, in the judgment of the Fire Chief or designee, constitutes a fire hazard.
- B. Violation of this ordinance shall be considered an infraction an may be punishable by a fine of not less than \$50.00 for the first cited violation, not less than \$100.00 for the second cited violation, and not less then \$250.00 for each subsequent cited violation. Any act prohibited by this ordinance shall be a nuisance and shall be subject to immediate summary abatements as provided in this code. Costs of abatement shall be assessed against any person who violates the provisions of this ordinance and shall be imposed in addition to any fine. (Ord. 4742 §1, 2001).

8.16.150 Unnecessary noise.

- A. No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.
- B. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but the enumeration shall not be construed to be exclusive:
- 1. The keeping of any bird or animal which by causing frequent or long continued noise disturbs the comfort and repose of any person in the vicinity;
- 2. The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity;
- 3. The use of any vehicle or engine, either stationary or moving, so operated as to create any loud or unnecessary grating, grinding, rattling or other noise;
- 4. The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger;

- 5. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper city authorities;
- 6. The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled:
- 7. The erection, including excavation, demolition, alteration or repair, of any building in residential districts, other than between the hours of seven a.m. and six p.m., except upon special permit granted by the common council;
- 8. The use of any gong or siren upon any vehicle, other than a police, fire or other emergency vehicle;
- 9. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients;
- 10. The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;
- 11. The use or operation of any automatic or electric piano, phonograph, radio, television, loudspeaker or any instrument for sound producing or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that upon application to the common council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment;
- 12. The making of any noise by crying, calling or shouting, or by any means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever; provided, that newsboys may sell newspapers and magazines by public outcry, and persons having a valid permit to do so under the ordinances of the city may vend merchandise in the streets by public outcry;
- 13. The conducting, operating or maintaining of any garage within one hundred feet of any private residence, apartment, roominghouse or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of eleven p.m. and seven a.m. (Ord. 2963 §17, 1961).

ARTICLE III.

<u>8.16.152</u> Removal of carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose the carcass. (Ord. 4409 §2, 1987).

<u>8.16.155</u> Fowl. No person shall permit any or controlled by him to run at large in the city. (Ord. 4409 §3, 1987).

ARTICLE IV. NUISANCES AFFECTING PUBLIC HEALTH

- 8.16.158 Nuisances affecting public health. No person cause or permit a nuisance affecting public health on property owned or controlled by him. The following is a nonexclusive list of nuisances affecting public health that may be abated as provided in this chapter:
- A. Open vaults or privies constructed and maintained with the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations;
- B. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city;
- C. Stagnant water that affords a breeding place for mosquitoes and other insect pests;
- D. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water;
 - E. Decayed or unwholesome food offered for human consumption;
- F. Premises that are in such a state or condition as cause an offensive odor or that are in an unsanitary condition;
 - G. Drainage of liquid wastes from private premises;
- H. Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor:
- I. Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system. (Ord. 4409 §4, 1987).

ARTICLE V. NUISANCES AFFECTING PUBLIC SAFETY

- 8.16.160 Creating a hazard. No person shall create a hazard by:
- A. Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one an one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed;
- B. Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of twelve inches or more, and failing to cover or fence it with a suitable protective construction. (Ord. 4409 §5, 1987).

8.16.162 Attractive nuisances.

- A. No owner or person in charge of property shall permit on the property:
- 1. Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children;
- 2. Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
- B. This section does not apply to authorized construction projects with reasonable safeguards to prevent injury o death to playing children. (Ord. 4409 §6, 1987).

0.40.405

8.16.165 Defective sidewalks.

- A. No owner of property (improved or unimproved), abutting on a public sidewalk, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, or other similar occurrences, the sidewalk becomes danger to persons using it.
- B. The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, cumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions. Abut property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to personal property arising as a result of their failure to so main the sidewalks. (Ord. 4409 §7, 1987).

8.16.168 Scattering rubbish.

- A. No person shall deposit, permit, or allow, on public or private property, bush, trash, debris, refuse or any substance that would ate a stench or fire danger, detract from the cleanliness safety of the property or would be likely to injure a pet, animal, or vehicle traveling on a public way.
- B. Rubbish, trash, debris, or refuse in sealed containers or in plastic bags placed for collection by the soil waste collector or recyclable material collector is not within the terms of this chapter unless left on private property for more than one week. (Ord. 4409 §8, 1987).
- 8.16.170 Trees. No owner or person in charge of property shall allow all or a part of a dead or decaying tree stand if it is a danger to the public or to persons or property on or near the property. (Ord. 4409 §9, 1987).

8.16.172 Fences.

- A. No owner or person in charge property shall construct or maintain a barbed wire fence, or permit barbed wire to remain as part of a fence along a walk or public way, except such wire may be placed above top of other fencing not less than six feet, six inches high.
- B. No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line another person. (Ord. 4409 §10, 1987).

8.16.175 Surface waters, drainage.

- A. The owner or person in charge of a building in charge of a building or structure shall not permit ice or snow to fall from the building or structure onto street or public sidewalk.
- B. The owner or person in charge of property shall stall and maintain in a proper state of repair, adequate drainpipes or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk. (Ord. 4409 §11, 1987).

ARTICLE VI. NUISANCES AFFECTING PUBLIC PEACE

8.16.178 Radio and television interference.

- A. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.
- B. This section does not apply to devices licensed, approved, and operated under the rules and regulations of Federal Communications Commission. (Ord. 4409 §12, 1987).

8.16.180 Junk.

- A. No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress or egress.
- B. The term "junk," as used in this section, include all nonoperative motor vehicles, motor vehicle parts, abandoned automobiles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.
- C. This section does not apply to junk kept in a licensed junkyard or automobile wrecking house. (Ord. 4409 §13, 1987).

ARTICLE VII. UNENUMERATED NUISANCES

8.16.182 Unenumerated nuisances.

- A. The acts, conditions or objects specifically enumerated and defined in Sections 8.16.152 to 8.16.180 are declared public nuisances and may be abated by the procedures set forth in Sections 8.16.185 to 8.16.220.
- B. In addition to the nuisances specifically enumerated in this or any other ordinance, every other thing, substance or act that is determined by the council to be injurious or detrimental to the public health, safety, or welfare of the city is declared a nuisance and may be abated as provided in this chapter. (Ord. 4409 §14, 1987).

ARTICLE VIII. ABATEMENT PROCEDURE

- <u>8.16.185</u> <u>Abatement procedure—Notice issuance</u>. A police officer or employee of the city designated as the nuisance abatement officer, when alleging that a nuisance exists, shall:
 - Attempt to discover the person(s) responsible for the nuisance; and
- B. Give written notice to the person(s) responsible b posting, or personal service, or by certified mail, or any combination of the above that a condition on the property is a nuisance and is in violation of this chapter. (Ord. 4409 §15, 1987).
- <u>8.16.188 Abatement procedure—Contents of notice</u>. A notice issued under Section 8.16.185 shall contain:
- A. A description of the conditions found upon the property that are in violation of this chapter and that within seven days after notice is given (personal service, posting or certified mail) the nuisance must be abated. The notice shall also contain:
- 1. A description of the real property, by street address or otherwise, on which the nuisance exists:
 - 2. A description of the nuisance;
- 3. A statement that, unless the nuisance is removed the city may abate the nuisance and the cost of abatement will be charged to the person responsible;
- 4. If the person responsible is not the owner, an additional notice (if none was originally given) shall be sent to the owner, stating that if the cost of abatement is not paid by the person responsible, it (the cost) may be assessed to and become a lien on the property.
- B. Upon completion of the posting or mailing or personal service, the person or persons posting, or mailing, or making the personal service shall execute and file certificates stating the date and place at which said actions occurred.
- C. That the alternative to compliance with subsection of this section is to petition the court clerk within the seven-day period described in subsection A by making a written request to appear before the McMinnville municipal court to show the nuisance doesn't exist or why the nuisance should not be immediately abated.
- D. That failure to comply with this chapter authorizes the city to abate the nuisance, charge the abatement costs against the real property from which it was abated, and to dispose of any property seized at a public sale to reduce an costs incurred in the abatement process. (Ord. 4409 §16, 1987).

8.16.190 Entry on private property.

A. A law enforcement or nuisance abatement officer is authorized to enter onto private property at all reasonable times and examine the alleged nuisance to determine whether it is in violation of this chapter. Except when an emergency exists, before entering onto private property, the officer shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection.

- B. No search warrant shall be issued under the terms of this chapter until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, stating whether it is an inspection instituted by complaint, or giving other specific or general information concerning the nuisance in question or the property on which it is located.
- C. No person shall interfere with or attempt to prevent a law enforcement officer from entering onto private premises and inspecting the alleged nuisance when an emergency exists or when the officer exhibits a warrant authorizing entry. (Ord. 4409 §17, 1987).

8.16.192 Hearing by the court.

- A. Following a request the court clerk shall fix a time for a hearing before the municipal judge to show cause why the nuisance should not be immediately abated and to receive evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of said nuisance. After the hearing, the judge may order the nuisance abated by the city in accordance with the provisions of this chapter after determining that actual or constructive notice has been accomplished as set forth in Sections 8.16.185 and 8.16.188.
- B. The court shall make its order in the form of a court order declaring the condition to be a public nuisance. The court order may order the abatement of more than one nuisance and may consolidate the hearings and orders relating to a specific parcel or parcels under common ownership or control. Persons receiving the notice specified in Sections 8.16.185 and 8.16.188 shall be sent copies of the court order.
- C. The court may impose conditions and take other action it considers appropriate under the circumstances to carry out the purposes of this chapter. It may delay the time for the abatement of the nuisance when, in its opinion, circumstances justify such action. It shall refuse to order the abatement of a condition when, in the opinion of the court, it is not subject to the provisions of this chapter. The court shall not be bound by technical rules of evidence in conducting the hearing. (Ord. 4409 §18, 1987).

8.16.195 Abatement by the city and appraisal.

A. Seven days after giving the notice required in Section 8.16.185, or, if a hearing is held, seven days after the entry of a court order declaring a condition to be a public nuisance as required in Section 8.16.188, the city will have jurisdiction to abate the nuisance and may remove the nuisance by use of city employees or authorized independent contractors. No person shall interfere with, hinder, or refuse to allow authorized persons to enter onto private property for the purpose of removing a nuisance under the provisions of this chapter. (Ord. 4409 §19, 1987).

8.16.198 Public sale notice.

A. If the value of any property exceeds seven hundred fifty dollars, the law enforcement officer shall publish a notice of sale in a news paper of general circulation within the city. The notice of sale shall state:

- 1. The sale is of property in possession of the city which has been recovered in a nuisance abatement procedure;
- 2. A description of the property and any other information that will aid in accurately identifying the material to be sold;
 - 3. The terms of the sale:
 - 4. The date, time, and place of the sale.
- B. The notice of sale shall be published two times. The first publication shall be made not less than fifteen days before the date of the proposed sale, and the second shall be made not less than seven days before the date of the proposed sale. (Ord. 4409 §20, 1987).

8.16.200 Public sale.

- A. If material or goods seized or removed is appraised over seven hundred fifty dollars, the law enforcement officer shall hold a sale at the time and place appointed, within view of the material to be sold:
- B. The material or goods shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs;
- C. At the time the purchase price is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder;
- D. The certificate of sale shall be on a form provided by the city recorder. (Ord. 4409 §21, 1987).

8.16.210 Redemption before sale.

- A. Material or goods impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the material or goods was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:
- 1. Submit satisfactory evidence of ownership or interest in the material or goods to the law enforcement officer;
 - 2. Pay the costs owing at the time the application to redeem is made;
- 3. Give evidence that the nuisance character of the material or goods will not be resumed.
- B. Upon compliance with subsection A of this section, the law enforcement officer shall execute a receipt and cause the material to be returned. (Ord. 4409 §22, 1987).

8.16.220 Assessment of costs.

- A. After disposing of any material and goods and crediting any money received from sale or said goods and material to the costs, the city recorder shall give notice by personal service or by certified mail to the person in charge of the property and the owner the property from which the material was removed:
 - 1. Of any refund of excess funds derived from the sale;
 - 2. Of the unpaid costs of abatement.

- a. That the costs as indicated will be assessed to and become a lien against the real property unless paid within thirty days from the date of the notice,
- b. That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder with in twenty days from the date of the notice of unpaid costs;
- B. Within forty days after the date of the notice of objection, objections to any proposed assessment shall be heard and determined by the council.
- C. If the costs of the abatement are not paid within thirty days from the date of the notice, or within ten days of a council determination made under subsection B of this section, assessment of the costs shall be made by council resolution and be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the real property from which the nuisance was removed or abated.
- D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine percent per year. Interest shall accrue from the date of the entry of the lien into the lien docket.
- E. An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property. (Ord. 4409 §23, 1987).
- <u>8.16.230</u> Applicability—Officers' powers. The procedure provided by this chapter is not exclusive but is in addition to procedure provided by other ordinances, and furthermore, the health officer, the chief of the fire department and the police officers of this city may proceed summarily to abate a sanitary or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

ARTICLE IX. PENALTY

8.16.240 Violation—Penalty.

- A. Any person violating 8.16.240 any of the provisions of this chapter shall, upon conviction thereof, be punished by imprisonment for a period not to exceed ninety days, or by a fine not to exceed three hundred dollars, or both. Each day's violation of a provision or this chapter shall constitute a separate offense.
- B. The abatement of a nuisance as provided in chapter shall not constitute a penalty for violation chapter, but shall be in addition to any penalty imposed a violation of the chapter. (Ord. 2963 §§26, 27, 1961).

Chapter 8.28

DISCARDED VEHICLES

Sections:

8.28.010	Definitions.
8.28.020	Declaration of public nuisance.
8.28.030	Prohibited action.
8.28.040	Investigation.
8.28.050	Contents of notice.
8.28.060	Entry on private property.
8.28.070	Hearing by the court.
8.28.080	Abatement by the city and appraisal.
8.28.090	Low value vehicle.
8.28.100	Public sale notice.
8.28.110	Public sale.
8.28.120	Redemption before sale.
8.28.130	Assessment of costs.

<u>8.28.010</u> <u>Definitions</u>. As used in this chapter:

A. "Costs" means the expense of removing, storing, or selling a discarded vehicle.

- B. "Discarded vehicle" means:
 - 1. A vehicle in one or more of the following conditions:
 - a. Inoperative;
 - b. Wrecked;
 - c. Dismantled:
 - d. Partially dismantled;
 - e. Junked;
- £. Any other vehicle not described in the above sections and stored on a residential lot (not including a driveway or trailer storage pad area) for more than thirty days without being operated away from the premises.
- 2. Discarded vehicles include major parts of vehicles, including but not limited to bodies, engines, transmissions, and rear ends.
- C. "Law enforcement officer" includes any authorized law enforcement officer of the city.
- D. "Person in charge of property" means an agent, occupant, lessee, contract purchaser, owner, or person having possession, control, or title to property where a vehicle is located.
- E. "Vehicle" means every device in, upon, or by which person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
- F. "Vehicle owner" means an individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, of ownership or an interest, legal or equitable, in a vehicle. (Ord. 4384 §1, 1986).
- <u>8.28.020</u> <u>Declaration of public nuisance</u>. The open accumulation and storage of discarded vehicles is found to create a condition tending to reduce the value of private property; promote blight, deterioration, and unsightliness; invite plundering; create fire hazards; constitute an attractive nuisance causing a hazard to the health and

safety of miners; create a harborage for rodents and insects; and to injurious to the health, safety, and general welfare of the community. Therefore, the presence of a discarded vehicle private property is declared to be a public nuisance which may be abated in accordance with the provisions of this chapter. (Ord. 4384 §2, 1986).

<u>8.28.030</u> Prohibited action. No person shall store or permit the storage of a discarded vehicle upon private property within the city unless the vehicle is completely enclosed within a building or unless it is in connection with lawfully conducted business dealing in junked vehicles. (Ord. 4384 §3, 1986).

8.28.040 Investigation.

- A. When a law enforcement officer investigates a discarded vehicle on private property and determines that a nuisance exists which should be abated the officer shall:
- 1. Attempt to discover the owner of the vehicle, the person in charge of the property, the owner of the property on which the vehicle is located; and
- 2. Give written notice to them by personal service or by certified mail that the vehicle is in violation of this chapter.
- B. If the owner of the vehicle is not found, the officer shall place a notice on the windshield or some other part of the vehicle where it can be easily seen. (Ord. 4384 §4, 1986).
- <u>8.28.050</u> Contents of notice. A notice issued under Section 8.28.040 shall state:
- A. That a certain discarded vehicle is in violation of this chapter and that within ten days after sending or posting the notice:
- 1. The vehicle must be removed from the city or to the storage yard of a lawfully conducted business dealing in junked vehicles; or
 - 2. The vehicle must be completely enclosed within a building.
- B. That the alternative to compliance with subsection of this section is to petition the court clerk within the ten-day period described in subsection A of this section and make a written request to appear before the court to show why the vehicle should not be immediately abated.
- C. That failure to comply with this chapter authorizes the city to remove the vehicle, charge the cost against the property from which it was removed, and to sell the vehicle to satisfy the casts of removal and storage. (Ord. 4384 §5, 1986).

8.28.060 Entry on private property.

- A. A law enforcement officer is authorized to enter onto private property at all reasonable times and examine a vehicle to determine whether it is in a discarded condition. Except when an emergency exists, before entering onto private property, the officer shall obtain the consent of an occupant or a warrant o the municipal court authorizing entry for inspection.
- B. No search warrant shall be issued under the terms o this chapter until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, stating whether it is an inspection instituted by

complaint, or giving other specific or general information concerning the vehicle in question or the property on which it is located.

C. No person shall interfere with or attempt to prevent a law enforcement officer from entering onto private premises and inspecting a vehicle when an emergency exists or when the officer exhibits a warrant authorizing entry. (Ord. 4384 §6, 1986).

8.28.070 Hearing by the court.

- A. Following a request the court clerk shall fix a time for a hearing before the municipal judge to show cause why a vehicle should not be abated immediately and to receive evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of the vehicle. After the hearing, the judge may order the vehicle removed by the city in accordance with the provisions of this chapter after determining that actual or constructive notice has been accomplished as set forth in Section 8.28.040.
- B. The court shall make its order in the form of a court order declaring the vehicle to be a public nuisance. The court order may order the removal of more than one vehicle and may consolidate the hearing and orders relating to more than one vehicle. Persons receiving the notice specified in Section 8.28.040 shall be sent copies of the court order.
- C. The court may impose conditions and take other action it considers appropriate under the circumstances to carry out the purposes of this chapter. It may delay the time for removal of the vehicle when, in its opinion, circumstances justify such action. It shall refuse to order removal of the vehicle when the vehicle, in the opinion of the court, is not subject to the provisions of this chapter. The court shall not be bound by technical rules of evidence in conducting the hearing. (Ord. 4384 §7, 1986).

8.28.080 Abatement by the city and appraisal.

- A. Seven days after giving the notice required in Section 8.28.040, or, if a hearing is held, seven days after the entry of a court order declaring a vehicle to be a public nuisance as required in Section 8.28.070, the city will have jurisdiction to abate the nuisance and may remove the vehicle by use of city employees or authorized independent contractors. No person shall interfere with, hinder, or refuse to allow authorized persons to enter onto private property for the purpose of removing a vehicle under the provisions of this chapter.
- B. After removing the vehicle, the city shall have it appraised. (Ord. 4384 §8, 1986).

8.28.090 Low value vehicle.

- A. If the vehicle is appraised at seven hundred fifty dollars or less, the law enforcement officer shall file an affidavit with the motor vehicles division describing the vehicle, including the license plates, if any, stating the location and appraised value of the vehicle and stating that the vehicle will be junked or dismantled. The law enforcement officer may dispose of the vehicle and execute a certificate of sale without notice and public auction.
- B. The certificate of sale shall be on a form provided by the city recorder. (Ord. 4384 §9, 1986).

8.28.100 Public sale notice.

- A. If the vehicle is appraised over seven hundred fifty dollars, the law enforcement officer shall publish a notice of sale in a newspaper of general circulation within the city. The notice of sale shall state:
 - 1. The sale is of discarded property in possession of the city;
- 2. A description of the vehicle, including the type, make, license number, identification number, and any other information that will aid in accurately identifying the vehicle:
 - 3. The terms of the sale:
 - 4. The date, time, and place of the sale.
- B. The notice of sale shall be published two times. The first publication shall be made not less than fifteen days before the date of the proposed sale, and the second shall be made not less than seven days before the date of the proposed sale. (Ord. 4384 S10, 1986).

8.28.110 Public sale.

- A. If a vehicle is appraised over seven hundred fifty dollars, the law enforcement officer shall hold a sale at the time and place appointed, within view of the vehicle to be sold.
- B. The vehicle shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs.
- C. At the time the purchase is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder.
- D. The certificate of sale shall be on a form provided by the city recorder. (Ord. 4384 §11, 1986).

8.28.120 Redemption before sale.

- A. A vehicle impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:
- 1. Submit satisfactory evidence of ownership or interest in the vehicle to the law enforcement officer;
 - 2. Pay the costs owing at the time the application to redeem is made;
- 3. Give evidence that the nuisance character of the vehicle will not be resumed.
- B. Upon compliance with subsection A, the law enforcement officer shall execute a receipt and cause the vehicle to be returned. (Ord. 4384 §12, 1986).

8.28.130 Assessment of costs.

A. After disposing of the discarded vehicle and crediting any money received from sale of the vehicle to the costs, the city recorder shall give notice by personal

service or by certified mail to the person in charge of the property and the owner of the property from which the vehicle was removed:

- 1. Of any refund of excess funds derived from the sale;
- 2. Of the unpaid costs of abatement,
- a. That the costs as indicated will be assessed to and become a lien against, the real property unless paid within thirty days from the date of the notice.
- b. That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder with in twenty days from the date of the notice of unpaid costs.
- B. Within forty days after the date of the notice of objection, objections to any proposed assessment shall be heard and determined by the council.
- C. If the costs of the abatement are not paid within thirty days from the date of the notice, or within ten days of a council determination made under subsection B of this section, assessment of the costs shall be made by council resolution and be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the real property from which the nuisance was removed or abated.
- D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine percent per year. Interest shall accrue from the date of the entry of the lien into the lien docket. An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall r

TITLE 9: PUBLIC PEACE, MORALS AND WELFARE

Chapter 9.32

OFFENSES AGAINST PUBLIC PEACE*

Sections:

9.32.040 Unnecessary noise.

9.32.040 Unnecessary noise. No person shall create or assist in creating or permit the continuance of loud and disturbing noise in the city. The following enumeration of violations of this section is not exclusive:

- A. The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity;
- B. The use of an engine, thing or device which is so loaded, out of repair or operated in such a manner as to create a loud or unnecessary grating, grinding, rattling or other noise;
- C. The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled;
- D. 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;
- E. The conducting, operating or maintaining of any garage within two hundred feet of any private residence, apartment, roominghouse or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of eight p.m. and seven a.m.
- F. The use or operation of an automatic or electric piano, phonograph, loudspeaker or sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment. (Ord. 3623 §10, 1972).

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^{*} For statutory provisions on city power to regulate noise, see ORS 467.100(1).

Title 17 - ZONING

Chapter 17.54

GENERAL REGULATIONS

Sections:		
17 5/ 090	Fences	136
47.54.440	Keeping of Animals in a Residential Zone	406
17.54.140 -	Keeping of Animais in a Residential Zone	136

17.54.090 Fences. Fence limitations shall be as follows:

- A. A fence placed along an interior side or rear property line shall not exceed the height of seven (7) feet. The construction of a fence greater than six (6) feet in height requires a building permit.
- B. A fence located in a required front yard shall not exceed the height of three (3) feet measured from grade. Fences greater than three (3) feet in height must conform to the front-yard setback requirements of that zone or must be set back to the front building line of the existing residence (whichever is less).
- C. On a corner lot, a fence located in a required exterior side yard shall not exceed the height of three (3) feet measured from grade; except when adequate vision clearance exists, the Planning Director may permit a fence up to six (6) feet in height.
- D. In the case of a sloping property, the height of a fence shall be measured from the uphill side, but in no case shall the height exceed 10 (ten) feet when measured from the downhill side of the fence.
- E. Fence height restrictions do not apply to public utility fences or to chain link fences enclosing schools and public playgrounds.

17.54.140 Keeping of Animals in a Residential Zone. It is not permissible to keep exotic, dangerous or wild animals as domestic pets. This includes any mammal, fowl, fish or any other species not commonly considered as pets or commonly raised for food or agricultural purposes which would be a possible threat to the life or health of humans as determined by the Yamhill County Animal Control Officer and the Planning Director. The slaughtering of animals is not permissible in residential zones.

- A. The keeping of the following animals is permitted in residential zones:
 - 1. Domestic dogs.
 - 2. Domestic cats.
 - 3. Gerbils, hamsters, rats or similar rodents kept in cages.
 - 4. Non carnivorous fish kept in tanks and ponds.
 - 5. Non venomous reptiles.
 - 6. Domestic rabbits, consistent with the requirements of Section 17.54.140(B)(3). (Rabbits kept for commercial purposes or for food production are prohibited.)

- 7. Vietnamese pot bellied pigs (one per residence).
- 8. Domestic fowl or birds for non-commercial purposes excluding roosters and peacocks, consistent with the requirements of Section 17.54.140(B)(3).
- 9. Livestock, consistent with the requirements of Section 17.54.140(B)(2)
- B. The following conditions shall apply in a zone when animals are permitted:
 - 1. A dog kennel or dog facility exists when four (4) or more dogs of licensable age (six months or older) are kept for commercial reasons such as breeding, buying, selling or boarding. Such facilities are prohibited in a residential zone.
 - 2. In addition to the minimum lot area per family requirement for the zone, a minimum area of one-half acre of land (exclusive of buildings) shall be provided for accommodation of the animals listed in Subsections (a) and (b) below. The following animals are permitted in residential zones and shall not exceed the following density requirements:
 - a. One horse or one cow over six months of age for each additional half acre (21,780 square feet) over the minimum lot size.
 - b. Two sheep or two goats (or similar size livestock) over six months of age per each additional half acre over the minimum lot size.
 - 3. A minimum of 5,000 square feet of lot area is required to maintain up to two (2) fowl (excluding roosters and peacocks) or two (2) rabbits, or combination thereof. Each rabbit or fowl in excess of this number shall require an additional 1,000 square feet of lot area.
 - 4. No enclosure or pen for animals shall be placed in front of the residence nor shall it be closer than 70 feet to a front property line, 15 feet to a side property line or 10 feet to a rear property line.

RESOLUTION NO. 2019-54

A Resolution adopting a Code Violation Civil Penalty Schedule.

RECITALS:

In order to preserve the health, welfare and safety of the community, the City has adopted various civil code provisions that govern the conduct of business and personal activities within the City, which are codified in the McMinnville Municipal Code.

The city has adopted enforcement procedures for identifying and enforcing civil code violations, which includes the possible imposition of civil penalties. The amount of civil penalties are required to be established by City Council resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MCMINNVILLE, OREGON as follows:

1. That the City of McMinnville's Code Violation Civil Penalty Schedule will be as established by the civil penalty schedule attached to this Resolution.

Adopted by the Common Council of the City of McMinnville at a regular meeting held

2. That this civil penalty schedule will take effect immediately.

August 13, 2019 by the following vote	es:	
Ayes:		
Nays:		
Approved August 13, 2019.		
	MAYOR	
Approved as to form:		
CITY ATTORNEY		



City of McMinnville Code Compliance and Community Relations Division

231 NE Fifth Street McMinnville, OR 97128 (503) 434-7311

www.mcminnvilleoregon.gov

CITY OF MCMINNVILLE CIVIL PENALTY SCHEDULE:

CODE VIOLATION CIVIL PENALTIES

TYPE OF CODE VIOLATION	CIVIL PENALTY
Class 1 Code Violation	\$5,000.00
Class 2 Code Violation	\$2,000.00
Class 3 Code Violation	\$1,000.00
Class 4 Code Violation	\$500.00
Class 5 Code Violation	\$250.00
Class 6 Code Violation	\$100.00
Class 7 Code Violation	\$50.00
Class 8 Code Violation	\$25.00



City of McMinnville
Finance Department
230 NE Second Street
McMinnville, OR 97128
(503) 434-2350
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 13, 2019

TO: Jeff Towery, City Manager

FROM: Marcia Baragary, Finance Director

SUBJECT: Ordinance No. 5080, Amending Sections of Chapter 5.10 of the McMinnville City

Code Related to Collection and Remittance of Transient Lodging Tax by Internet

Hosting Platforms

Report in Brief: This action is the consideration of Ordinance No. 5080, an ordinance amending sections of Chapter 5.10 (Local Transient Lodging Taxes) of the McMinnville Municipal Code (MMC) to reflect recent legislative changes and to ensure that online travel companies and hosting platforms are properly collecting and remitting local transient lodging tax (TLT) to the City.

<u>Background:</u> Chapter 5.10 of the MMC requires transient lodging providers, such as hotels, motels, vacation rentals, etc., to collect the TLT from their guests and forward the tax to the City. A growing number of individuals are engaging in short term or vacation home rentals and using online travel companies and hosting platforms. Online companies, such as Airbnb, VRBO, and others, facilitate the retail sale of transient lodging by connecting transient lodging providers and their guests. With the online companies, typically, guests make their payment via the online company instead of paying the lodging provider directly. This makes it difficult for the state and local governments to collect the tax from the lodging provider.

<u>Discussion:</u> In 2013, the Legislature passed HB 2656, adding the term "transient lodging intermediary" to ORS 320.300. The bill was intended to require intermediaries, such as the online companies, to pay taxes directly to the state or local government rather than forwarding taxes to the lodging provider. However, some online travel companies and hosting platforms argued that they were not "transient lodging intermediaries" (i.e., "tax collectors") under the state law because they only facilitated the transaction between the lodging provider and the guest. Therefore, they were not required to collect and pay the taxes directly to the state or local government.

To address the online companies' argument, the Oregon Legislature passed HB 4120, effective July 1, 2018, which clarifies that online travel companies and hosting platforms are considered "transient lodging intermediaries" under ORS 320.200 and are therefore required to collect and remit the tax.

To ensure that local governments can collect TLT from the online companies, the League of Oregon Cities (LOC) recommends that specific language be included in local ordinances, including using the definition of "transient lodging intermediary" in Section 1 of HB 4120.

Specifically, the ordinance should state that a "transient lodging intermediary"

- 1. Charges for occupancy of the transient lodging;
- 2. Collects the consideration charged for occupancy of the transient lodging; or
- 3. Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging

Ordinance No. 5080 amends Chapter 5.10 of the McMinnville Municipal Code to use the above language in the definition of "transient lodging intermediary" (Chapter 5.10.010.J.)

Additional changes are proposed to align the provisions of Chapter 5.10, with the civil code compliance and appeal provisions proposed to be adopted by the Council as Chapter 2.50. The remaining amendments in the ordinance are included to better align the MMC with best practices set forth in the LOC's proposed model ordinance.

Attachments: Ordinance No. 5080

<u>Fiscal Impact:</u> The City is expected to collect more revenue but Staff is currently unable to predict how much that may be.

Recommendation: Staff recommends that the Council adopt Ordinance No. 5080

ORDINANCE NO. 5080

An Ordinance amending McMinnville Municipal Code Chapter 5.10 provisions related to the Local Transient Lodging Tax

RECITALS:

CITY RECORDER

On June 11, 2013, the McMinnville City Council passed Ordinance No. 4970, implementing a Local Transient Lodging Tax. Ordinance 4970, as amended, is codified in the McMinnville Municipal Code (MMC) at Chapter 5.10.

Some online travel companies and hosting platforms have argued that they are not responsible for the collection of local transient lodging taxes. To address these arguments, the Oregon Legislature passed HB 4120, effective July 1, 2018, which clarified that online travel companies and hosting platforms are considered "transient lodging intermediaries" under ORS 320.200 and are therefore required to collect and remit the tax.

Despite the change in state law, some online travel companies and hosting platform continue to fail or refuse to collect local transient lodging taxes. The proposed changes are intended to ensure that all transient lodging intermediaries, including online travel companies and hosting platforms, collect and remit the required local transient lodging taxes.

Additional changes are intended to improve the process for achieving compliance with the code requirements from transient lodging tax collectors, and to incorporate other best practices related to tax administration and collection.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

- 1. The language set forth in the attached Exhibit 1, is incorporated into this Ordinance by this reference.
- 2. The amendments to MMC Chapter 5.10 will take effect September 12, 2019.

Passed by the Council August 13, 2019, by the following votes:

Ayes:

Nays:

Approved: August 13, 2019.

Effective Date: September 12, 2019

MAYOR

Attest:

Approved as to form:

CITY ATTORNEY

ORD 5080 - Exhibit 1

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5.10.010 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. "City" means the city of McMinnville, Oregon.
- B. "City council" means the city council of the city of McMinnville, Oregon.
- C. "Finance department" means the finance department of the city.
- D. "Finance director" means the director of the finance department or their designee.
- E. "Lodging" means "transient lodging" as defined by ORS 320.300, except that "lodging" shall not include dwelling units at nonprofit facilities or dormitory rooms used for educational purposes described in ORS 320.308.
- F. "Occupancy" means the <u>right to the</u> use or possession <u>of any space in transient lodging for dwelling</u>, or the right to use or possession, for lodging <u>or sleeping</u> purposes <u>for less than 30 days</u>, <u>of any space</u>, or portion thereof, in a lodging.
- G. "Occupant" means <u>any individual</u> person who <u>exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive days or less, counting portions of calendar days as full <u>days.uses or possesses</u>, or who has</u>
- a. The right to use or posses any space, or portion thereof,

b. In a lodging.

- H. "Rent" means the consideration <u>paid or payable by an occupant charged</u>, <u>whether or not received by the transient lodging tax collector</u>, for the occupancy of space in <u>a transient lodging</u>, <u>whether or not valued in money</u>, <u>goods</u>, <u>labor</u>, <u>credits</u>, <u>property</u>, <u>or other consideration</u>. If a separate fee is charged for <u>services</u>, <u>goods or commodities and the fee is optional</u>, <u>that fee is not included in rentwithout any deduction</u>. Rent includes the portion of any total retail price paid as part of a travel package by an <u>occupant for occupancy of transient lodging</u>, as may be determined by reasonable and verified <u>standards from books and records kept in the ordinary course of a tax collector's business</u>.
- I. "Tax" or "taxes<u>TLT</u>" means either the tax payable by the occupant or the aggregate amount of taxes due from a tax collector during the period for which the tax collector is required to report collections<u>the</u> transient lodging tax.
- J. "Transient lodging intermediary" or "lodging intermediary" means a person other than a transient lodging provider who that facilitates the retail sale of transient lodging and:
 - 1. eCharges for occupancy of the transient lodging;
 - 2. Collects the consideration charged for occupancy of the transient lodging; or
 - 3. Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.
- K. "Transient lodging provider" or "provider" means the person who is the proprietor of a lodging in any capacity. Where management functions are performed through a managing agent other than an employee, the managing agent who shall have the same duties and liabilities as the proprietor shall be the provider. Compliance with the provisions of this chapter by either the proprietor or the managing agent shall be considered to be compliance by botha person that furnishes transient lodging.
- L. "Transient lodging tax collector" or "tax collector" means a transient lodging provider or a transient lodging intermediary.
- M. "Person" means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- N. "Short-Term Rental" means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling unit for transient lodging occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use.
- O. "Short-Term Rental Housing Platform" means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.
- P. "Tax Administrator" means the finance director or their designee.

5.10.020 Tax imposed.

A. For the privilege of ccupancy in any lodging, eEach occupant shall-must pay a tax-TLT in the amount of 10-ten percent (10%) of the rent-charged by the transient lodging tax collector. The tax constitutes a debt owed by the occupant must pay the TLT with the rent to the to the city, which is extinguished only by payment to the transient lodging tax tax collector at the time the rent is paidcollector. TLT amounts must be rounded down to the nearest cent. The transient lodging tax collector shall-must enter the tax on the tax collector's maintain records when the of all rent is collected and TLT payments received. If the rent is paid in installments, a proportionate share of the tax-TLT shall-must be paid by the

occupant to the tax collector with each installment <u>unless the occupant pays the entire amount with the</u> first payment.

B. Bills, receipts or invoices provided to occupants must list the TLT separately and must accurately state the amount of tax. All amounts listed as TLT on invoices, bills or receipts must be reported as TLT and, after collection, must be turned over to the city, less a five -percent (5%) collection reimbursement charge.

5.10.030 Collection of Tax by Transient Lodging Tax Collector.

A. Except when occupants or lodgings are exempt under this chapter, eEvery transient lodging tax collector renting occupancy in a lodging in the city shallmust collect a taxthe TLT from the occupantat the time rent is paid, unless an exemption applies. If payment is by credit card, for purposes of this section, payment is made at the time credit card information is provided to the transient lodging tax collector, not when the transient lodging tax collector ultimately receives credit for the transaction. While holding the payment in trust for the city (no caps), a tax collector may comingle tax proceeds with the tax collector's funds, but the tax collector is not the owner of tax proceeds, except that, when a return is filed, the tax collector becomes the owner of the collection reimbursement charge authorized to be retained. Transient lodging tax collectors may choose to file returns and remit payments based on amounts accrued but not yet collected. The tax collector is liable for any TLT that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant. The tax collected or accrued by the tax collector constitutes a debt owing by the tax collector to the city.

- B. In cases of credit or deferred payment of rent, the payment of the tax to the tax collector may be deferred until the rent is paid, and the tax collector shall not be liable for the tax until the credit is paid or the deferred payment is made.
- C. The finance director shall enforce this chapter and the city may adopt policies, rules, and regulations consistent with this chapter as necessary to aid in the enforcement. Upon request of the city, transient lodging tax collectors must provide the following information for each transient lodging facility within the city for which the tax collector acts as a transient lodging provider or transient lodging intermediary:
 - 1. The physical addresses of the transient lodging facility
 - 2. The name and mailing address, of the general manager, agent, owner, host or other responsible person for the location.

5.10.040 Tax collector's duties Short-Term Rental Hosting Platform Fees.

Each transient lodging tax collector shall collect the tax imposed by this chapter on an occupant. The amount of the tax shall be separately stated upon the tax collector's records and on any receipt for the rent rendered by the tax collector to the occupant. No tax collector shall advertise that the tax or any part of the tax will be assumed or absorbed by the tax collector, or that it will not be added to the rent, or that, when added, any part will be refunded. A hosting platform for short-terms rentals may collect a fee for booking services in connection with short-terms rentals only when those short-term rentals are lawfully registered as operators with the city and possess a certificate of authority at the time the short-term rental is occupied.

5.10.050 Exemptions Liability for Tax.

A. No tax imposed by this chapter shall be imposed upon dwelling units described in ORS 320.308. Transient lodging providers who receive any portion of the rent for transient lodging and transient lodging intermediaries that provide booking service are both transient lodging tax collectors and are jointly and severally liable for the remittance of the tax to the city.

5.10.060 Registry.

- A. Every person engaging or about to engage in business as a transient lodging provider or transient lodging intermediary in this city shallmust provide a completed registration form to the tax administrator register with the city on a form provided by the finance department. Providers and lodging intermediaries starting business or engaging in collection of the tax from the occupant must register-within fifteen (15) calendar days after commencing business-or engaging in collection of the tax. The registration form shall require the transient lodging provider to provide the name of the business, any separate business addresses, and other information at the tax administrator may require to implement this Chapter. Transient lodging providers who own or operate transient lodging facilities in the city(no caps) must provide the address of the lodging facility. The privilege of registration after the date of imposition of the tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration forms shall require the name under which a provider or lodging Intermediary transacts or intends to transact business, the location of the place of business, and other similar additional information required by the finance department to facilitate the collection of the tax. The registration form must shall be signed by the transient lodging provider or lodging intermediary.
- B. The finance departmenttax administrator shall, within ten-fifteen (15) business days after registration, issue without charge a certificate of authority to collect the TLT each provider to collect the tax from the occupant, together with a certificate for each additional place of business of each provider. The transient lodging provider's obligation to collect the TLT is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate has not been issued. If the rent transaction is facilitated online, the certificate of authority must be able to be viewed by the occupant by clicking on a link to the certificate of authority at a reasonable place during the payment transaction.

 C. Certificates shall be non-assignable and non-transferable and shall-must be surrendered immediately to the finance department to the tax administrator when the business is sold or transferred or when a transient lodging facility ceases to operate upon the cessation of business at the location named, or upon the business sale or transferspecified on the registration form. Each certificate issued to a transient lodging provider for a specific lodging facility must be shall state the place of business to which it is applicable and shall be prominently displayed at the lodging facility and include:
 - C. The certificate shall state, at minimum, the following:
 - 1. The name of the transient lodging provider;
 - 2. The address of the transient lodging facility;
 - 3. The date upon which the certificate was issued; and,
 - 4. The certificate number as assigned by the tax administrator. This statement: "This Transient Lodging Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the McMinnville Municipal Code for the purpose of collecting and remitting the Lodgings Tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a Lodging without strictly complying with all local applicable laws, including but not

limited to those requiring a permit from any board, commission, department or office of the City. This certificate does not constitute a permit."

D. A lodging intermediary that has registered with the finance department will not be issued a transient lodging registration certificate.

5.10.070 Returns.

- A. Tax collectors must submit a completed tax return form to the tax administrator. The tax imposed by this chapter shall be paid by the occupant to the transient lodging tax collector when the occupant pays rent to the tax collector. All transient lodging taxes collected by a tax collector are due and payable to the finance department, on a quarterly basis, on or before the last day of the month following the end of the each calendar quarter, reporting the amount of tax due during the quarter and accompanied by remittance of all tax collected, less a five percent (5%) collection reimbursement chargeor, if the last day is not a business day, the next business day thereafter.
- B. The transient lodging tax collector is entitled to the collection reimbursement charge. If a transient lodging facility has multiple owners, they are not entitled to retain additional collection reimbursement charges.
- C. Remittances are delinquent if not made by the last day of the month in which they are due.

 D. Returns must show the gross rents collected, taxable rents, the total amount of TLT collected and the amount of the collection reimbursement charge retained by the transient lodging tax collector. Returns must also show the exempt and excluded rents and the basis for exemptions and exclusions. Tax collectors shall file, with the quarterly tax payment, or, if there is no tax payment due for a given quarter, at the time the tax payment would have been due, a return for that quarter's tax collections. The return shall be filed with the finance department and shall be on a form prescribed by the finance department. The return shall reflect the amount of tax collected or otherwise due for the period for which the return is filed. At the discretion of the finance director, it may also reflect:
- 1. The total rentals upon which the tax is collected or otherwise due,
- 2. Gross receipts of the tax collector for the period,
- 3. The amount of rents exempt, if any, and
- 4. An explanation in detail of any discrepancies.
- EC. The tax collector or his/her designee shallmust deliver submit the quarterly tax payment and returns and remittances to the finance department at its office either by personal delivery or by United States Mail. If the return and taxes remittance are mailed, the postmark shall be considered the date of delivery for determining delinquency.
- ED. At any time before the due date, the finance directorThe tax administrator may, for good cause, extend the due datetime period for making any return and/or payment of taxor remittance of the tax by for up to 30 days. _after the date the tax would have become due but for the extension. No further Further extensions must may be granted, except by approval of be approved by the city manager. A tax collector who is granted an extension shall-must pay a feeinterest at the rate of three percent (3%) per month on the amount of the remittance due without proration for a fraction of a month. If a return is not filed, and the remittance and interest due is not paid by the end of the extension period, then the interest shall become a part of the tax for computation of late payment fees and interest.
- E. If the finance director deems it necessary, in order to ensure payment or to facilitate collection by the city of the amount of taxes in any individual case, the finance director may require that payment of the taxes be made in other than quarterly periods.

5.10.080 Penalties-Late payment fees and interest.

A. A <u>late payment feepenalty</u> will be imposed on a tax collector who mails or hand delivers the <u>tax</u> return <u>and theor tax paymentremittance</u> after the due date. The <u>late payment feepenalty is will be</u> <u>calculated at five percent of the unpaid tax. If the tax collector files and/oror pays more than 30 days after the due date, an additional 20 percent <u>late payment feepenalty</u> will be added to the unpaid tax. <u>If the finance director determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions of this chapter, a late payment fee of 25 percent of the amount of the tax shall be added, in addition to the other fees described in this subsection.</u></u>

B. In addition to any late payment fee, interest shall be added to the overall amount due at the rate Interest at the rate of one percent per month or fraction of a month, without proration for portions of a month will be imposed on any unpaid tax from the due date until the date payment in full is received by the finance department ax administrator. The finance tax administrator director may waive interest imposed if the tax administrator finance director determines that the amount of interest imposed is de minimis_and that the administrative cost of collecting the interest exceeds the amount of interest imposed.

B. If the finance director determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions of this chapter, a penalty of 25 percent of the amount of the tax shall be added, in addition to the penalties above. C. The late payment fee and any interest that accrues, becomes a part of the financial obligation required to be paid and remitted to the tax administrator.

D. Taxes, interest and fees paid to the tax administrator under this section shall be distributed to the city's transient lodging tax fund.

5.10.090 Deficiencies.

A. The tax administrator may review tax returns and adjust the amount due based on the information in the return, on information obtained during a review or audit of records, or on the bases of other evidence. In the event of a deficiency, the tax collector shall provide notice of the deficiency to the transient lodging tax collector, who must remit deficiencies within ten (10) business days of the deficiency notice. Notice may be by personal delivery or certified mail. If the finance director determines that a return is incorrect, the finance director may compute and determine or estimate the amount required to be paid based on the facts contained in the return or returns or any other information within the finance director's possession. One or more deficiency determinations may be made on the amounts due for one or more periods.

- B. In making a deficiency determination reviewing and adjusting tax returns, the finance director tax administrator may shall offset any amount received in excess of the remittances due overpayments, if any, which may have been previously made for a period or periods against any shortages in remittances deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
- C. Once a deficiency determination is made, the finance director shall serve a written deficiency notice on the tax collector (or occupant, in the case of a request for a refund). The notice may be given personally or sent by United States mail. If sent by mail, the notice shall be addressed to the tax collector at the tax collector's address as it appears on the records of the city or as the city can best determine.
- D. Any deficiency is due and payable 10 days after the finance director serves the written deficiency notice. If not paid by the tenth day after service of a deficiency notice, the amount shall be delinquent and penalties and interest shall be applied as established in this chapter.

E. The tax collector (or occupant, in the case of a request for a refund) may petition for a redetermination provided that the petition is filed within 10 days of service of the deficiency notice. Nothing prohibits the finance director from extending the time for petition beyond 10 days at his/her discretion.

F. Except as provided in this chapter in the case of fraud, intent to evade the TLT, or other willful failure or refusal to collect and remit the tax, notice of every deficiency determinations shall be made issued and notice mailed within three years of the period for which the deficiency determination was made. after a return was originally filed or subsequently amended, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this chapter, a failure to file a required return, or a willful refusal to collect and remit the tax, a deficiency determination may be made, or a proceeding for the collection of the deficiency may be commenced at any time. GD. If any transient lodging tax collector fails to collect, report or remit the tax as required, submits a fraudulent return or otherwise violates or attempts to violate this chapter, the tax administrator shall estimate the tax due, and calculate the amount owing from the tax collector for tax remittance, interest and penalties and provide notice to the tax collector of the assessment. The determination and notice shall be made and mailed within three years of discovery by the tax administrator of the violation. The determination is due and payable upon receipt of notice and will become final ten (10) business days after the date notice was delivered if no petition for redetermination is filed. If the finance director believes that the collection of any tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, the finance director may make a determination of the tax or amount of tax required to be collected. The finance director will serve a written deficiency notice and demand for immediate payment on the tax collector. The amount shall be immediately due and payable, and the tax collector shall immediately pay such determination to the city after service of the notice, provided, however, the tax collector may petition, after payment has been made, for a redetermination of the finance director's assessment, provided that the petition is filed within 10 days of service of the deficiency notice.

5.10.100 Redetermination.

time as necessary.

A. Any person affected by a deficiency determination may file If-a petition for redetermination with the tax administrator within ten (10) business days of service of notice of the tax deficiency. A determination becomes final if a petition for redetermination is not timely filed.

B. If a petition for redetermination is filed within the allowable period, the tax administrator or refund is filed within the requisite time period, the finance director shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person an oral hearing if requested. The petitioner shall be allowed at least and shall give him/her ten (10) days notice of the time and place ofto prepare for the hearing. The tax administrator finance director may continue the hearing from time to

BC. After considering the petition and all available information, the tax administrator shall issue a determination decision and mail the decision to the petitioner. During the redetermination process, the tax administrator The finance director may decrease or increase the amount due of the determination as a result of the reconsideration, the hearing, or both, and, if an increase is determined, such increase shall be payable immediately after the reconsideration or the hearing, as appropriate.

<u>CD</u>. The decision of the <u>finance directortax administrator on upon a petition for redetermination or refund becomes final and payment is due ten (10) business</u> days after <u>the decision is mailed, unless that petitioner files an appeal to the city manager as provided in this chapter.</u> <u>service of the notice of decision upon the petitioner.</u>

D. No petition for redetermination or refund or other appeal shall be accepted and no petition is effective for any purpose unless the tax collector has first complied with the payment provision of this chapter and has paid in full the amount determined to be due under the decision for which the appeal has been filed.

5.10.110 SecurityCollections and Liens.

The finance director, whenever the finance director deems it necessary to ensure compliance with this chapter, may require any tax collector subject to this chapter to deposit with the finance director security in the form of cash, bond, or other assets, as the finance director determines. The amount of the security shall be fixed by the finance director but shall not be greater than the tax collector's estimated quarterly liability for the period for which the tax collector files returns, determined in a manner the finance director deems proper, or \$500.00, whichever amount is less. The amount of security may be increased or decreased by the finance director within the limitation of this section.

A. The city(no caps) may bring legal action to collect any amounts owed to the city under this chapter within three (3) years after remittance is due to the city or within three (3) years after any determination becomes final. The city is entitled to collect reasonable costs and attorneys' fees in any legal action brought to collect on an amount owed to the city under this chapter.

B. The city may record a lien in the city's lien docket against any real property owned by a transient lodging provider who receives any portion of the rent from a transient lodging facility located within the city as to any delinquent remittances by the transient lodging provider.

5.10.120 Refunds.

A. If the tax collector remits more tax, penalty or interest than is due, the tax collector may file a claim in writing stating the facts relating to the claim, within three (3) years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall be either refunded or credited on any amount due from the tax collector. Whenever the amount of any tax imposed under this chapter has been paid more than once or has been erroneously or illegally collected or received by the finance department, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the finance director within three years from the date of payment. The claim shall be made on forms provided by the finance department. If the claim is approved, the excess amount collected or paid may be refunded to the provider from whom it was collected or by whom it was paid, or the provider's administrators, executors, or assignees.

Alternatively, at the discretion of the finance director, the refund may be credited toward any amounts then due and payable from the provider from whom it was collected or by whom it was paid, and the balance, if any, may be refunded to the tax collector or the tax collector's administrators, executors, or assignees.

All refunds shall be charged to the transient lodging tax fund.

B. A tax collector may file a claim for refund by filing a claim in writing within three (3) years of payment providing the facts relating to the claim for refund. If the tax administrator determines that the tax was collected and remitted to the city and the occupant was not required to pay the tax or overpaid, the city shall issue a refund to the occupant. Whenever the tax required by this chapter has been collected by the tax collector and it is later determined that the occupant has occupied the lodging for a period of 30 days or more without interruption, the tax collector shall refund to the occupant the tax previously collected by the tax collector from the occupant. If the tax collector has remitted the tax prior to refund or credit to the occupant, the tax collector shall be entitled to a corresponding refund under this section. The tax collector shall account for all collections and refunds under this subsection to the finance department.

C. If an occupant has paid tax to a transient lodging tax collector but stays a total of 30 or more consecutive days in the same transient lodging facility, the tax collector must refund to the occupant any tax collected for any portion of the continuous stay. The tax collector must account for the collection and refund to the tax administrator. If the tax collector has remitted the tax prior to the refund or credit to the occupant, the tax collector shall be entitled to a corresponding refund or offset if the claim for refund is filed within three (3) years from the date of collection.

<u>D.</u> The person claiming the refund has the burden of proving the facts that establish the basis for the refund.

5.10.130 Expenditure of funds.

All money collected pursuant to this chapter shall be the General Funds of the city and may be used in any lawful manner, with a minimum of 70 percent of the net proceeds dedicated for tourism promotion or tourism related facilities as prescribed by state lawdefined in ORS 320.300.

5.10.140 Collection fee

Every tax collector liable for collection and remittance of the tax imposed by this chapter may withhold five percent of the net tax due to cover expenses in its collection and remittance.

5.10.150 Administration.

- A. Every tax collector <u>shall-must</u> keep records of <u>each transaction involving rent and/or the collection of the TLT. All rentals and accounting books that are sufficient to demonstrate compliance with the <u>provisions of this chapter. These-records shall-must</u> be retained for <u>a minimum of three years and six months after they are created.</u></u>
- B. The finance directortax administrator or agent may examine, during normal business hours, the books, papers, and accountingall records relating to rentals of any a tax collector relating to the receipt of rent and TLT and remittance of tax and may obtain copies of the records to audit returns. Itable for the tax, after notification to the tax collector, and may investigate the business of the tax collector in order to verify the accuracy of any return made, or if no return is made by the tax collector, to ascertain and determine the amount required to be paid.
- C. A formal audit of all of the tax collector's records may be conducted at the discretion of the finance director. The tax administrator shall have the power to enforce this chapter, conduct audits, and to adopt rules, regulations and forms consistent with this chapter. Rules and regulations of general application shall be mailed to all registered transient lodging providers. The tax administrator may also issue written interpretations on request of a transient lodging tax collector. As to the transient lodging tax collector to whom the interpretation is issued, the city will act consistently with the interpretation until it is withdrawn, and the city shall provide thirty (30) days' written notice prior to the withdrawal of an interpretation.
- D. Except as otherwise required by law, the city shall maintain the confidentiality of information provided by transient lodging tax collectors. it shall be unlawful for any officer, employee, or agent of the city to divulge, release, or make known in any manner any financial information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall be construed to prevent or prohibit:

- 1. The disclosure to, or the examination of, financial records by City officers, employees, or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter;
- 2. The disclosure to the tax collector or his/her authorized representative of financial information, including amounts of transient lodging taxes, penalties, or interest, after filing of a written request by the tax collector or his/her authorized representative and approval of the request by the finance director;
- 3. The disclosure of the names and addresses of any person to whom this chapter applies;
- 4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular tax collector's return or application; or
- 5. The disclosure of financial information to the city <u>a</u>Attorney or other legal representative of the city to the extent the <u>finance directortax administrator</u> deems disclosure or access necessary for the performance of the duties of advising or representing the <u>finance directortax</u> <u>administrator</u>, the finance department, or the city; <u>or</u>-
- 6. Disclosures required by ORS Chapters 192, 297, or 320.

5.10.160 Notice.

In case of service by mail of any notice required by this chapter, the service is complete three days after deposit with the United States Post Office.

5.10.170 Appeals.

A. Any person aggrieved by any <u>final decision determination</u> of the <u>tax administrator</u> finance director may appeal to the city manager (or his or her designee) by filing a notice of appeal with the finance director within 10 days of the serving of the notice of the finance director's decision. The finance director shall transmit the notice, together with the file of the appealed matter, to the city manager, who shall fix a time and place for hearing the appeal. The city manager shall give the appellant not less than 10 days' written notice of the time and place for hearing the appeal. The city manager may continue the hearing from time to time as necessary in the manner provided by MMC 2.50.510 for the protest of code violations.

- B. The written protest must, at a minimum, contain the following information:
 - 1. The person's name, mailing address, telephone number and email address.
 - 2. The physical address of each transient lodging facility that is the subject of the appeal.
 - 3. A copy of the decision document(s) that form that basis for the appeal.
 - 4. A written statement, together with all supporting evidence, that supports the person's arguments on appeal.

5.10.180 Violations.

A. No tax collector or other person required to do so may fail or refuse to, in the time periods prescribed by this chapter, furnish any return required to be made under this chapter or furnish a supplemental return or other data required by the finance director, or make the remittance to the finance director of the amount of the taxes, penalties, or interest due. No person may render a false or fraudulent return under this chapter. No person required to make, render, sign, or verify any report regarding the tax may make any false or fraudulent report.

B. At any time within three years after any tax required to be collected becomes due and payable, at any time within three years after any determination by the finance director or city manager under this chapter becomes final, or at any time within three years after any person who is required to do so fails to furnish true and non-fraudulent information within the time periods prescribed by this chapter, the city may bring an action in the McMinnville municipal court or in the courts of this state, any other state, or the United States, in the name of the city.

5.10.190 Penalty.

A. A transient lodging provider or tax collector found to have violated the provisions of this Chapter may be assessed a civil penalty, pursuant to MMC Chapter 2.50.

B. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a 4 code violation.

Any person violating any of the provisions of this chapter shall, upon conviction, be punished by a fine of not more than \$500.00. for each violation. This fine shall be in addition to any and all administrative penalties and interest assessed pursuant to this chapter. The court may increase the amount of penalty up to 10 times the normal penalty imposed if the judge finds that the tax collector collected the tax imposed by this chapter and intentionally failed to remit the tax proceeds to the city when and as required by this chapter. All amounts listed as room tax in bills or invoices issued by the tax collector will be considered tax collected by the tax collector, unless the tax collector received no payment on the bill or invoice.