



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

**City Council Meeting Agenda
Tuesday, August 11, 2020
5:30 p.m. – Work Session
7:00 p.m. – Regular Council Meeting**

*Welcome! The public is welcome to attend, however if you are not feeling well, please stay home and take care of yourself. In accordance with Governor Kate Brown's Executive Order we are limiting the amount of people at Civic Hall and if we meet capacity we may ask you to leave. **With new face covering mandate all who wish to attend public meetings must wear a face mask or some kind of face covering is required.***

The public is strongly encouraged to relay concerns and comments to the Council in one of three ways:

- *Email at any time up to 12 p.m. the day of the meeting to Claudia.Cisneros@mcminnvilleoregon.gov;*
- *If appearing via telephone only please sign up prior to the meeting by emailing the City Recorder at Claudia.Cisneros@mcminnvilleoregon.gov as the chat function is not available when calling in zoom;*
- *Join the zoom meeting; send a chat directly to City Recorder, Claudia Cisneros, to request to speak and use the raise hand feature in zoom to request to speak, once your turn is up we will announce your name and unmute your mic.*

*You can live broadcasts the City Council Meeting on cable channels Xfinity 11 and 331, Frontier 29 or webstream here:
www.mcm11.org/live*

CITY COUNCIL WORK SESSION & REGULAR MEETING:

You may join online via Zoom Meeting:

<https://mcminnvilleoregon.zoom.us/j/93461942167?pwd=bk42bUhYRHlsVmF1bi9PT0ZRVGFrUT09>

Zoom ID: 934-6194-2167

Zoom Password: 772144

*Or you can call in and listen via zoom: 1-253- 215- 8782
ID: 934-6194-2167*

5:30 PM – COUNCIL WORK SESSION – VIA ZOOM & COUNCIL CHAMBERS

1. CALL TO ORDER
2. FIRE DEPARTMENT CONSOLIDATION DISCUSSION W/PANELIST
3. ADJOURNMENT

7:00 PM – REGULAR COUNCIL MEETING – VIA ZOOM & COUNCIL CHAMBERS

1. CALL TO ORDER & ROLL CALL

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 Claudia.Cisneros@mcminnvilleoregon.gov.

2. PROCLAMATION
 - a. Lemonade Day

3. INVITATION TO CITIZENS 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. The Mayor will read comments emailed to City Recorded and then any citizen participating via Zoom.*

4. ADVICE/ INFORMATION ITEMS
 - a. Reports from Councilors on Committee & Board Assignments
 - b. Department Head Reports
 1. CARES Act amended agreement with the State of Oregon (Jennifer)
 - c. March & April 2020 Cash and Investment Report (in packet)

5. CONSENT AGENDA
 - a. Consider request from American Sake Co. LLC dba SOGOOD Sake at 2803 NE Orchard Avenue for a 1st Winery Location liquor license.
 - b. Consider **Resolution No. 2020-49**: A Resolution Approving the Appointment of a new City Attorney.

6. RESOLUTION
 - a. Consider **Resolution No. 2020-47**: A Resolution amending the Planning Department Fee Schedule, adding Grading and Excavation Plan Review and Permit Fees, and House Relocation Permit Fees.
 - b. Consider **Resolution No. 2020-50**: A Resolution adopting a supplemental budget for fiscal year 2020-2021, making supplemental appropriations and authorizing the City Manager to sign a contract with Biz Oregon to accept the grant funds.

7. ORDINANCE
 - a. Consider first with possible second reading of **Ordinance No. 5095**: An Ordinance Amending an Existing Planned Development Overlay District to Add Multiple Family Residential as an Allowable Use, Amend Existing Building Height Limitations, And Amend the Master Plan for the Planned Development Overlay District.
 - b. Consider first with possible second reading of **Ordinance No. 5096**: An Ordinance Amending Ordinance No. 5092, Relating to the City of McMinnville’s New Requirements and Regulations Relating to Campaign Finance Declaring an Emergency.

8. ADJOURNMENT



**City of McMinnville
Fire Department**
175 NE 1st Street
McMinnville, OR 97128
(503) 435-5800
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 4, 2020
TO: Mayor and City Councilors
FROM: Rich Leipfert, Fire Chief
SUBJECT: Council Work Session 8/11/2020 Fire Department Consolidation
STRATEGIC PRIORITY & GOAL:



COMMUNITY SAFETY & RESILIENCY

Proactively plan for & responsively maintain a safe & resilient community.

OBJECTIVE/S: Provide exceptional police, municipal court, fire, emergency medical services (EMS), utility services and public works

Report in Brief:

The purpose of the work session will be to provide a panel discussion with four subject matter experts in Consolidation efforts and Fire Districts.

Background:

The City of McMinnville and its partners are in the middle of a Fire Department Consolidation Feasibility Study. The panel will consist of four persons who have been intimately involved with consolidation efforts with other communities in Oregon. Panel Members includes George Dunkel Senior Consultant Specialist for SDAO, Randy Groves, Retired Fire Chief Eugene/ Springfield Fire Department, Tim Moor, Retired Fire Chief Redmond Fire District, and Rodney Stewart Captain and Vice President of IAFF Local 851 from Eugene-Springfield Fire.

Discussion:

The purpose of the work session is to present information to the Council on Consolidation and Districting from the perspective of individuals who have lived and worked through consolidation efforts. The goal is to help the City Council better understand the benefits, risks, challenges of creating a district

Attachments:

Fiscal Impact: No changes



PROCLAMATION

Whereas, Lemonade Day is a fun, free experiential learning program that launched in Houston, Texas in 2007, and has grown from 2,700 kids in one city to 200,000 kids in over 35 cities across America and Canada; and

Whereas, there are 225 kids in McMinnville and surrounding communities who will be learning how to be young entrepreneurs by opening and operating their own businesses – a lemonade stand; and

Whereas, the community’s business leaders are supporting and encouraging these young entrepreneurs to be brave and do big things; and

Whereas, since its inception, Lemonade Day has provided access to the experience of business ownership to youth from all walks of life who learn lifelong business skills and principles while learning how to make money where they are encouraged to “spend a little, save a little, and share a little”; and

Whereas, the mission of Lemonade Day is to empower today’s youth to become tomorrow’s entrepreneurs;

Now, therefore, I, Scott A. Hill, Mayor of the City of McMinnville, Oregon, do hereby proclaim Saturday, August 15th, 2020, as

LEMONADE DAY

in McMinnville. We urge all citizens to recognize and encourage the efforts of our kids as they learn about being young entrepreneurs while they open and operate their own businesses.

In Witness Whereof, I have hereunto set my hand and caused the official Seal of the City of McMinnville to be affixed this 11th day of August, 2020.

Scott A. Hill, Mayor



City of McMinnville
Finance Department
230 NE Second Street
McMinnville, OR 97128
(503) 434-2350

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: July 29, 2020
TO: Jeff Towery, City Manager
FROM: Jennifer Cuellar, Finance Director
SUBJECT: CARES Act amended agreement with the State of Oregon

STRATEGIC PRIORITY & GOAL:



CITY GOVERNMENT CAPACITY

Strengthen the City's ability to prioritize & deliver municipal services with discipline and focus.



COMMUNITY SAFETY & RESILIENCY

Proactively plan for and responsively maintain a safe and resilient community

Report in Brief:

The grant amendment for Coronavirus Aid, Relief, Economic Security Act (CARES Act) dollars with the State of Oregon serves to update the City's allocated award amount to \$1,433,743.56. The Governor and legislative leaders chose to share these funds with municipal organizations and are to be used for eligible costs that address and mitigate the impact of the Covid-19 public health emergency through December 30, 2020.

Background:

With the passage of the federal Coronavirus Aid, Relief, Economic Security Act ("CARES Act"), Oregon received over \$1.6 billion through the Coronavirus Relief Fund (CRF). Support for local governments is an important component of the effort to address pandemic-related costs. For cities, counties, and special districts that did not receive CRF funds directly from the federal government, the state has allocated a portion of its dollars for use at the local level covering costs related to personal protective equipment, testing, contact tracing, isolation/quarantine and staff time spent on unbudgeted activities that meet the substantially different use test. Most recently, the state is allowing local jurisdictions to utilize funds to support activities that mitigate the economic impact of the public health emergency.

The City's amended allocation serves to reimburse its eligible costs as well as those of McMinnville Water and Light.

Discussion:

Under the authority granted in the City's Declaration of Emergency, the City Manager is authorized to enter into agreements that will allow the City to recover costs associated with Covid-19.

Past actions you have taken associated with this funding stream include signing the initial federal funding certification for the State of Oregon on May 20, 2020; the grant agreement with the State of Oregon on June 29, 2020, regarding the City's participation in the CRF program for costs associated with the response to and mitigation of the Covid-19 public health emergency (the agreement now being

amended); and, most recently, the adoption of a sub-grant agreement with McMinnville Water and Light on July 14, 2020.

To date, the City has submitted \$708,000 in eligible expenses in two reimbursement requests, \$650,000 for the City of McMinnville and 58,000 for McMinnville Water and Light.

Fiscal Impact:

Entering into this amended agreement will allow the City to continue to recover unbudgeted direct and staff costs associated with its efforts to respond to and mitigate the impact of Covid-19 in our community. The most recent reimbursement request is in a pending status until the grant amendment is executed, thus increasing our not-to-exceed award amount.

Note: at this time, recovery of lost revenue is not an eligible use of federal CARES Act funds.

Recommendation:

Staff recommends the City Manager utilize the authority of the City of McMinnville's Emergency Declaration to sign this agreement and share this staff report and the grant amendment agreement with City Council at its August 11, 2020 meeting.

Attachments:

1. Grant Amendment to be signed

STATE OF OREGON AMENDED AND RESTATED GRANT AGREEMENT

Grant No. 1088

This Amended and Restated Grant Agreement (“Grant”) is between the State of Oregon acting by and through its Department of Administrative Services (“Agency”) and City of McMinnville (“Grantee”), each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY AND BACKGROUND

Pursuant to funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and as allocated to Agency by the Oregon Emergency Board, Agency is authorized to enter into a grant agreement and provide funding for the purposes described in this Grant.

Accordingly, on 6/29/2020, Agency and Grantee entered into a Grant Agreement by which Agency agreed to disburse, and Grantee agreed to accept, certain CARES Act funds as more fully described in that Agreement. The parties now enter into this Amended and Restated Grant Agreement to update the period for which Grantee may seek reimbursement of eligible costs using CARES Act funds, as well as to amend the reimbursement-submission procedure.

SECTION 2: PURPOSE

Section 5001 of the CARES Act provides funds to state, local and tribal governments through the Coronavirus Relief Fund to be used for expenditures incurred due to COVID-19 during the period of March 1, 2020 through December 30, 2020 (the “Performance Period”). This Grant governs the disbursement of funds from the Coronavirus Relief Fund to Grantee for the Performance Period to reimburse the costs of the activities described in Exhibit A.

SECTION 3: EFFECTIVE DATE AND DURATION

When all Parties have executed this Grant, and all necessary approvals have been obtained (“Executed Date”), this Grant is effective and has a Grant funding start date as of March 1, 2020 (“Effective Date”), and, unless extended or terminated earlier in accordance with its terms, will expire on December 30, 2020.

SECTION 4: GRANT MANAGERS

4.1 Agency's Grant Manager is:

Gerold Floyd

Department of Administrative Services

Attention: Coronavirus Relief Fund

155 Cottage Street NE, Salem, OR 97301

Phone: 503-378-2709

Email: CoronavirusReliefFund@Oregon.gov

4.2 Grantee's Grant Manager is:

Name: Jennifer Cuellar-Smith

Address: 230 NE Second St, McMinnville, OR 97128

Phone: 503-434-2350

Email: jennifer.cuellar@mcminnvilleoregon.gov

4.3 A Party may designate a new Grant Manager by written notice to the other Party.

SECTION 5: PROJECT ACTIVITIES

To receive funds under this Grant, Grantee must perform the project activities set forth in Exhibit A (the "Project"), attached hereto and incorporated in this Grant by this reference, during the Performance Period.

SECTION 6: GRANT FUNDS

In accordance with the terms and conditions of this Grant, Agency will provide Grantee up to an amount not to exceed \$1,433,743.56 (the "Grant Funds") for eligible Project costs incurred during the Performance Period. Agency will pay the Grant Funds from monies made available through the Coronavirus Relief Fund ("Funding Source").

SECTION 7: DISBURSEMENT GENERALLY

7.1 Disbursement.

7.1.1 Subject to the availability of sufficient moneys in and from the Funding Source based on Agency's reasonable projections of moneys accruing to the Funding Source, Agency will disburse Grant Funds to Grantee for the allowable Project activities described in Exhibit A that

are undertaken during the Performance Period.

7.1.2 Grantee must provide to Agency any information or detail regarding the expenditure of Grant Funds required under Exhibit A prior to disbursement or as Agency may request.

7.2 Conditions Precedent to Disbursement. Agency’s obligation to disburse Grant Funds to Grantee under this Grant is subject to satisfaction of each of the following conditions precedent:

7.2.1 Agency has received sufficient funding, appropriations, expenditure limitation, allotments or other necessary expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement from the Funding Source;

7.2.2 No default as described in Section 15 has occurred; and

7.2.3 Grantee’s representations and warranties set forth in Section 8 are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.

7.3 No Duplicate Payment. Grantee may use other funds in addition to the Grant Funds to complete the Project; provided, however, funds received pursuant to this Grant are not used for expenditures for which a local government entity has received any other supplemental funding (whether state, federal or private in nature) for that same expense unless otherwise authorized by Agency in writing.

SECTION 8: REPRESENTATIONS AND WARRANTIES

8.1 Organization/Authority. Grantee represents and warrants to Agency that:

8.1.1 Grantee is a local government or tribal government duly organized and validly existing;

8.1.2 Grantee has all necessary rights, powers and authority under any organizational documents and under Oregon Law to (i) execute this Grant, (ii) incur and perform its obligations under this Grant, and (iii) receive financing, including the Grant Funds, for the Project;

8.1.3 This Grant has been duly executed by Grantee and when executed by Agency, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms;

8.1.4 If applicable and necessary, the execution and delivery of this Grant by Grantee has been authorized by an ordinance, order or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and

8.1.5 There is no proceeding pending or threatened against Grantee before any court or governmental authority that if adversely determined would materially adversely affect the Project or the ability of Grantee to carry out the Project.

8.2 False Claims Act. Grantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) made by (or caused by) Grantee that pertains

to this Grant or to the Project. Grantee certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges in addition to the remedies under Section 16, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee.

- 8.3 No limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

SECTION 9: OWNERSHIP

- 9.1 Intellectual Property Definitions.** As used in this Section and elsewhere in this Grant, the following terms have the meanings set forth below:

“Third Party Intellectual Property” means any intellectual property owned by parties other than Grantee or Agency.

“Work Product” means every invention, discovery, work of authorship, trade secret or other tangible or intangible item Grantee is required to create or deliver as part of the Project, and all intellectual property rights therein.

- 9.2 Grantee Ownership.** Grantee must deliver copies of all Work Product as directed in Exhibit A. Grantee retains ownership of all Work Product, and grants Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, to reproduce, to prepare derivative works based upon, to distribute, to perform and to display the Work Product, to authorize others to do the same on Agency’s behalf, and to sublicense the Work Product to other entities without restriction.
- 9.3 Third Party Ownership.** If the Work Product created by Grantee under this Grant is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee must secure an irrevocable, non-exclusive, perpetual, royalty-free license allowing Agency and other entities the same rights listed above for the pre-existing element of the Third party Intellectual Property employed in the Work Product. If state or federal law requires that Agency or Grantee grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires Agency or the United States to own the intellectual property in the Work Product, then Grantee must execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.
- 9.4 Real Property.** If the Project includes the acquisition, construction, remodel or repair of real property or improvements to real property, and if such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Grant Funds provided by section 601(d) of the Social Security Act .

SECTION 10: CONFIDENTIAL INFORMATION

- 10.1 Confidential Information Definition.** Grantee acknowledges it and its employees or agents may, in the course of performing its responsibilities, be exposed to or acquire information that is: (i) confidential to Agency or Project participants or (ii) the disclosure of which is restricted under federal or state law, including without limitation: (a) personal information, as that term is used in ORS 646A.602(12) and (b) social security numbers (items (i) and (ii) separately and collectively “Confidential Information”).
- 10.2 Nondisclosure.** Grantee agrees to hold Confidential Information as required by any applicable law and in all cases in strict confidence, using at least the same degree of care Grantee uses in maintaining the confidentiality of its own confidential information. Grantee may not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information except as is allowed by law and for the Project activities and Grantee must advise each of its employees and agents of these restrictions. Grantee must assist Agency in identifying and preventing any unauthorized use or disclosure of Confidential Information. Grantee must advise Agency immediately if Grantee learns or has reason to believe any Confidential Information has been, or may be, used or disclosed in violation of the restrictions in this Section. Grantee must, at its expense, cooperate with Agency in seeking injunctive or other equitable relief, in the name of Agency or Grantee, to stop or prevent any use or disclosure of Confidential Information. At Agency’s request, Grantee must return or destroy any Confidential Information. If Agency requests Grantee to destroy any Confidential Information, Grantee must provide Agency with written assurance indicating how, when and what information was destroyed.
- 10.3 Identity Protection Law.** Grantee must have and maintain a formal written information security program that provides safeguards to protect Confidential Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Information Protection Act, ORS 646A.600-628. If Grantee or its agents discover or are notified of a potential or actual “Breach of Security”, as defined by ORS 646A.602(1)(a), or a failure to comply with the requirements of ORS 646A.600-628, (collectively, “Breach”) with respect to Confidential Information, Grantee must promptly but in any event within one calendar day (i) notify the Agency Grant Manager of such Breach and (ii) if the applicable Confidential Information was in the possession of Grantee or its agents at the time of such Breach, Grantee must (a) investigate and remedy the technical causes and technical effects of the Breach and (b) provide Agency with a written root cause analysis of the Breach and the specific steps Grantee will take to prevent the recurrence of the Breach or to ensure the potential Breach will not recur. For the avoidance of doubt, if Agency determines notice is required of any such Breach to any individual(s) or entity(ies), Agency will have sole control over the timing, content, and method of such notice, subject to Grantee’s obligations under applicable law.
- 10.4 Subgrants/Contracts.** Grantee must require any subgrantees, contractors or subcontractors under this Grant who are exposed to or acquire Confidential Information to treat and maintain such information in the same manner as is required of Grantee under subsections 10.1 and 10.2 of this Section.
- 10.5 Background Check.** If requested by Agency and permitted by law, Grantee’s employees, agents, contractors, subcontractors, and volunteers that perform Project activities must agree to submit to

a criminal background check prior to performance of any Project activities or receipt of Confidential Information. Background checks will be performed at Grantee's expense. Based on the results of the background check, Grantee or Agency may refuse or limit (i) the participation of any Grantee employee, agent, contractor, subgrantee, or volunteer, in Project activities or (ii) access to Agency Personal Information or Grantee premises.

SECTION 11: INDEMNITY/LIABILITY

- 11.1 Indemnity.** Grantee must defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subgrantees, contractors, subcontractors, or agents under this Grant (each of the foregoing individually or collectively a "Claim" for purposes of this Section). If legal limitations apply to the indemnification ability of Grantee, this indemnification must be for the maximum amount of funds available for expenditure, including any available contingency funds, insurance, funds available under ORS 30.260 to 30.300 or other available non-appropriated funds.
- 11.2 Defense.** Grantee may have control of the defense and settlement of any Claim subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the Claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any Claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event the State of Oregon determines Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Grantee may not use any Grant Funds to reimburse itself for the defense of or settlement of any Claim.
- 11.3 Limitation.** Except as provided in this Section, neither Party will be liable for incidental, consequential, or other direct damages arising out of or related to this Grant, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither Party will be liable for any damages of any sort arising solely from the termination of this Grant in accordance with its terms.

SECTION 12: INSURANCE

- 12.1 Private Insurance.** If Grantee is a private entity, or if any contractors, subcontractors, or subgrantees used to carry out the Project are private entities, Grantee and any private contractors, subcontractors or subgrantees must obtain and maintain insurance covering Agency in the types and amounts indicated in Exhibit B.
- 12.2 Public Body Insurance.** If Grantee is a "public body" as defined in ORS 30.260, Grantee agrees to

insure any obligations that may arise for Grantee under this Grant, including any indemnity obligations, through (i) the purchase of insurance as indicated in Exhibit B or (ii) the use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated on Exhibit B, or (iii) a combination of any or all of the foregoing.

- 12.3 Real Property.** If the Project includes the construction, remodel or repair of real property or improvements to real property, Grantee must insure the real property and improvements against liability and risk of direct physical loss, damage or destruction at least to the extent that similar insurance is customarily carried by entities constructing, operating and maintaining similar property or facilities.

SECTION 13: GOVERNING LAW, JURISDICTION

This Grant is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively “Claim”) between Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Grant must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

SECTION 14: ALTERNATIVE DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Grant. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Grant. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each Party will bear its own costs incurred for any mediation or non-binding arbitration.

SECTION 15: DEFAULT

- 15.1 Grantee.** Grantee will be in default under this Grant upon the occurrence of any of the following events:
- 15.1.1** Grantee fails to use the Grant Funds for the intended purpose described in Exhibit A or otherwise fails to perform, observe or discharge any of its covenants, agreements or obligations under this Grant;
 - 15.1.2** Any representation, warranty or statement made by Grantee in this Grant or in any documents

or reports relied upon by Agency to measure the Project, the expenditure of Grant Funds or the performance by Grantee is untrue in any material respect when made; or

15.1.3 A petition, proceeding or case is filed by or against Grantee under any federal or state bankruptcy, insolvency, receivership or other law relating to reorganization, liquidation, dissolution, winding-up or adjustment of debts; in the case of a petition filed against Grantee, Grantee acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Grantee becomes insolvent or admits its inability to pay its debts as they become due, or Grantee makes an assignment for the benefit of its creditors.

15.2 Agency. Agency will be in default under this Grant if, after 15 days written notice specifying the nature of the default, Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Grant; provided, however, Agency will not be in default if Agency fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the Funding Source.

SECTION 16: REMEDIES

16.1 Agency Remedies. In the event Grantee is in default under Section 15.1, Agency may, at its option, pursue any or all of the remedies available to it under this Grant and at law or in equity, including, but not limited to: (i) termination of this Grant under Section 18.2, (ii) reducing or withholding payment for Project activities or materials that are deficient or Grantee has failed to complete by any scheduled deadlines, (iii) requiring Grantee to complete, at Grantee's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Grant, (iv) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, (v) exercise of its right of recovery of overpayments under Section 17 of this Grant or setoff, or both, or (vi) declaring Grantee ineligible for the receipt of future awards from Agency. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

16.2 Grantee Remedies. In the event Agency is in default under Section 15.2 and whether or not Grantee elects to terminate this Grant, Grantee's sole monetary remedy will be, within any limits set forth in this Grant, reimbursement of Project activities completed and accepted by Agency and authorized expenses incurred, less any claims Agency has against Grantee. In no event will Agency be liable to Grantee for any expenses related to termination of this Grant or for anticipated profits.

SECTION 17: WITHHOLDING FUNDS, RECOVERY

Agency may withhold from disbursements of Grant Funds due to Grantee, or Grantee must return to Agency within 30 days of Agency's written demand:

17.1 Any Grant Funds paid to Grantee under this Grant, or payments made under any other agreement between Agency and Grantee, that exceed the amount to which Grantee is entitled;

- 17.2 Any Grant Funds received by Grantee that remain unexpended or contractually committed for payment of the Project at the end of the Performance Period;
- 17.3 Any Grant Funds determined by Agency to be spent for purposes other than allowable Project activities; or
- 17.4 Any Grant Funds requested by Grantee as payment for deficient activities or materials.

SECTION 18: TERMINATION

- 18.1 **Mutual.** This Grant may be terminated at any time by mutual written consent of the Parties.
- 18.2 **By Agency.** Agency may terminate this Grant as follows:
 - 18.2.1 At Agency's discretion, upon 30 days advance written notice to Grantee;
 - 18.2.2 Immediately upon written notice to Grantee, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Grant;
 - 18.2.3 Immediately upon written notice to Grantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Grant is prohibited or Agency is prohibited from funding the Grant from the Funding Source; or
 - 18.2.4 Immediately upon written notice to Grantee, if Grantee is in default under this Grant and such default remains uncured 15 days after written notice thereof to Grantee.
- 18.3 **By Grantee.** Grantee may terminate this Grant as follows:
 - 18.3.1 If Grantee is a governmental entity, immediately upon written notice to Agency, if Grantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Grant.
 - 18.3.2 If Grantee is a governmental entity, immediately upon written notice to Agency, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project activities contemplated under this Grant are prohibited by law or Grantee is prohibited from paying for the Project from the Grant Funds or other planned Project funding; or
 - 18.3.3 Immediately upon written notice to Agency, if Agency is in default under this Grant and such default remains uncured 15 days after written notice thereof to Agency.
- 18.4 **Cease Activities.** Upon receiving a notice of termination of this Grant, Grantee must immediately cease all activities under this Grant, unless Agency expressly directs otherwise in such notice. Upon termination, Grantee must deliver to Agency all materials or other property that are or would be required to be provided to Agency under this Grant or that are needed to complete the Project activities that would have been performed by Grantee.

SECTION 19: MISCELLANEOUS

- 19.1 Conflict of Interest.** Grantee by signature to this Grant declares and certifies the award of this Grant and the Project activities to be funded by this Grant, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer or employee of Grantee.
- 19.2 Nonappropriation.** Agency's obligation to pay any amounts and otherwise perform its duties under this Grant is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Grant. Nothing in this Grant may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.
- 19.3 Amendments.** The terms of this Grant may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.
- 19.4 Notice.** Except as otherwise expressly provided in this Grant, any notices to be given under this Grant must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Manager at the physical address or email address set forth in this Grant, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.
- 19.5 Survival.** All rights and obligations of the Parties under this Grant will cease upon termination of this Grant, other than the rights and obligations arising under Sections 11, 13, 14, 16, 17 and subsection 19.5 hereof and those rights and obligations that by their express terms survive termination of this Grant; provided, however, termination of this Grant will not prejudice any rights or obligations accrued to the Parties under this Grant prior to termination.
- 19.6 Severability.** The Parties agree if any term or provision of this Grant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Grant did not contain the particular term or provision held to be invalid.
- 19.7 Counterparts.** This Grant may be executed in several counterparts, all of which when taken together constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Grant so executed constitutes an original.
- 19.8 Compliance with Law.** In connection with their activities under this Grant, the Parties must comply with all applicable federal, state and local laws.
- 19.9 Intended Beneficiaries.** Agency and Grantee are the only parties to this Grant and are the only parties entitled to enforce its terms. Nothing in this Grant provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended

beneficiaries of this Grant.

- 19.10 Assignment and Successors.** Grantee may not assign or transfer its interest in this Grant without the prior written consent of Agency and any attempt by Grantee to assign or transfer its interest in this Grant without such consent will be void and of no force or effect. Agency's consent to Grantee's assignment or transfer of its interest in this Grant will not relieve Grantee of any of its duties or obligations under this Grant. The provisions of this Grant will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.
- 19.11 Contracts and Subgrants.** Grantee may enter into contracts or subgrants for any of the Project activities required of Grantee under this Grant, however Grantee is required to communicate subgrantee information to Agency in such a manner and timing as prescribed by Agency that Agency considers necessary to fulfill its federal reporting obligations.
- 19.12 Time of the Essence.** Time is of the essence in Grantee's performance of the Project activities under this Grant.
- 19.13 Records Maintenance and Access.** Grantee must maintain all financial records relating to this Grant in accordance with generally accepted accounting principles. In addition, Grantee must maintain any other records, whether in paper, electronic or other form, pertinent to this Grant in such a manner as to clearly document Grantee's performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Grant, are collectively referred to as "Records." Grantee acknowledges and agrees Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Grant, or until the conclusion of any audit, controversy or litigation arising out of or related to this Grant, whichever date is later.
- 19.14 Headings.** The headings and captions to sections of this Grant have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Grant.
- 19.15 Grant Documents.** This Grant consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:
- This Grant less all exhibits
 - Exhibit A (the "Project")
 - Exhibit B (Insurance)
 - Exhibit C (Federal Terms and Conditions)
 - Exhibit D (Federal Award Identification)
- 19.16 Merger, Waiver.** This Grant and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant. No waiver or consent under this Grant binds either Party unless in writing and signed by both Parties.

Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

SECTION 20: SIGNATURES

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES IT HAS READ THIS GRANT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. The Parties further agree that by the exchange of this Grant electronically, each has agreed to the use of electronic means, if applicable, instead of the exchange of physical documents and manual signatures. By inserting an electronic or manual signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Grant and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

IN WITNESS WHEREOF, the Parties have executed this Grant as of the dates set forth below.

STATE OF OREGON acting by and through its Department of Administrative Services

By: 
George Naughton, Chief Financial Officer

July 29, 2020
Date

City of McMinnville
By: 
Authorized Signature

July 29, 2020
Date

Jeff Towery
Printed Name

City Manager
Title

93-600 220 4
Federal Tax ID Number

085256626
DUNS Number

Approved for Legal Sufficiency in accordance with ORS 291.047

By: s/Sam Zeigler
Senior Assistant Attorney General
Oregon Department of Justice

bx email dated 7/7/20
Date

EXHIBIT A THE PROJECT

SECTION I. BACKGROUND AND GOALS

To support local government actions in the statewide fight against the Coronavirus by providing reimbursement of federally eligible expenses under the CARES Act. Coronavirus Relief Funds may be used to cover costs that are:

- 1. Necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);*
- 2. Were not accounted for in the Grantee's budget most recently approved as of March 27, 2020; and*
- 3. Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.*

SECTION II. PROJECT ACTIVITIES, SCHEDULE, AND BUDGET

Agency will disburse Grant Funds only for eligible costs incurred by Grantee for the Performance Period and in accordance with criteria and guidance established by US Treasury:

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

Additionally, the US Treasury has provided answers to frequently asked questions regarding eligible costs under the Coronavirus Relief Fund:

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>

Indirect/Administrative Costs. Grantee will not be reimbursed for any indirect costs with Grant Funds in accordance with U.S. Treasury guidance. The information described in this paragraph overrides any other verbal or written rate(s) or information provided by Agency

SECTION III. RESERVED

SECTION IV. REPORTING REQUIREMENTS

In a form provided by Agency, Grantee shall report eligible costs to Agency when seeking reimbursement for costs incurred during the Performance Period. Agency may require additional reporting in form and at such times as Agency specifies by notification to Grantee through its Grant Manager identified in Section 4.2.

If the Performance Period begins prior to the Executed Date, any reports for Project activities shown in this Exhibit A as due prior to the Executed Date must be provided to Agency, if not already provided to Agency despite the lack of an executed Grant. Grantee will not be in default for failure to perform any reporting requirements prior to the Executed Date.

SECTION V. DISBURSEMENT PROVISIONS

Agency will disburse the Grant Funds upon receipt and approval of Grantee's request for disbursement.

To be processed for payment, Grantee's request must include the following information at the minimum:

- Request date;
- Period covered by request;
- Agency's Grant number;
- Amount being requested; and
- Aggregated costs by available cost category.

Agency may request, at its discretion, additional information it considers necessary to determine the eligibility of costs for reimbursement. Reimbursement requests shall be submitted via an Agency-developed grant website portal, if operable and available, otherwise, Grantee must send its requests for disbursement via email to the Agency's Grant Manager identified in Section 4.

EXHIBIT B INSURANCE

INSURANCE REQUIREMENTS

Grantee must obtain at Grantee’s expense, and require its first tier contractors and subgrantees, if any, to obtain the insurance specified in this exhibit prior to performing under this Grant, and must maintain it in full force and at its own expense throughout the duration of this Grant, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Grantee must obtain and require its first tier contractors and subgrantees, if any, to obtain the following insurance from insurance companies or entities acceptable to Agency and authorized to transact the business of insurance and issue coverage in Oregon. Coverage must be primary and non-contributory with any other insurance and self-insurance, with the exception of professional liability and workers’ compensation. Grantee must pay and require its first tier contractors and subgrantees to pay, if any, for all deductibles, self-insured retention and self-insurance, if any.

WORKERS’ COMPENSATION

All employers, including Grantee, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers’ compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Grantee shall require and ensure that each of its subgrantees, contractors, and subcontractors complies with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee shall also obtain employers’ liability insurance coverage with limits not less than \$500,000 each accident. If Grantee is an employer subject to any other state’s workers’ compensation law, Grantee shall provide workers’ compensation insurance coverage for its employees as required by applicable workers’ compensation laws including employers’ liability insurance coverage with limits not less than \$500,000, and shall require and ensure that each of its out-of-state subgrantees, contractors, and subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY

Required **Not required**

Commercial general liability insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to Agency. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit may not be less than \$2,000,000.

AUTOMOBILE LIABILITY INSURANCE

Required **Not required**

Automobile liability insurance covering Grantee’s business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability). Use of

personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY

Required Not required

Professional liability insurance covering any damages caused by an error, omission or any negligent acts related to the activities performed under this Grant by the Grantee and Grantee's contractors, subgrantees, agents, officers or employees in an amount not less than \$_____ per claim. Annual aggregate limit may not be less than \$_____. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the professional liability insurance coverage, or the Grantee must provide tail coverage as stated below.

NETWORK SECURITY AND PRIVACY LIABILITY

Required Not required

Grantee must provide network security and privacy liability insurance for the duration of the Grant and for the period of time in which Grantee (or its business associates, contractors, or subgrantees) maintains, possesses, stores or has access to Agency or client data, whichever is longer, with a combined single limit of no less than \$_____ per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of Agency or client data (which may include, but is not limited to, Personally Identifiable Information ("PII"), payment card data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of Agency data.

POLLUTION LIABILITY

Required Not required

Pollution liability insurance covering Grantee's or appropriate contractor or subgrantee's liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related cleanup costs incurred by Grantee, all arising out of the Project activities (including transportation risk) performed under this Grant is required. Combined single limit per occurrence may not be less than \$_____. Annual aggregate limit may not be less than \$_____.

An endorsement to the commercial general liability or automobile liability policy, covering Grantee's, contractor, or subgrantee's liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related clean-up costs incurred by Grantee that arise from the Project activities (including transportation risk) performed by Grantee under this Grant is also acceptable.

DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY

Required Not required

Directors, officers and organization liability insurance covering the Grantee's organization, directors, officers, and trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of Grant Funds and donor contributions - with a combined single limit of no less than \$_____ per claim.

CRIME PROTECTION COVERAGE: EMPLOYEE DISHONESTY or FIDELITY BOND

Required Not required

Employee dishonesty or fidelity bond covering loss of money, securities and property caused by dishonest acts of Grantee’s employees. Coverage limits may not be less than \$_____.

PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE

Required Not required

Abuse and molestation insurance in a form and with coverage satisfactory to the State covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee, its contractors, subcontractors or subgrantees (“Covered Entity”) is responsible including but not limited to any Covered Entity’s employees and volunteers. Policy endorsement’s definition of an insured must include the Covered Entity and its employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than \$_____ per occurrence. Any annual aggregate limit may not be less than \$_____. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

EXCESS/UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED

All liability insurance, except for workers’ compensation, professional liability, and network security and privacy liability (if applicable), required under this Grant must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Grantee’s activities to be performed under this Grant. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Grantee’s ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

WAIVER OF SUBROGATION

Grantee waives, and must require its first tier contractors and subgrantees waive, rights of subrogation which Grantee, Grantee’s first tier contractors and subgrantees, if any, or any insurer of Grantee may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Grantee must obtain, and require its first tier contractors and subgrantees to obtain, any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Grantee or the Grantee’s insurer(s).

TAIL COVERAGE

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Grantee must maintain, and require its first tier contractors and subgrantees, if any, maintain, either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this Grant, for a minimum of 24 months following the later of (i) Grantee's completion and Agency's acceptance of all Project activities required under this Grant, or, (ii) Agency or Grantee termination of Grant, or, (iii) the expiration of all warranty periods provided under this Grant.

CERTIFICATE(S) AND PROOF OF INSURANCE

At Agency's request, Grantee must provide to Agency a Certificate(s) of Insurance for all required insurance. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance, Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant. Grantee must furnish acceptable insurance certificates to: CoronavirusReliefFund@oregon.gov or by mail to: Department of Administrative Services, Attention: Coronavirus Relief Fund, 155 Cottage Street NE, Salem, OR, 97301 prior to commencing the work.

NOTICE OF CHANGE OR CANCELLATION

Grantee or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW

Grantee agrees to periodic review of insurance requirements by Agency under this Grant, and to provide updated requirements as mutually agreed upon by Grantee and Agency.

STATE ACCEPTANCE

All insurance providers are subject to Agency acceptance. If requested by Agency, Grantee must provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this exhibit.

EXHIBIT C

FEDERAL TERMS AND CONDITIONS

1. FEDERAL FUNDS

1.1. If specified below, Agency's payments to Grantee under this Grant will be paid in whole or in part by funds received by Agency from the United States Federal Government. If so specified then Grantee, by signing this Grant, certifies neither it nor its employees, contractors, subcontractors or subgrantees who will perform the Project activities are currently employed by an agency or department of the federal government.

Payments will will not be made in whole or in part with federal funds.

1.2. In accordance with the Chief Financial Office's Oregon Accounting Manual, policy 30.40.00.104, Agency has determined:

Grantee is a subrecipient Grantee is a contractor Not applicable

1.3. Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Grant: 21.019

2. FEDERAL PROVISIONS

2.1. The use of all federal funds paid under this Grant are subject to all applicable federal regulations, including the provisions described below.

2.2. Grantee must ensure that any further distribution or payment of the federal funds paid under this Grant by means of any contract, subgrant, or other agreement between Grantee and another party for the performance of any of the activities of this Grant, includes the requirement that such funds may be used solely in a manner that complies with the provisions of this Grant.

2.3. Grantee must include and incorporate the provisions described below in all contracts and subgrants that may use, in whole or in part, the funds provided by this Grant.

2.4. Grantee must comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Grantee must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712.

In accordance with U.S. Treasury guidance – Grantee is subject to the following provisions, as applicable.

For purposes of these provisions, the following definitions apply:

“Contract” means this Grant or any contract or subgrant funded by this Grant.

“Contractor” and **“Subrecipient”** and **“Non-Federal entity”** mean Grantee or Grantee's contractors or subgrantees, if any.

(A) 2 CFR §200.303 Internal Controls

(B) 2 CFR §§ 200.330 through 200.332 Subrecipient Monitoring and Management

(C) Subpart F – Audit Requirements of 2 CFR §200.5XX

i. Contractor must comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.

ii. If Contractor receives federal awards in excess of \$750,000 in a fiscal year, Contractor is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to Agency within 30 days of completion.

iii. Contractor must save, protect and hold harmless Agency from the cost of any audits or special investigations performed by the Secretary of State with respect to the funds expended under this Contract. Contractor acknowledges and agrees that any audit costs incurred by Contractor as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Contractor and State.

(D) System for Award Management. Grantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. The Grantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the Grantee) the unique entity identifier required for SAM registration.

3. ADDITIONAL FEDERAL REQUIREMENTS

None.

EXHIBIT D FEDERAL AWARD IDENTIFICATION (Required by 2 CFR 200.331(a))

| | |
|---|---|
| (i) Grantee Name: <i>(must match DUNS registration)</i> | MCMINNVILLE, CITY OF |
| (ii) Grantee's DUNS number: | 085256626 |
| (iii) Federal Award Identification Number (FAIN): | |
| (iv) Federal award date: <i>(date of award to DAS by federal agency)</i> | March 27, 2020 |
| (v) Grant period of performance start and end dates: | Start: March 1, 2020 End: December 30, 2020 |
| (vi) Total amount of federal funds obligated by this Grant: | |
| (vii) Total amount of federal award committed to Grantee by Agency: <i>(amount of federal funds from this FAIN committed to Grantee)</i> | \$1,433,743.56 |
| (viii) Federal award project description: | Coronavirus Relief Fund |
| (ix) Federal awarding agency: | U.S. Department of the Treasury |
| Name of pass-through entity: | Oregon Department of Administrative Services |
| Contact information for awarding official of pass-through entity: | Gerold Floyd, CoronavirusReliefFund@Oregon.gov |
| (x) CFDA number, name, and amount: | Number: 21.019 Name: Coronavirus Relief Fund Amount: \$1,388,506,837.10 |
| (xi) Is award research and development? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| (xii) Indirect cost rate: | Not allowed per U.S. Treasury guidance |
| Is the 10% de minimis rate being used per §200.414? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND
March 2020

| FUND # | FUND NAME | GENERAL OPERATING | | |
|-------------|--------------------------------|-------------------|------------------|------------------|
| | | CASH IN BANK | INVESTMENT | TOTAL |
| 01 | General | \$1,174,815.58 | \$8,876,653.74 | \$10,051,469.32 |
| 05 | Special Assessment | \$85.43 | \$143,618.82 | \$143,704.25 |
| 07 | Transient Lodging Tax | \$326.15 | (\$1,000.00) | (\$673.85) |
| 10 | Telecommunications | \$897.13 | \$1,030.00 | \$1,927.13 |
| 15 | Emergency Communications | \$236.31 | (\$81,905.19) | (\$81,668.88) |
| 20 | Street (State Tax) | \$155.33 | \$1,829,206.77 | \$1,829,362.10 |
| 25 | Airport Maintenance | \$40.77 | \$667,749.03 | \$667,789.80 |
| 45 | Transportation | \$139.89 | \$6,066,179.67 | \$6,066,319.56 |
| 50 | Park Development | \$171.85 | \$1,360,840.59 | \$1,361,012.44 |
| 58 | Urban Renewal | \$249.31 | \$213,562.51 | \$213,811.82 |
| 59 | Urban Renewal Debt Service | \$493.35 | \$330,022.58 | \$330,515.93 |
| 60 | Debt Service | \$899.22 | \$1,172,847.62 | \$1,173,746.84 |
| 70 | Building | \$663.68 | \$1,452,500.00 | \$1,453,163.68 |
| 75 | Wastewater Services | \$68.09 | \$2,146,226.36 | \$2,146,294.45 |
| 77 | Wastewater Capital | \$740.92 | \$31,814,103.65 | \$31,814,844.57 |
| 79 | Ambulance | \$519.09 | (\$1,065,164.72) | (\$1,064,645.63) |
| 80 | Information Systems & Services | \$691.24 | \$219,886.68 | \$220,577.92 |
| 85 | Insurance Reserve | \$892.82 | \$1,396,290.54 | \$1,397,183.36 |
| CITY TOTALS | | 1,182,086.16 | 56,542,648.65 | 57,724,734.81 |

| MATURITY DATE | INSTITUTION | TYPE OF INVESTMENT | INTEREST RATE | CASH VALUE |
|---------------|----------------------------|---|---------------|-------------------------|
| N/A | Key Bank of Oregon | Checking & Repurchase Sweep Account | 0.40% | \$ 1,182,086.16 |
| N/A | Key Bank of Oregon | Money Market Savings Account | 0.02% | \$ 8,035,126.16 |
| N/A | State of Oregon | Local Government Investment Pool (LGIP) | 2.08% | \$ 44,770,957.16 |
| N/A | State of Oregon | Park Improvement Bonds (LGIP) | 2.08% | \$ 405,218.83 |
| N/A | State of Oregon | Transportation Bond (LGIP) | 2.08% | \$ 2,356,965.25 |
| N/A | State of Oregon | Urban Renewal Loan Proceeds (LGIP) | 2.08% | \$ 266,740.25 |
| N/A | MassMutual Financial Group | Group Annuity | 3.00% | \$ 707,641.00 |
| | | | | <u>\$ 57,724,734.81</u> |

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CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND
April 2020

| FUND # | FUND NAME | GENERAL OPERATING | | |
|-------------|--------------------------------|-------------------|------------------|------------------|
| | | CASH IN BANK | INVESTMENT | TOTAL |
| 01 | General | \$1,925,635.64 | \$6,770,439.20 | \$8,696,074.84 |
| 05 | Special Assessment | \$575.25 | \$142,618.82 | \$143,194.07 |
| 07 | Transient Lodging Tax | \$577.43 | \$41,000.00 | \$41,577.43 |
| 10 | Telecommunications | \$899.21 | \$1,030.00 | \$1,929.21 |
| 15 | Emergency Communications | \$51.09 | (\$80,905.19) | (\$80,854.10) |
| 20 | Street (State Tax) | \$814.51 | \$1,761,189.58 | \$1,762,004.09 |
| 25 | Airport Maintenance | \$330.23 | \$619,749.03 | \$620,079.26 |
| 45 | Transportation | \$539.24 | \$6,078,576.66 | \$6,079,115.90 |
| 50 | Park Development | \$373.16 | \$1,394,424.61 | \$1,394,797.77 |
| 58 | Urban Renewal | \$556.58 | \$209,946.95 | \$210,503.53 |
| 59 | Urban Renewal Debt Service | \$537.20 | \$326,699.43 | \$327,236.63 |
| 60 | Debt Service | \$167.23 | \$1,193,985.55 | \$1,194,152.78 |
| 70 | Building | \$244.31 | \$1,440,500.00 | \$1,440,744.31 |
| 75 | Wastewater Services | \$189.67 | \$2,261,385.65 | \$2,261,575.32 |
| 77 | Wastewater Capital | \$882.48 | \$32,292,103.65 | \$32,292,986.13 |
| 79 | Ambulance | \$696.48 | (\$1,097,164.72) | (\$1,096,468.24) |
| 80 | Information Systems & Services | \$855.04 | \$219,886.68 | \$220,741.72 |
| 85 | Insurance Reserve | \$194.67 | \$1,344,290.54 | \$1,344,485.21 |
| CITY TOTALS | | 1,934,119.42 | 54,919,756.44 | 56,853,875.86 |

| MATURITY | | | INTEREST | |
|----------|----------------------------|---|----------|-------------------------|
| DATE | INSTITUTION | TYPE OF INVESTMENT | RATE | CASH VALUE |
| N/A | Key Bank of Oregon | Checking & Repurchase Sweep Account | 0.20% | \$ 1,934,119.42 |
| N/A | Key Bank of Oregon | Money Market Savings Account | 0.02% | \$ 8,035,192.02 |
| N/A | State of Oregon | Local Government Investment Pool (LGIP) | 1.76% | \$ 43,143,740.49 |
| N/A | State of Oregon | Park Improvement Bonds (LGIP) | 1.76% | \$ 405,802.85 |
| N/A | State of Oregon | Transportation Bond (LGIP) | 1.76% | \$ 2,360,362.24 |
| N/A | State of Oregon | Urban Renewal Loan Proceeds (LGIP) | 1.76% | \$ 267,124.69 |
| N/A | MassMutual Financial Group | Group Annuity | 3.00% | \$ 707,534.15 |
| | | | | <u>\$ 56,853,875.86</u> |

\$ -



| |
|--|
| City Recorder Use |
| Final Action: |
| <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved |

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: American Sake Co LLC: DBA SOGOOD Sake
BUSINESS LOCATION ADDRESS: 2803 NE Orchard Ave
LIQUOR LICENSE TYPE: Winery 1st Location

Is the business at this location currently licensed by OLCC

Yes No

If yes, what is the name of the existing business:

Hours of operation: Monday – Friday 9 am to 5 pm
Entertainment: N/A
Hours of Music: N/A
Seating Count: N/A

EXEMPTIONS:
(list any exemptions)

Tritech Records Management System Check: Yes No
Criminal Records Check: Yes No
Recommended Action: Approve Disapprove

Chief of Police / Designee

City Manager / Designee



Read: Important

Oregon law requires that every applicant for a liquor license obtain a written recommendation from the governing body of the county if the place of business of the applicant is outside the incorporated city, or from the city council if the place of business of the applicant is within an incorporated city. **You must take the attached application forms to the appropriate governing body.** After the endorsement process is completed, a representative from the city or county will contact you to pick up the application. You may deliver the application to the OLCC office or retain it until it is requested by the license investigator.

Oregon Liquor Control Commission
200 Hawthorne Avenue SE, Suite B-210, Salem, OR. 97301
Questions, Call (503) 378-4871



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

| License Applied For: | CITY AND COUNTY USE ONLY |
|--|---|
| <input type="checkbox"/> Brewery 1st Location | Date application received and/or date stamp: <u>7/23/2020</u> |
| <input type="checkbox"/> Brewery 2nd Location | Name of City or County: _____ |
| <input type="checkbox"/> Brewery 3rd Location | Recommends this license be: <input type="checkbox"/> Granted <input type="checkbox"/> Denied |
| <input type="checkbox"/> Brewery-Public House 1st Location | By: _____ |
| <input type="checkbox"/> Brewery-Public House 2nd Location | Date: _____ |
| <input type="checkbox"/> Brewery-Public House 3rd Location | |
| <input type="checkbox"/> Distillery | |
| <input type="checkbox"/> Full On-Premises, Commercial | |
| <input type="checkbox"/> Full On-Premises, Caterer | |
| <input type="checkbox"/> Full On-Premises, Passenger Carrier | |
| <input type="checkbox"/> Full On-Premises, Other Public Location | |
| <input type="checkbox"/> Full On-Premises, For Profit Private Club | |
| <input type="checkbox"/> Full On-Premises, Nonprofit Private Club | |
| <input type="checkbox"/> Grower Sales Privilege 1st Location | |
| <input type="checkbox"/> Grower Sales Privilege 2nd Location | |
| <input type="checkbox"/> Grower Sales Privilege 3rd Location | |
| <input type="checkbox"/> Limited On-Premises | |
| <input type="checkbox"/> Off-Premises | |
| <input type="checkbox"/> Off-Premises with Fuel Pumps | |
| <input type="checkbox"/> Warehouse | |
| <input type="checkbox"/> Wholesale Malt Beverage & Wine | |
| <input checked="" type="checkbox"/> Winery 1st Location | |
| <input type="checkbox"/> Winery 2nd Location | |
| <input type="checkbox"/> Winery 3rd Location | |
| <input type="checkbox"/> Winery 4th Location | |
| <input type="checkbox"/> Winery 5th Location | |

OLCC USE ONLY

Date application received:

7-15-20

By: Orville

License Action(s):

NID

RECEIVED
OREGON LIQUOR CONTROL COMMISSION

JUL 15 2020

SALEM REGIONAL OFFICE

2. Identify the applicant(s) applying for the license(s). ENTITY (example: corporation or LLC) or INDIVIDUAL(S) applying for the license(s):

The AMERICAN SAKE CO, LLC
 (Applicant #1) _____ (Applicant #2) _____
 _____ (Applicant #3) _____ (Applicant #4) _____

3. Trade Name of the Business (Name Customers Will See)
 SOGOOD Sake

4. Business Address (Number and Street Address of the Location that will have the liquor license)
 2803 NE Orchard Avenue

| | | |
|-------------|---------|----------|
| City | County | Zip Code |
| McMinnville | Yamhill | 97128 |

RESOLUTION NO. 2020-49

A Resolution Approving the Appointment of a new City Attorney.

RECITALS:

WHEREAS, City Manager Jeffrey R. Towery has conditionally appointed Amanda Guile-Hinman as City Attorney with service commencing on August 3, 2020; and

WHEREAS, City Manager Towery has recommended that the City Council approve his recommended appointments as provided by Section 11 of the City Charter.

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

1. City Manager Towery’s recommended appointment of Amanda Guile-Hinman with service commencing on August 3, 2020, is hereby approved.
2. This Resolution will take effect immediately upon passage and shall continue in full force and effect until revoked or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 11th day of August, 2020, by the following votes:

Ayes: _____

Nays: _____

Abstain: _____

Approved this 11th day of August 2020.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder



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

STAFF REPORT

DATE: August 11, 2020
TO: Mayor and City Councilors
FROM: Heather Richards, Planning Director
SUBJECT: Resolution No. 2020-47, Amending the Planning Department Fee Schedule to Add Grading Permit and Plan Review Fees and House Relocation Fees

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

Report in Brief:

This is the consideration of Resolution No. 2020-47, a resolution amending the Planning Department Fee Schedule to add grading permit and plan review fees and house relocation permit fees.

Background:

On July 28, 2020, City Council adopted Ordinance No. 5093, amending Title 15 of the McMinnville Municipal Code, "Buildings and Construction".

As part of the code amendments, the City adopted the International Building Code, Appendix J, Grading, in anticipation of the need for specialized grading permits in certain buildable areas of the community. As such, the City needs to adopt a fee schedule for the administration of the grading program for plan review and permits.

Additionally, the City amended and updated the House Relocation provisions of this chapter of the McMinnville Municipal Code, and the fees for a house relocation permit were relocated to the fee schedule.

Discussion:

This fee schedule anticipates a full cost recovery for the grading permit and plan review fees per the Building Program's policy of permit full cost recovery, and a 55% cost recovery for the House Relocation permit review per the Planning Program's policy of permit cost recovery.

The fee schedule also includes a refundable deposit of \$5,000 for the house relocation permit.

Attachments:

Resolution No, 2020-47

Fiscal Impact:

This fee amendment will capture 100% permit and plan review cost recovery for grading and excavation permitting on private property, and 55% cost recovery for House Relocation permits.

Recommendation:

Staff recommends approval of Resolution No. 2020-47.

RESOLUTION NO. 2020-47

A Resolution amending the Planning Department Fee Schedule, adding Grading and Excavation Plan Review and Permit Fees, and House Relocation Permit Fees.

RECITALS:

WHEREAS, The City of McMinnville in an effort to provide for the welfare, safety and health of the citizens of the City of McMinnville established a Buildings and Construction chapter of the McMinnville City Code; and

WHEREAS, The City of McMinnville in order to ensure timely administration and management of the Buildings and Construction program established a fee schedule for full cost recovery on permit reviews and inspections; and

WHEREAS, As part of that fee schedule, the City of McMinnville is interested in establishing fees for review of grading and excavation permits on private property, as well as for relocating a residential structure in the City of McMinnville.

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

1. That the City of McMinnville’s Planning Department Fee Schedule will be amended by adding the following fees attached as Exhibit “A” to this Resolution. .
2. That this fee schedule will take effect immediately.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 11th day of August, 2020 by the following votes:

Ayes: _____

Nays: _____

Abstain: _____

Approved this 11th day of August 2020.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder



City of McMinnville
 Code Compliance and Community Relations Division
 231 NE Fifth Street
 McMinnville, OR 97128
 (503) 434-7311

www.mcminnvilleoregon.gov

EXHIBIT A

CITY OF MCMINNVILLE PLANNING DEPARTMENT

FEE SCHEDULE:

ADDITIONS TO THE FEE SCHEDULE

| GRADING PLAN REVIEW | FEE |
|--|--|
| 50 cubic yards or less | \$75.00 |
| 51 to 100 cubic yards | \$85.00 |
| 101 to 1000 cubic yards | \$105.00 |
| 1,001 to 10,000 cubic yards | \$155.00 |
| 10,000 to 100,000 cubic yards | \$155.00 (for the first 10,000 cubic yards) + \$50.00 (for each additional 10,000 cubic yards or fraction thereof.) |
| 100,001 cubic yards or more | \$605.00 (for the first 100,000 cubic yards) + \$10.00 (for each additional 10,000 cubic yards or fraction thereof.) |
| | |
| GRADING PERMITS | FEE |
| 50 cubic yards or less | \$75.00 |
| 51 to 100 cubic yards | \$85.00 |
| 101 to 1000 cubic yards | \$155.00 |
| 1,001 or more | \$155.00 (for the first 1,000 cubic yards) + \$20.00 (for each additional 1,000 cubic yards or fraction thereof.) |
| | |
| HOUSE RELOCATION FEES | FEE |
| House Relocation Permit Application | \$500.00 |
| Refundable Deposit for House Relocation Permit | \$5,000.00 |



City of McMinnville
Finance Department
 230 NE Second Street
 McMinnville, OR 97128
 (503) 434-2350
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 11, 2020
TO: Jeff Towery, City Manager
FROM: Jennifer Cuellar, Finance Director and Heather Richards, Planning Director
SUBJECT: FY2020-21 Supplemental Budget Hearing and Resolution for the Special Assessment Fund to appropriate \$200,000 in small business relief grants due to Covid-19 impacts

STRATEGIC PRIORITIES & GOALS:

| | |
|--|---|
|  <p>CITY GOVERNMENT CAPACITY Strengthen the City's ability to prioritize & deliver municipal services with discipline and focus.</p> |  <p>COMMUNITY SAFETY & RESILIENCY Proactively plan for & responsively maintain a safe & resilient community.</p> |
|  <p>ECONOMIC PROSPERITY Provide economic opportunity for all residents through sustainable growth across a balanced array of traditional and innovative industry sectors.</p> |  <p>ENGAGEMENT & INCLUSION Create a culture of acceptance & mutual respect that acknowledges differences & strives for equity.</p> |

Report in Brief:

This is the consideration of Resolution No. 2020-50, a resolution approving a FY 2020-21 Supplemental Budget for the Special Assessment Fund for an Emergency Business Assistance Grant program, making supplemental appropriations, and authorizing the City Manager to sign a contract with Biz Oregon for the funds.

Background:

The Oregon Legislature, in partnership with the Governor, allocated \$5 million from the State General Fund, which combined with \$5 million redirected from existing state programs, created \$10 million in funds for the purposed of providing financial assistance to small businesses adversely affected by economic conditions associated with the COVID-19 pandemic that have not received federal emergency assistance under the federal CARES Act of the other federal programs for emergency pandemic funding.

Biz Oregon released these funds with three different rounds of application solicitations from cities, counties, economic improvement districts and community development financial institutions.

All requests for funds needed to be matched by the applicant and needed to be disbursed within 45 (forty-five) days of contract execution in the following manner.

Local Program Funding Priorities

Local assistance programs are expected to make one-time-only awards to businesses as follows:

- Businesses that have been adversely affected economically in one of the following two categories:

- Those for-profit and non-profit (limited to 501(c)(3) corporations) businesses that were prohibited from operation as directed by Executive Order 20-12.
- Those eligible for-profit businesses that can demonstrate a one-month decline in revenue greater than 50% in the month of March 2020 or April 2020 as compared against sales in the month of January 2020 or February 2020. Those non-profit businesses (limited to 501(c)(3) corporations) that can demonstrate a decline in revenue greater than 50% across the months of March 2020 and April 2020 as compared against the same period of time in 2019.
- Businesses with 25 or fewer employees.
- Businesses that have been unable to access federal CARES Act funds including:
 - Small Business Administration's Paycheck Protection Program (PPP);
 - Economic Injury Disaster Loan Emergency Advance program (EIDL); or
 - Other federal programs to date for emergency pandemic funding.

Ineligibility Factors

- Passive real estate holding companies and others holding passive investments.
- Non-profit entities that do not have federal 501(c)(3) status.
- Businesses that are delinquent on federal, state or local taxes that were due before April 1, 2020.
- Businesses that do not comply with all federal, state and local laws and regulations. Businesses not headquartered and with principal operations in Oregon.
- Businesses not registered to do business in Oregon (Secretary of State Business Registry verification) if such registration is required.

Program Design

Awards to eligible businesses will be made as a grant. The amount of the grant will be the greater of two figures based on an applicant's ability and desire to submit support documentation: the first based on the number of employees before the COVID-19 crisis (as of February 29, 2020); or the second based on the documented amount of fixed operating expenses for the 60 day period of January 1 through February 29, 2020:

- 0-5 employees
 - \$2,500, or
 - 60-day fixed expenses up to a maximum of \$5,000.
- 6-10 employees
 - \$5,000, or
 - 60-day fixed expenses up to a maximum of \$10,000.
- 11-15 employees
 - \$7,500, or
 - 60-day fixed expenses up to a maximum of \$15,000.
- 16-20 employees
 - \$10,000, or
 - 60-day fixed expenses up to a maximum of \$20,000.
- 20-25 employees
 - \$12,500, or
 - 60-day fixed expenses up to a maximum of \$25,00

The City of McMinnville applied for and received \$100,000 in funds that will be matched by \$100,000 in funds locally for a total funding program of \$200,000.

The application was developed in partnership with McMinnville's Economic Development Stable Table partners (McMinnville Economic Development Partnership, McMinnville Chamber of Commerce, Visit McMinnville, and the McMinnville Downtown Association), based on the following need:

McMinnville is the largest employment center (15,000 jobs prior to the Pandemic) in Yamhill County. We have over 1600 businesses in McMinnville, most of which are small businesses employing our residents and serving as the foundation of our economy. Since March, 2020, our unemployment has increased to 13.2%. The largest cohort of unemployment claims are in the age groups of 25 – 44 years old, impacting our families. The overwhelming number of unemployment claims has been, not unexpectedly, in our accommodation and food services businesses as well as our retail businesses.

Per the City's application, upon the execution of the contract, the City will market the program to city businesses for ten days. Then the City will solicit applications for four days, vet the applications for meeting the qualifying criteria and then share the qualifying applications with the Economic Vitality Leadership Council for decision-making and award.

The City will strive to target businesses owned by historically disadvantaged population groups in its marketing and distribution program, as well as sole proprietors.

Applications will be accepted both electronically and in hard copy. The City will provide a dedicate staff person (Planning Department Permit Technician) and phone line for those applicants who have questions about filling out the application and translation services will also be provided.

Funds will be available for distribution to all qualifying businesses within the City of McMinnville.

The Economic Vitality Leadership Council will meet on Wednesday, August 5th, to discuss any further details that the City may want to add to the program, such as whether or not there will be any additional local parameters for the grant program.

Discussion of Hearing and Resolution Actions:

Oregon Revised Statute (ORS) 294.471 allows a local government to prepare a supplemental budget when state or federal funds are made available that were unknown at the time the budget was prepared. Oregon Business awarded the City the grant in July 2020, a date subsequent to the completion of the FY2020-21 budget process.

When a supplemental budget changes a fund's expenditures by more than 10%, a public hearing is required. The Special Assessment Fund's appropriation will change by more than 10%. Notice of the public hearing was published on July 31, 2020, more than five days prior to the hearing on Aug 11, 2020.

Fiscal Impact:

The City of McMinnville will be fully reimbursed for the cost of the program so no negative impact on its financial condition will be felt.

Businesses within the city limits will receive an injection of \$200,000, mitigating some of the significant economic impacts of the public health emergency. Because the program will prioritize awards for

businesses owned by historically disadvantaged populations, the grants will also help stave off the loss of intergenerational wealth that small businesses create in the community.

Attachments:

- Resolution No. 2020-50, FY 2020-21 Supplemental Budget for the Special Assessment Fund
- Hearing Notice for the FY 2020-21 Supplemental Budget for the Special Assessment Fund
- Biz Oregon Request for Proposal for Emergency Business Assistance Grant
- City of McMinnville Application for Emergency Business Assistance Grant
- City of McMinnville Emergency Business Assistance Grant Award Letter

Recommendation: Staff recommends adoption of Resolution No. 2020-50.

RESOLUTION NO. 2020 - 50

A Resolution adopting a supplemental budget for fiscal year 2020-2021, making supplemental appropriations and authorizing the City Manager to sign a contract with Biz Oregon to accept the grant funds.

RECITAL:

WHEREAS, This resolution proposes a supplemental budget for the Special Assessment Fund. A supplemental budget is necessary to allow for disbursement of a \$200,000 small business recovery grant program to address the negative economic impacts of the Covid-19 public health emergency. The City’s goal is to award 50% of the funds to businesses owned by historically disadvantaged populations, namely women and minorities, and 50% of the funds to sole proprietors.

WHEREAS, The grant program is funded by contributions from Business Oregon with a 50% match from the City of McMinnville. A change in the rules for eligible expenditures of federal CARES Act funds by Oregon municipalities allows McMinnville to fund the match requirement from the City’s allocation of Coronavirus Relief Funds.

WHEREAS, Oregon Local Budget Law allows a local government to prepare a supplemental budget when state or federal funds are made available that were unknown at the time the budget was prepared thus requiring a change in financial planning (ORS 294.471). The governing body must adopt a resolution to adopt the supplemental budget and make any necessary appropriations. Intergovernmental support for the program was awarded in July 2020, a date subsequent to the completion of the FY2020-21 budget process.

WHEREAS, Because the supplemental budget changes the Special Assessment Fund’s expenditures by more than 10%, a public hearing is required. Notice of the public hearing was published on July 31, 2020, more than five days prior to the hearing on Aug 11, 2020.

WHEREAS, This supplemental budget increases expenditures in the Special Assessment Fund by \$200,000 to allow disbursement of small business recovery grants.

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

1. **Adopt the following Supplemental Budget:** The Common Council of the City of McMinnville adopts the following Supplemental Budget for 2020-2021 in the Special Assessment Fund.
2. **Make Supplemental Appropriations:** The additional appropriations for fiscal year 2020-2021 are hereby appropriated as follows:

| <u>Special Assessment Fund:</u> | <u>Adopted B</u> <u>udget</u> | <u>Budget Adj</u> <u>ustment</u> | <u>Amended</u> <u>Budget</u> |
|---------------------------------|----------------------------------|-------------------------------------|---------------------------------|
| Resources: | | | |
| Beginning Fund Balance | \$ 140,779 | - | \$ 140,779 |
| Intergovernmental | 450,000 | 200,000 | 650,000 |
| Other (unchanged) | <u>63,450</u> | <u>-</u> | <u>63,450</u> |

| | | | |
|-----------------|-------------------|---------|-------------------|
| Total Resources | <u>\$ 654,229</u> | 200,000 | <u>\$ 854,229</u> |
|-----------------|-------------------|---------|-------------------|

Requirements:

| | | | |
|----------------------|-------------------|----------|-------------------|
| Community Activities | \$ 510,000 | 200,000 | 710,000 |
| Transfers Out | 6,977 | - | 6,977 |
| Contingencies | 35,000 | | 35,000 |
| Ending Fund Balance | <u>102,252</u> | <u>-</u> | <u>102,252</u> |
| Total Requirements | <u>\$ 654,229</u> | 200,000 | <u>\$ 854,229</u> |

3. **Authorize City Manager to Sign Contract to Accept the Grant Funds:** The City of McMinnville will execute a contract with Biz Oregon for \$100,000 in grant funds for this program:

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 11th day of August 2020 by the following votes:

Ayes: _____

Nays: _____

Abstain: _____

Approved this 11th day of August 2020.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

NOTICE OF SUPPLEMENTAL BUDGET HEARING

- For supplemental budgets proposing a change in any fund's expenditures by **more than 10 percent**.

A public meeting of the McMinnville City Council will be held on August 11, 2020 at 7:00 pm in a remote access meeting due to the public health emergency. In accordance with Governor Kate Brown's Executive Order 2020-12 seating capacity at Civic Hall, 200 NE Second Street in McMinnville, is quite limited and if we meet capacity we may ask you to leave. In the effort to protect the health of our community, the City encourages remote engagement at this time. Information on remote viewing and real time public comment options is available in the calendar section of mcminnvilleoregon.gov. In addition, public comment may be submitted ahead of the hearing online on the city's website mcminnvilleoregon.gov/finance/webform/budget-public-comment. A summary of the supplemental budget is presented below. A copy of the budget is available online at mcminnvilleoregon.gov/finance.

The purpose of the hearing is to discuss the supplemental budget with interested persons.

SUMMARY OF PROPOSED BUDGET CHANGES

AMOUNTS SHOWN ARE REVISED TOTALS IN THOSE FUNDS BEING MODIFIED

FUND: Special Assessment

| Resource | Amount | Expenditure | Amount |
|-------------------------------------|----------------|--|----------------|
| 1 Beginning Fund Balance | 140,779 | 1 Community Activities | 710,000 |
| 2 Intergovernmental | 650,000 | 2 Transfers Out | 6,977 |
| 3 Other (unchanged) | <u>63,450</u> | 3 Contingencies | 35,000 |
| | | Ending Fund Balance | 102,252 |
| Revised Total Fund Resources | 854,229 | Revised Total Fund Requirements | 854,229 |

Explanation of change(s):

The budget appropriation is increased by \$200,000 to allow for disbursement of small business emergency assistance grants due to the impact of the Covid-19 public health emergency. Business Oregon awarded the City \$100,000 for this purpose in July, with a \$100,000 match from a City of McMinnville. New eligibility rules will allow the City to use its allocation of CARES Act funds for the match. Sole proprietors, women-owned and minority-owned enterprises will be prioritized for grants.



State of Oregon COVID-19 Emergency Business Assistance Matching Fund Request for Proposals

Announcement

The Oregon Legislature, in partnership with the Governor, allocated \$5 million from the State General Fund, which will be combined with \$5 million redirected from existing programs at Oregon, for the purpose of providing financial assistance to small businesses adversely affected by economic conditions associated with the COVID-19 pandemic that have not received federal emergency assistance under the federal CARES Act or other federal program for emergency pandemic funding.

Many small businesses in Oregon face cash flow shortfalls due to the economic conditions arising from efforts to reduce the number and severity of COVID-19 infections. Some businesses have been closed by executive emergency orders, while others have voluntarily closed or reduced operations to address health and economic concerns.

Many communities throughout Oregon are providing local assistance to small businesses, and this announcement provides up to a 1:1 match to augment these community-level assistance programs.

To fill gaps not reached by other programs, these state funds are directed to adversely affected businesses with 25 or fewer employees, and only those that have been unable to receive federal CARES Act funding, including the Small Business Administration's Paycheck Protection Program, Economic Injury Disaster Loan Emergency Advance program, or other federal programs for emergency pandemic funding to date. Businesses may use the proceeds for any business related operating expenses, particularly to support businesses that were closed as they move into the first phase of statewide reopening.

This announcement is for the third of three rounds of funding tied to this program. This round consists of \$2,500,000, available up to a 1:1 match to funds in community programs to provide emergency economic assistance to local small businesses. Awards will be made to public entities (cities, counties, economic development districts, council of governments) that have or will develop a community business assistance program in response to the COVID-19 crisis and are able to meet the parameters of this program.

Program awards made to public entities will be structured as forgivable loans. Forgiveness will be based upon a recipient's ability to meet the program values and priorities outlined below and in contract. Public entities will be required to make sub-awards from this program to eligible individual businesses as grants.

Awards for this round of funds will be based on a community program's ability to achieve the parameters, values, and goals of the program. If you have such a program that meets the state's program parameters, please submit a funding proposal.

Proposals for this round of funding are due July 10, 2020 by 5:00 PM.

Program Values

- Ensure that historically disadvantaged individuals that own businesses have access to these funds.
- Ensure these funds are supporting the small businesses unable to access or apply for federal funds.
- Ensure that these funds are reaching every corner of Oregon.
- Ensure that these funds are keeping businesses operational.

Eligible Applicants

Public entities (cities, counties, economic development districts, council of governments) that have or will develop a local business assistance loan or grant fund and are able to meet the parameters of this program as described below. Priority will be given to those public entities that were not allocated direct funding through the CARES Act.

If a community was successful in its application from the first round of funding for this program and has additional matching funds remaining, to be considered for this round of funding, submit an email stating the community's request to receive consideration in this round and attach a copy of the previous proposal submitted on or before May 18, 2020.

Local Program Funding Priorities

Local assistance programs are expected to make one-time-only awards to businesses as follows:

- Businesses that have been adversely affected economically in one of the following two categories:
 - Those for-profit and non-profit (limited to 501(c)(3) corporations) businesses that were prohibited from operation as directed by Executive Order 20-12.
 - Those eligible for-profit businesses that can demonstrate a one-month decline in revenue greater than 50% in the month of March 2020 or April 2020 as compared against sales in the month of January 2020 or February 2020. Those non-profit businesses (limited to 501(c)(3) corporations) that can demonstrate a decline in revenue greater than 50% across the months of March 2020 and April 2020 as compared against the same period of time in 2019.
- Businesses with 25 or fewer employees.
- Businesses that have been unable to access federal CARES Act funds including:
 - Small Business Administration's Paycheck Protection Program (PPP);
 - Economic Injury Disaster Loan Emergency Advance program (EIDL); or
 - Other federal programs to date for emergency pandemic funding.

Ineligibility Factors

- Passive real estate holding companies and others holding passive investments.
- Non-profit entities that do not have federal 501(c)(3) status.
- Businesses that are delinquent on federal, state or local taxes that were due before April 1, 2020.
- Businesses that do not comply with all federal, state and local laws and regulations. Businesses not headquartered and with principal operations in Oregon.
- Businesses not registered to do business in Oregon (Secretary of State Business Registry verification) if such registration is required.

Program Design

Awards to eligible businesses will be made as a grant. The amount of the grant will be the greater of two figures based on an applicant's ability and desire to submit support documentation: the first based on the number of employees before the COVID-19 crisis (as of February 29, 2020); or the second based on the documented amount of fixed operating expenses for the 60 day period of January 1 through February 29, 2020:

- 0-5 employees
 - \$2,500, or
 - 60-day fixed expenses up to a maximum of \$5,000.

- 6-10 employees
 - \$5,000, or
 - 60-day fixed expenses up to a maximum of \$10,000.
- 11-15 employees
 - \$7,500, or
 - 60-day fixed expenses up to a maximum of \$15,000.
- 16-20 employees
 - \$10,000, or
 - 60-day fixed expenses up to a maximum of \$20,000.
- 20-25 employees
 - \$12,500, or
 - 60-day fixed expenses up to a maximum of \$25,000.

Program Award Targets

The state will make awards to various local assistance programs designed to achieve geographical delivery across the state, with a target of at least 60% of awards reaching those in rural areas outside of the largest urban growth areas (see Award Process below). The state has set a target of 50% of these funds to be awarded to sole proprietors, where possible, by the local assistance program. The state will encourage outreach to historically disadvantaged population groups. The funds must be rapidly deployed to meet immediate business needs and applicants will be required to fully deploy the proceeds within 45 days of receipt.

Business Applications and Support Documentation

- Businesses must self-certify they have not received CARES Act PPP or SBA EIDL assistance as of the date of application.
- Demonstrate:
 - That they were prohibited from operation as directed by Executive Order 20-12; or
 - That they had a sales or revenue decrease of 50% or more in the month of March or April 2020, as compared against the sales or revenues of January or February 2020, or as compared against the same period in 2019.
- Demonstrate they are headquartered and with principal operations in Oregon.
- Self-certify they are not subject to any of the ineligibility criteria.
- Self-certify that the business and its operations are, and will, remain compliant with all local, state and federal laws.
- Provide business, financial and ownership information necessary to determine and verify eligibility.

Other Program Details and Next Steps

Local entities administering COVID-19 business assistance programs (loan or grant programs, new or existing) may apply to receive an award under this announcement. If approved, the applicant will enter into a contract with Business Oregon in short order. During the contract process, Business Oregon will consult on the detailed operational steps proposed by the local assistance programs, and the basic reporting needed by the state.

Program Access

It is intended that these state funds are equally accessible to all Oregonians, so a robust marketing program that reaches out locally to businesses owned by members of historically disadvantaged population groups (Asian, Black, Hispanic, Native American, and Women Owned Businesses) is a requirement of this program. Only those applicants that can demonstrate such a marketing program and fair access procedures will be considered for funding. Local community program awardees will be required to:

- Develop a stepped marketing program that reaches out and markets to members of historically disadvantaged population groups in advance of marketing to the general public.
- Deploy the awarded funds to eligible businesses within 45 days of the receipt of funds.

- Demonstrate, for loan forgiveness, that all agreed Program Access activities as described in the application and agreed upon in contract have been fulfilled.

Application Process

Local assistance programs should submit a written Proposal that describes the following:

- Amount of award requested to match new or existing local funds (state funds up to, but will not exceed, local funds).
- Description of your established or proposed small business support program responding to the COVID-19 crisis.
 - For matching funds being requested for a new program, describe how the program will be operational no later than July 20, 2020, and how the local assistance program eligibility requirements comply with the requirements in this State of Oregon COVID-19 Emergency Business Assistance announcement.
 - For matching funds for an established program, describe when the program was formed and how the local assistance program eligibility requirements comply with the requirements of the State of Oregon COVID-19 Emergency Business Assistance.
 - For either, describe amount and source(s) of capitalization, the eligible applicants, the type(s) of awards made, award ranges, number of awards, amount deployed to date, and the amount remaining to be deployed.
- Describe marketing activities and outreach to encourage participation of businesses owned by members of historically disadvantaged populations groups in the applicant's jurisdiction(s).
- Describe any procedures to ensure equitable awards are made to those businesses owned by members of historically disadvantaged populations groups. (See Program Access above.)
- Describe the plans to market the grant program, including partnerships and marketing strategies with chambers, business associations, Small Business Development Centers, etc.
- Description of your grant/loan announcement and application process.
- Description of your grant/loan review and award process.
- Estimate geographic distribution of awards (list all municipalities and/or counties served):
 - The percent of allocation awarded to urban (cities with populations greater than 30,000) businesses, and
 - The percent of allocation awarded to rural (cities with populations of 30,000 or less, or unincorporated areas) businesses.
- Estimate the percent of allocation awarded to sole proprietors.
- Briefly describe the background of the executive in charge of the program, and description of any other key team members if desired, and description of any audit or oversight measures if desired. Provide contact information for a designated lead contact.

There is no minimum or maximum page limit for Proposals or other format requirements, except that the Proposal must be delivered electronically in a Microsoft Office compatible file type, less than 20 megabytes.

Proposals for this round of funding are due July 10, 2020, by 5:00 PM.

Please deliver your Proposal by email to:

John Saris, Finance Manager

john.saris@oregon.gov

(503) 383-8612 for any questions

A GoToMeeting teleconference for questions and answers regarding how to implement this announcement will be held Wednesday, July 15 from 2:00-3:00 PM.

Please join the meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/169092437>

You can also dial in using your phone.

United States: [+1 \(872\) 240-3212](tel:+18722403212)

Access Code: 169-092-437

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/441110725>

Award Process

Business Oregon will coordinate an expeditious review process and may contact any proposer for further clarification or negotiation. Decisions will be made in the state's sole discretion, endeavoring to meet the objectives and targets described above and below:

- No less than 50% of the awards to be made to Sole Proprietors.
- No less than 60% of awards to be deployed in rural communities with population fewer than 30,000 per the last decennial census (2010) data including all areas outside of the following urban growth boundaries:
 - Albany
 - Bend
 - Corvallis
 - Eugene/Springfield
 - Grants Pass
 - McMinnville
 - Medford
 - Portland Metro (City of Portland, Clackamas, Multnomah, and Washington counties)
 - Salem/Keizer
- To the extent possible, allocations to the following regions:
 - Central Region–15%
 - Crook, Deschutes, Hood, Jefferson, Sherman, and Wasco counties
 - Coastal Region–15%
 - Clatsop, Coos, Curry, Lincoln, and Tillamook counties
 - Eastern Oregon Region–20%
 - Baker, Gilliam, Grant, Harney, Malheur, Morrow, Umatilla, Union, Wallowa, and Wheeler counties
 - Metro Region–20%
 - Multnomah, Clackamas, and Washington counties
 - Southern Oregon Region–15%
 - Douglas, Jackson, Josephine, Klamath, and Lake counties
 - Valley Region–20%
 - Benton, Columbia, Lane, Linn, Marion, Polk, and Yamhill counties

Grant Fund Deployment Deadlines and Reporting Requirements

A final report is due the sooner of:

- 30 days from when the capital is deployed by the local assistance program to eligible businesses, or
- October 5, 2020.

Any proceeds not deployed by September 4, 2020, are to be repaid to Business Oregon on or before September 8, 2020, unless waived in writing by the department.

In the final report, the local assistance program will be required to report program and recipient information on a form prescribed by Business Oregon, including but not limited to:

- Number of applications received
- Number of awards made
 - Award as #, \$, and % of allocation by region
 - Award as #, \$, and % of allocation by company size
 - Award as #, \$ and % of allocation by legal ownership structure
- Sub recipient data
 - Name of company
 - Employer Identification Number (EIN)
 - Oregon Business Identification Number (BIN)
 - Address of company
 - Industry/NAICS
 - Amount of award
 - Legal business structure
 - # of employees as of February 29, 2020
 - # of employees expected to be retained as a result of the award
 - Business owner voluntarily reported demographics
 - Direct administrative expenses incurred in the administration of this program



A collaborative and caring city inspiring an exceptional quality of life.

OFFICE OF THE MAYOR, 230 NE Second Street, McMinnville, Oregon 97128
www.mcminnvilleoregon.gov

July 10, 2020

Business Oregon

**RE: City of McMinnville Grant Application, State of Oregon COVID-19
Emergency Business Assistance Matching Fund, Round III**

To whom it may concern:

Please find attached the City of McMinnville's application for the State of Oregon COVID-19, Emergency Business Assistance Matching Fund, Round III. We really hope that you are able to help leverage our local dollars with some of the state grant funds to bring a business recovery assistance program to McMinnville's businesses.

McMinnville is the largest employment center (15,000 jobs prior to the Pandemic) in Yamhill County. We have over 1600 businesses in McMinnville, most of which are small businesses employing our residents and serving as the foundation of our economy. Since March, 2020, our unemployment has increased to 13.2%. The largest cohort of unemployment claims are in the age groups of 25 – 44 years old, impacting our families. The overwhelming number of unemployment claims has been, not unexpectedly, in our accommodation and food services businesses as well as our retail businesses.

The City is prepared to launch a business assistance program with the help of our economic development partners (McMinnville Economic Development Partnership, McMinnville Chamber of Commerce, Visit McMinnville, and the McMinnville Downtown Association) and our Economic Vitality Leadership Council made up of business and community leaders in McMinnville, to help get these businesses open and employing people again as they recover from the COVID-19 shutdowns.

We appreciate this opportunity and are prepared to match the grant funds that we receive, and look forward to working with Business Oregon on this endeavor.

Yours Sincerely,

A handwritten signature in blue ink that reads "Scott Hill". The signature is written in a cursive, flowing style.

Scott Hill,
Mayor of McMinnville

July 10, 2020

Business Oregon

RE: **City of McMinnville Grant Application, State of Oregon COVID-19
Emergency Business Assistance Matching Fund, Round III**

To whom it may concern:

As with all cities in Oregon and around the country the negative impacts from COVID-19 have been tough on the local economy. With the loss of jobs, declining revenues, business closures, and the uncertain financial future so many in our business community face, it is critical we do all we can to lessen those impacts.

The McMinnville business community is made up over 1,600 businesses and over 90% employ fewer than 20 people. That is a lot of small businesses that are bearing an incredible amount of weight for a community. With the assistance from the State of Oregon's COVID-19 Emergency Business Assistance Matching Fund, Round III, and the matching funds from the City of McMinnville, it is our hope to bring a robust business recovery assistance program to underserved McMinnville businesses.

The City of McMinnville has put together a strong team to assist with this program. The McMinnville Economic Development Partnership, Visit McMinnville, McMinnville Downtown Association, the McMinnville Chamber of Commerce, and the Economic Vitality Leadership Council are excited to work together to market the program and assist in the implementation of a program very much needed in our community.

We appreciate this opportunity and thank you for your consideration.

Respectfully,

Scott G. Cooper, CEcD
Executive Director



A collaborative and caring city inspiring an exceptional quality of life.

PLANNING DEPARTMENT, 231 NE Fifth Street, McMinnville, Oregon 97128
www.mcminnvilleoregon.gov

**CITY OF MCMINNVILLE GRANT APPLICATION
STATE OF OREGON COVID-19
EMERGENCY BUSINESS ASSISTANCE MATCHING FUND, ROUND III**

“MCMINNVILLE COVID BUSINESS RECOVERY ASSISTANCE PROGRAM”

AMOUNT OF AWARD REQUESTED: \$100,000

**PROGRAM DESCRIPTION –
MCMINNVILLE COVID BUSINESS RECOVERY ASSISTANCE PROGRAM**

NEED: The COVID-19 event has been devastating to McMinnville’s business community. McMinnville is the largest employment center in Yamhill County employing over 15,000 people in 1600 businesses prior to the COVID event. Currently Yamhill County is experiencing 13.2% unemployment with the largest number of unemployment claims in the accommodation and food services as well as retail businesses.

McMinnville’s business community relies heavily on accommodation and food services, retail and manufacturing businesses. It is clear from two recent surveys that all of those industries were impacted by the COVID-19 event, some more than others.

A recent survey of (April 15, 2020 – Attachment 1) of McMinnville’s downtown businesses showed that 84% of the businesses were forced to close due to the COVID-19 event (45 respondents). McMinnville’s downtown economy is built upon small, locally owned businesses, with a focus on food, beverages, and tourism. 93% of the businesses surveyed indicated that they had lost significant revenue with the COVID event and were most worried about their employee’s financial welfare (78%) and accessing financial assistance related to COVID-19 (64%). When asked what type of assistance would be most helpful to

their business, 78% replied that information about attainable financial assistance over the next 90 days would be the most helpful.

In May, 2020, McMinnville Economic Development Partnership survey their traded sector businesses (Attachment 2). Of the 28 respondents, over 55% of the businesses had laid off 81 employees due to COVID and 27 were furloughed. 89% of the businesses had experienced revenue decrease with the COVID event. 43% had applied for a EIDL loan, of which 20% were successful at the time of the survey, 40% were pending and 40% were not successful. 71% had applied for the PPP funds. 74% were successful, 20% were unsuccessful.

Additionally as a mid-size rural community McMinnville businesses have struggled to access the emergency funding program that have been absorbed by larger businesses and the metropolitan communities of Oregon.

Initially the City of McMinnville started working with CRAFT3 to partner on some of their emergency business assistance programs only to learn that they elected to focus on communities in which they had offices. Then the City of McMinnville applied to the Oregon Community Foundation through their Emergency Business Assistance program only to learn that most of their funds had been allocated to Clackamas and Multnomah counties. And finally, the City of McMinnville worked on a partnership with MESO to participate in their 40/60 loan and technical assistance program. The City of McMinnville collaborated with MESO on an application to the Business Oregon Round II Emergency Business Assistance Funds only to learn that Business Oregon elected to funnel all Yamhill County funds to Willamette Workforce Partnership.

The City of McMinnville continues to look for a partner to help McMinnville's local business community and is continuing to work with MESO on a partnership in order to leverage the expertise of a CDFI in the community and to partner MESO with local banks that want to continue to serve the business community through community resource funds.

However, for this program, the City of McMinnville will work with a local team of staff experts and an established Economic Vitality Leadership Council to develop the program, market the opportunities and deploy the funds.

Since the City of McMinnville has been in discussion about a local Business Recovery Assistance program for several months now, the systems are for the most part in place in order to be able to respond in an expeditious and efficient manner and the City has already earmarked the necessary matching funds in the Fiscal Year 2020/2021 budget.

LOCAL ASSISTANCE PROGRAM REQUIREMENTS: Since this is a new program, the City of McMinnville will structure it to mirror the minimum requirements of the Business Oregon Emergency Assistance program as outlined in the Request for Proposals.

HOW PROGRAM WILL BE OPERATIONAL BY JULY 20, 2020: The City of McMinnville has been in dialogue about this type of program for several months with both its economic development partners and the McMinnville Economic Vitality Leadership Council, so upon notification of award, the City of McMinnville will be able to immediately launch the program with a ten-day marketing campaign as described in this proposal, and put the mechanical structure in place for the application solicitation, review and decision-making.

AMOUNT AND SOURCE OF CAPITALIZATION: The City of McMinnville will provide the \$100,000 match required for the grant.

MARKETING AND OUTREACH:

MARKETING AND OUTREACH - GENERALLY: Upon notification of receipt of reward, all marketing materials for the program will be deployed ten days in advance of the application submission “window” in all languages and formats provided by Business Oregon. Marketing of the program will occur for at least ten (10) days prior to application acceptance to allow sufficient marketing and time for interested parties to prepare and review materials in advance of the application “window”.

To expand the reach of the marketing efforts, all five of the city’s economic development organizations (City of McMinnville, McMinnville Economic Development Partnership, Visit McMinnville, McMinnville Chamber of Commerce and McMinnville Downtown Association) will leverage their partnerships and media outreach (including their social media) to promote the program.

This group, called the Stable Table, has agreed to assist in disseminating information through community specific informal networks which represent the largest demographic populations in McMinnville.

MARKETING AND OUTREACH – BUSINESSES OWNED BY HISTORICALLY DISADVANTAGED POPULATION GROUPS:

One of the City of McMinnville’s goals is engagement and inclusion, both within the organization and how the organization serves the community. The City has been working on setting up relationships and partnerships to better communicated with disadvantaged population groups in the community. The City will leverage those relationships and partnerships to market this program to businesses owned by historically disadvantaged population groups, including the Latino Advisory Committee, Unidos and MV Advancements.

Of the total businesses in the City of McMinnville, 14.5% are minority owned and 37.2% are women owned based on recent census data.

A recent survey of McMinnville’s downtown business community (see Attachment 1), illustrated that 80% of the businesses were locally owned, 51% by women and 4% by a person of color.

APPLICATION PROCESS

ANNOUNCEMENT OF PROGRAM: Upon announcement of the award, the City of McMinnville and its economic development partners will announce the program and market it for ten days in advance of the application “window”. The City of McMinnville proposed a four day window for applications to be submitted. This is intended to improve an applicant’s ability to apply despite demands on their time, technology or language barriers. Applications will consist of required questions for determining eligibility with optional self-identified demographic questions.

APPLICATION PROCESS: Applications will be accepted both electronically and in hard copy for a 96-hour window, not first come first serve, to ensure equity of access. This should improve applicants’ ability to apply especially smaller businesses owned by historically disadvantaged population groups who may not have the resources and staffing to access applications and fill out paperwork in an overly compressed window.

Applications will be available in all forms as provided and committed by Business Oregon. Applications will consist of required questions for determining award eligibility with optional self-identified demographic questions.

Although many businesses and institutions are currently closed, the City of McMinnville will ensure that physical paper copies of the applications are available at the McMinnville Library that is currently open Tuesdays and Thursdays, and outside of the Community Development Center which has an outbox available daily from 8 – 5 PM, for those who limited access to internet/computers.

The City of McMinnville will provide a dedicated staff person and phone line for those applicants who have questions about filling out the application. Translation services will also be provided.

GRANT/LOAN REVIEW AND AWARD PROCESS: Applications will be screened by economic development staff for qualified and not qualified applications. This screening process will be double-checked by other staff as well. This project will build on the City of McMinnville’s planning efforts over the past two years.

Then an appointed sub-committee of McMinnville’s Economic Vitality Leadership Council will review the qualifying applications and make a funding recommendation to the full Economic Vitality Leadership Council to review and affirm. The subcommittee of the Economic Vitality Leadership Council will include representation for both women owned and minority owned businesses.

Anyone who applied for the program will be recused from both the subcommittee review and the full committee decision-making.

All applicants will be notified as to whether or not they are receiving an award within ten (10) days of the application close period. All disbursements will be made in accordance with the guidelines and requirements established by the Business Oregon grant.

This is the same process of review that the City of McMinnville utilizes for its urban renewal property assistance loan and grant program.

DISTRIBUTION OF AWARDS

GEOGRAPHICALLY: Funds will be available for distribution to all qualifying businesses within the City of McMinnville.

TO BUSINESSES OWNED BY HISTORICALLY DISADVANTAGED POPULATION GROUPS: The City of McMinnville will strive to award 50% of the program funds to businesses owned by historically disadvantaged population groups, namely women and minorities. The application will have optional self-identifying questions. Of the total businesses in the City of McMinnville, 14.5% are minority owned and 37.2% are women owned based on recent census data.

SOLE PROPRIETORS: The City of McMinnville will strive to award 50% of the program funds to sole proprietors.

BUSINESS RECOVERY AND RESILIENCY

McMinnville does not just want to provide grant awards as a stop gap measure to help businesses survive in the immediate next couple of months. McMinnville recognizes that the impact of COVID-19 closures has been significant on businesses and consumer mentality and that we will need to support our business community with wrap around services that promote recovery and resiliency.

McMinnville will continue to work with MESO to create an ongoing relationship with a CDFI for the community and to provide opportunities to participate in MESO's 40/60 loan program as part of McMinnville's recovery and resiliency program.

In an effort to support the "economic recovery" efforts of McMinnville's small business community, we anticipate the need for technical assistance programs that help stabilize, grow and prepare our businesses for future challenges . This includes but is not limited to:

- Continued identification of financial resources
- Financial consulting relative to management of assets and liabilities
- Exploration and implementation of alternative sales platforms
- Education relative to restricted business layout and design
- Sanitary practices and procurement of personal protective equipment for disease suppression.

In conjunction with MESO, a CDFI, the City of McMinnville, McMinnville Downtown Association (MDA), McMinnville Chamber of Commerce, Visit McMinnville and McMinnville's Economic Development Partnership are willing to collaborate in implementing programs that assist our business community with said challenges. Combined, our organizations represent or interact with upwards of 1600 small businesses in the greater McMinnville area and are intimately involved in ensuring their success.

Technical Assistance Programming for McMinnville's business recovery from Covid-19 impacts

Providing small business technical assistance services encompasses diverse topical areas that can serve a range of business sizes and needs. The financial hardships that local, small businesses are enduring has shown the degree of support needed from community resources, local government, and public and private sector partners with respect to recovery and resiliency needed to lessen the impacts on those existing businesses.

Some businesses have been closed by executive emergency orders, while others have voluntarily closed or reduced operations to address health and economic concerns. Most small businesses are doing whatever they can, or whatever they think is best to survive. They changed formats, offered appointment only services, take-out services, delivery services, changed their business models, and did what they could to survive up to this point. They did not have the time to devote to tracking their business success and management capabilities.

Small business technical assistance programs alone will not solve every issue but can support other community economic development projects and revitalization strategies in the context of neighborhood revitalization. It is necessary that small business technical assistance be viewed as an essential piece that supports and enhances the economic foundation in communities. This economic foundation is vital to all other community development efforts aimed at neighborhood and community stabilization and revitalization.

Business technical assistance efforts develop sustainable and financially stronger businesses. The survival and growth will create jobs and generate income and investment in our community while attracting and retaining needed community goods and services.

Small business efficiency is critical for recovery. The number one need of small business is accessing capital. Therefore, small business technical assistance will assist businesses and entrepreneurs with business marketing, management plans and most importantly, properly addressing the businesses financial recovery. Technical assistance programs ultimately help business owners make a strong case they will be successful, are able to recover and become more resilient.

To best meet the needs for recovery and resilience, new programming and access to technical assistance programs will be critical. Programming like:

- New requirements for reopening under Covid-19
- Social distancing measures
- Business plan review
- Mentoring
- Credit counseling
- Technology services
- Business development
- Financial literacy for business
- Marketing for business
- Business funding

McMinnville knows that collaboration will enhance the capacity of all partners involved and thus improve the overall community economic development outcomes within our city. To

better build on the strength of this program we will be working with Micro Enterprise Services of Oregon (MESO), a CDFI whose vision matches individuals from disenfranchised, displaced, low-income, immigrant/refugee, unbanked, minority and underserved businesses with all the services and support needed to succeed. MESO will be surrounded by community economic vitality partners, the City of McMinnville, McMinnville Economic Development Partnership, McMinnville Downtown Association, Visit McMinnville, and the McMinnville Chamber of Commerce.

EXECUTIVE TEAM

Economic development activities in McMinnville are managed through a semi-formal collaboration of the five different economic development organizations serving the business community, locally known as McMinnville’s Stable Table. This group is comprised of the City of McMinnville, McMinnville Economic Development Partnership, McMinnville Chamber of Commerce, Visit McMinnville and McMinnville Downtown Association.

CITY OF MCMINNVILLE:

The City of McMinnville will serve as the administrator for the program. The City of McMinnville team will be comprised of **Jeffrey Towery**, City Manager, **Jennifer Cuellar**, Finance Director, and **Heather Richards**, Planning Director. This team currently has experience in grant award management through the Property Assistance program that they manage for the McMinnville Urban Renewal Agency that distributes \$100,000 - \$200,000 per year in grants and loans to business and property owners in the McMinnville Urban Renewal District. Heather Richards, the lead Project Manager has administered and managed over \$2,500,000 in business grant awards and loans in her role as the Urban Renewal Manager for the City of Nampa, Idaho, Redmond, Oregon and now McMinnville, Oregon.

MCMINNVILLE ECONOMIC DEVELOPMENT PARTNERSHIP:

Scott Cooper- Executive Director of McMinnville Economic Development Partnership (MEDP). Over the course of his 25 year career in public, private, and non-profit economic development organizations, Scott has worked in small, rural communities and major metropolitan areas. His work has dealt with developing existing business programs, business attraction, workforce development, and entrepreneurship. In the Spring of 2019, Scott relocated to Oregon from Arizona. Scott holds a Bachelor of Science in Community and Regional Planning from Iowa State University and is a recognized Certified Economic Developer (CEcD) from the International Economic Development Council.

MCMINNVILLE CHAMBER OF COMMERCE:

Gioia Goodrum is the President of the McMinnville Chamber of Commerce. Over 500 businesses are members of the Chamber of Commerce. Throughout the COVID event, Gioia and her team have been facilitating conference calls, listening sessions and online resources for all businesses in the community as a go-to resource for businesses during the pandemic.

VISIT MCMINNVILLE:

Jeff Knapp is the Executive Director of Visit McMinnville, a Destination Management Organization responsible for promoting and developing McMinnville as a year-round, overnight, visitor destination. Over the past five years, Visit McMinnville's efforts have increased visitor spending by 80% and City transient lodging tax revenues by 180%. Jeff spent a decade in the Oregon Wine industry helping lead one of Oregon's founding wineries, Sokol Blosser Winery, through a successful transition to second-generation leadership while expanding Direct to Consumer sales and launching an innovative new facility. Prior to Sokol Blosser, Jeff worked in the food and beverage/hospitality industry. With over 250 wineries surrounding McMinnville, McMinnville has become a destination for leisure travel. Jeff's extensive background in strategic planning and marketing, coupled with his deep network of Oregon Visitor, Wine and Food industries, make him uniquely qualified to assist McMinnville tourism businesses.

MCMINNVILLE DOWNTOWN ASSOCIATION

Dave Rucklos, is the Executive Director of the McMinnville Downtown Association (MDA). The McMinnville Downtown Association is comprised of 150 small business owners. Fifty-six percent of the MDA membership operate as food and beverage or retail entities. Eighty percent are locally owned of which half are owned by women. As director Dave's reach is grassroots, connecting daily in-person with a business community that has been greatly impacted by the pandemic. Eighty percent of the downtown was closed for well over two months during state mandated restrictions. The recovery continues to be challenging. Dave communicates daily with the MDA members keeping them up to date on opportunities, funding and financial resources. The MDA and Dave have developed a level of trust with their constituents that allows us to facilitate programs and initiatives for recovery.

MCMINNVILLE ECONOMIC VITALITY LEADERSHIP COUNCIL:

In addition to the McMinnville Stable Table, the City of McMinnville recently formed the McMinnville Economic Vitality Leadership Council to help serve McMinnville's business community. This council is comprised of local business and community leaders and appointed by the City of McMinnville to serve terms of four years in this role. The council is deliberately made up of two representatives from stable table organization, a representative from the McMinnville School District, a representative from the local utility

company, McMinnville Water and Light, and three members-at-large. This council will meet to review and approve grant awards for distribution with the support of the key staff from each stable table organization described above. Current membership of the McMinnville Economic Vitality Leadership Council is listed below.

MCMINNVILLE ECONOMIC VITALITY LEADERSHIP COUNCIL:

| Name | Business | Representation |
|-----------------------------|--|---|
| Carson Benner, Chair | Cellar Ridge Construction | McMinnville School District |
| Kellie Menke, Vice-Chair | Retired Accountant | City Councilor, City of McMinnville |
| Walt Gowell | Haugeberg, Rueter, Gowell, Fredricks & Higgins PC | Urban Renewal Agency, City of McMinnville |
| Mike Morris | Miller Consulting Group | Chamber of Commerce |
| Steve Patterson | Oregon Mutual Insurance | Chamber of Commerce |
| Dani Chisholm | McMenamins | McMinnville Downtown Association |
| Kyle Faulk | Citizens Bank | McMinnville Downtown Association |
| John Dietz | McMinnville Water and Light | McMinnville Economic Development Partnership |
| Deven Paolo | Solid Form Fabrication | McMinnville Economic Development Partnership |
| Ellen Brittan | Brittan Vineyards | Visit McMinnville |
| Ty Rollins | Comfort Suites Hotel | Visit McMinnville |
| Jody Christensen | Oregon Regional Solutions Team | McMinnville Water and Light |
| Gerardo Ochoa | Linfield College | Member at Large |
| Robert Banagay | TTR | Member at Large |

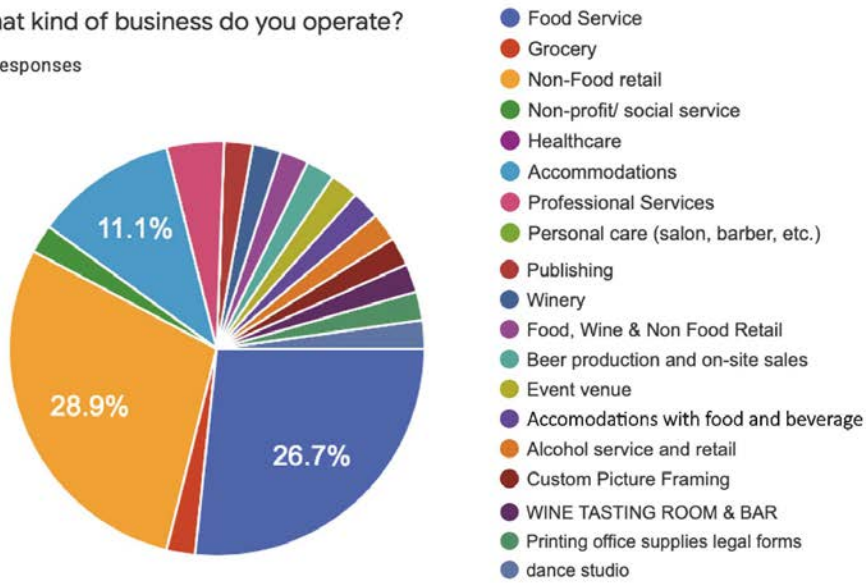
DESIGNATED LEAD CONTACT

Heather Richards,
 Planning Director
 City of McMinnville
 231 NE Fifth Street
 McMinnville, OR 97128

503-474-5107 (desk phone)
 541-604-4152 (cell)
Heather.Richards@mcminnvilleoregon.gov

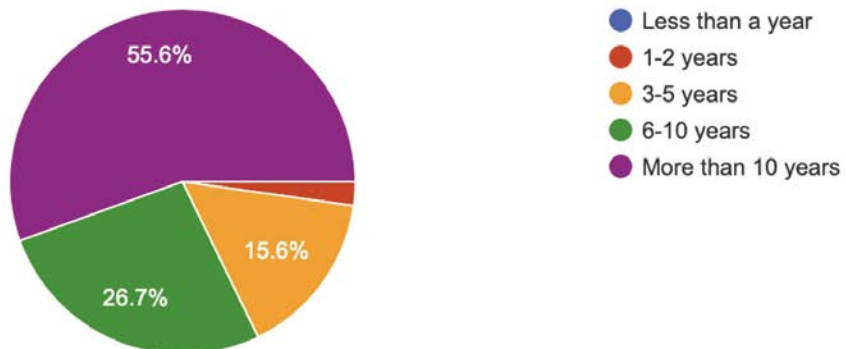
**ATTACHMENT 1:
MCMINNVILLE DOWNTOWN ASSOCIATION – COVID BUSINESS SURVEY,
APRIL 15, 2020**

What kind of business do you operate?
45 responses



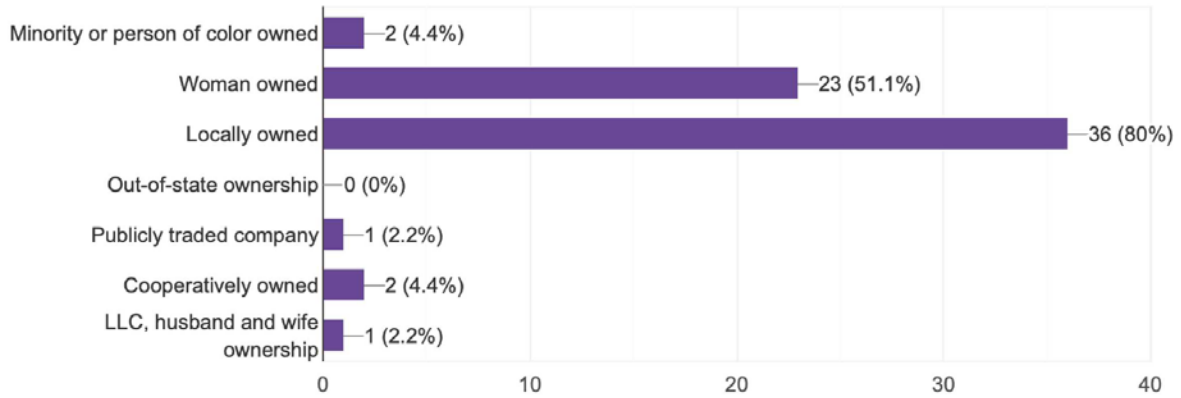
How long has your business been in operation?

45 responses



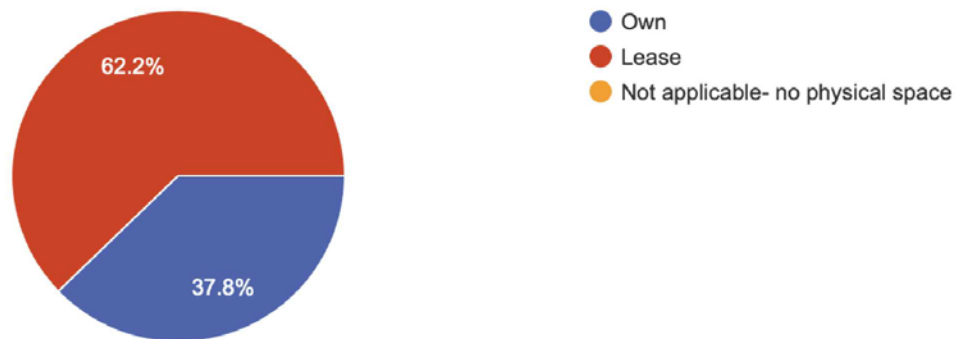
Would you characterize the ownership of the business in any of the following ways? (check all that apply)

45 responses



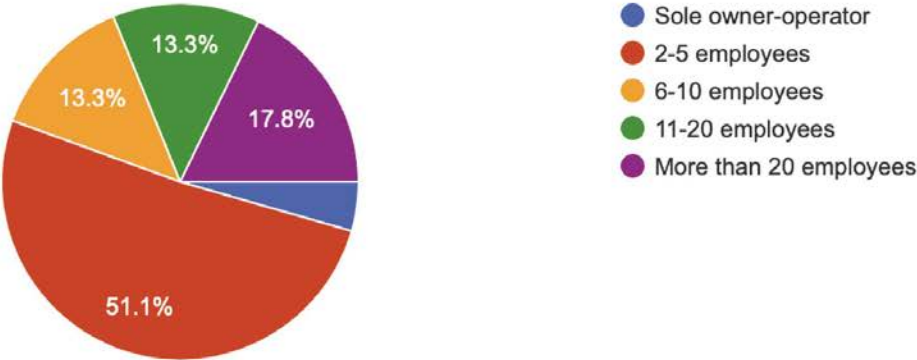
Do you own or lease your business space?

45 responses



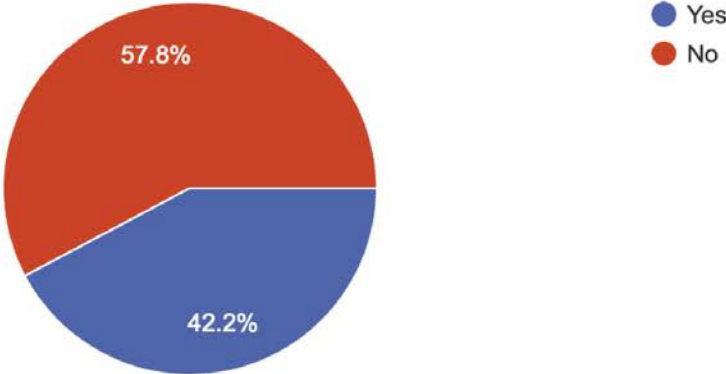
How many people does your business employ?

45 responses



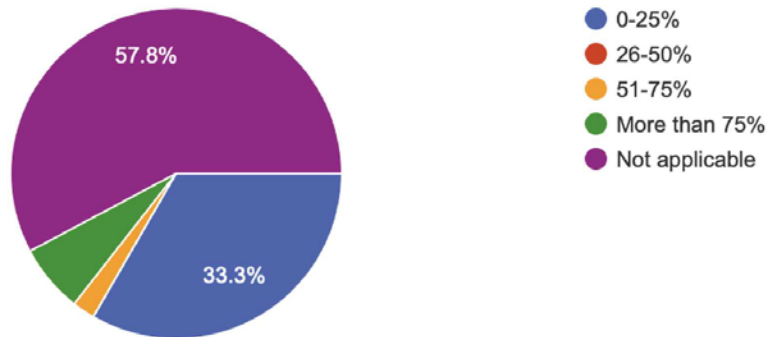
Does your business have an online sales component?

45 responses



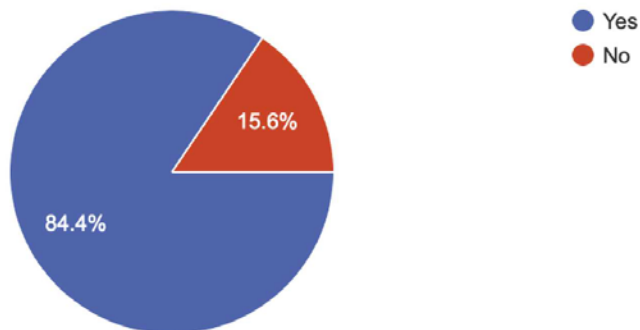
If your business has an online sales component, what portion of your overall revenue comes from online sales?

45 responses



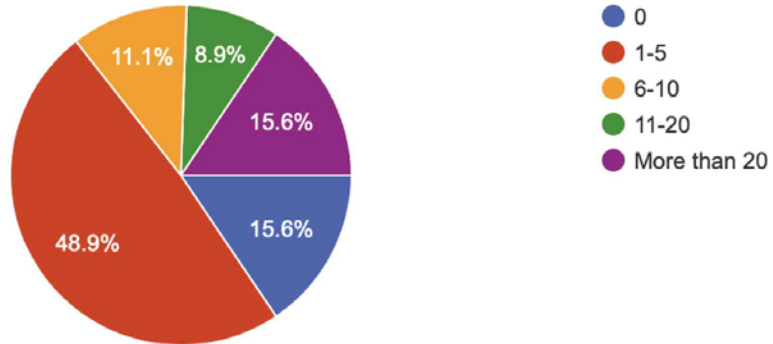
Has your business suspended storefront operations as a result of the COVID-19 public health emergency?

45 responses



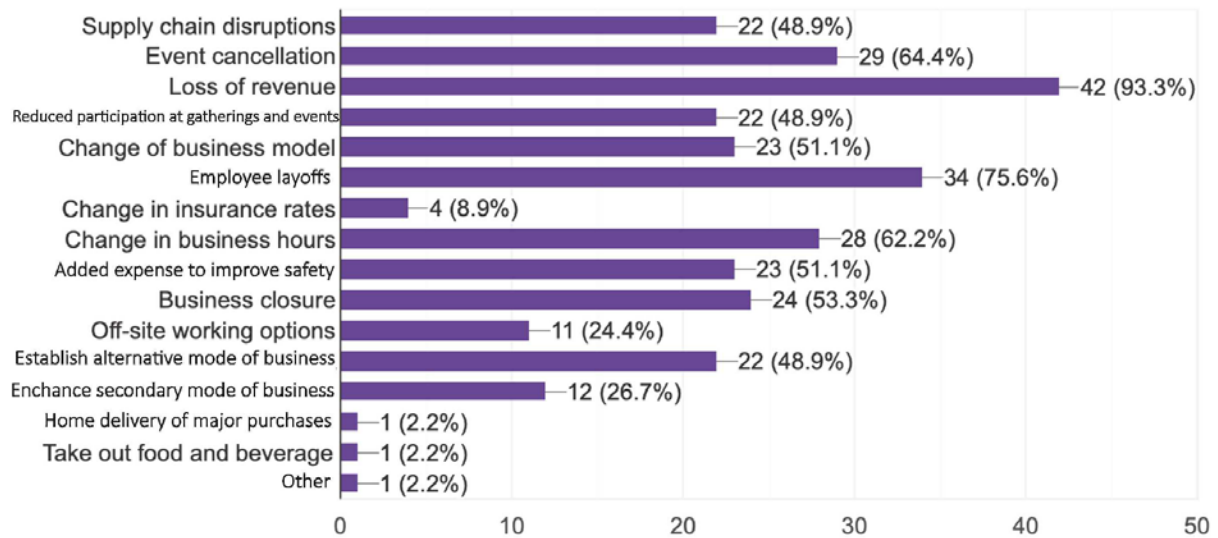
How many of your employees are at risk of unemployment and/or layoffs as a result of the coronavirus?

45 responses



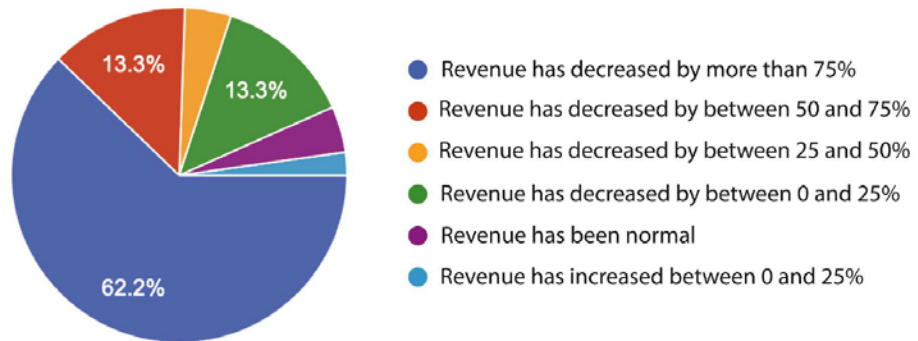
How has COVID-10 affected your business? (Please check all that apply.)

45 responses



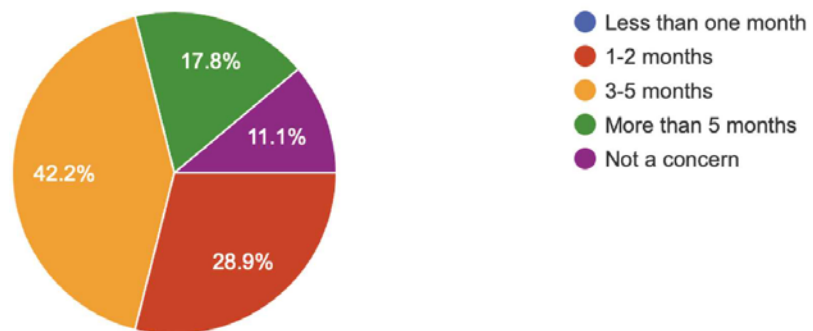
How has your business revenue changed since COVID-19 became a widespread concern in early March 2020?

45 responses



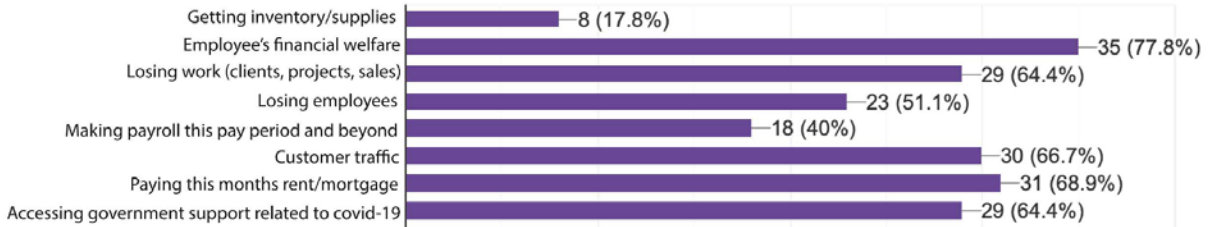
If business disruption continues at the current rate, how soon will your business be at risk of closing permanently?

45 responses



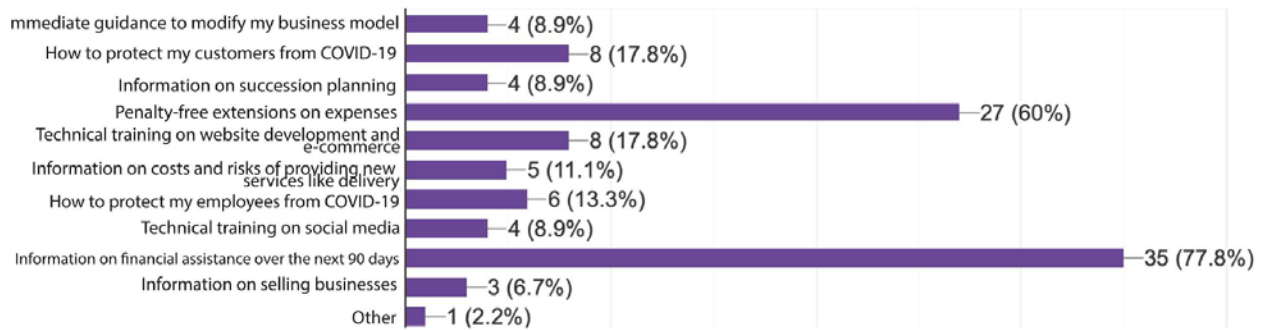
At this time, what are you most concerned about? (Please choose all that apply)

45 responses



What types of assistance would be most helpful to your business? (Please check all that apply)

45 responses



ATTACHMENT 2: MEDP Business Retention Covid 19 Impact Survey -- REPORT

May 2020

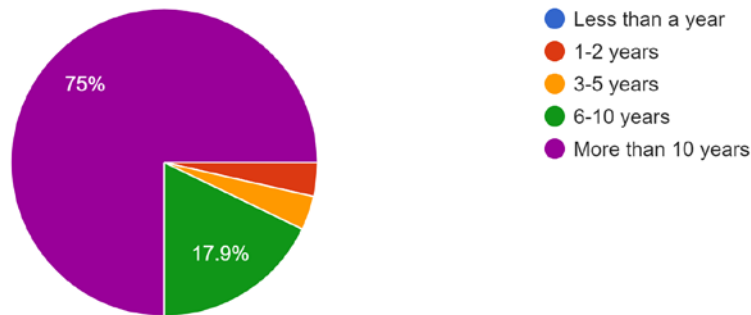
Survey Process

- Total Distribution Population: 90 Manufacturers and Traded Sector Businesses
- Total Responses: 28 (31%)
- Promoted via: MailChimp Direct x1 (26 opens/14 clicks), Email Direct x2 (89 / 73), MailChimp Newsletter Announcement Section x1 (1 open)

Operations and Supply Chain

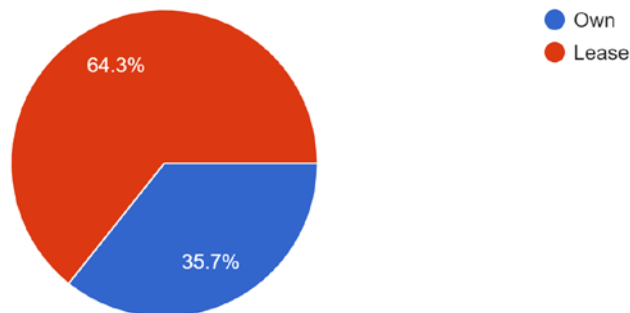
1) How long has your business been in operation?

28 responses



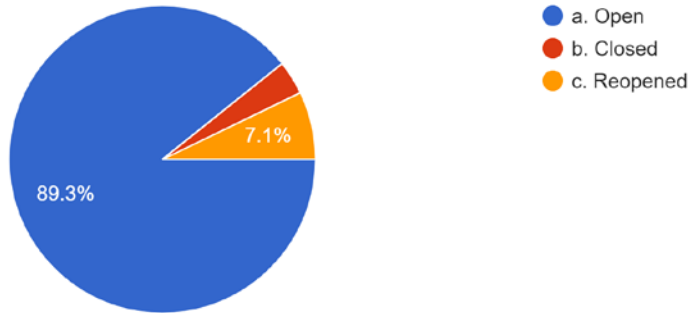
2. Do you own or lease your business space?

28 responses



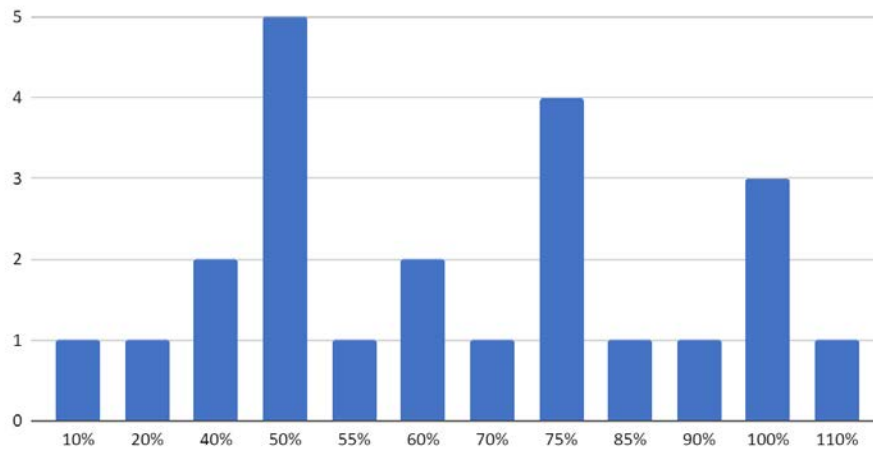
3. What is the current operating status of your business?

28 responses



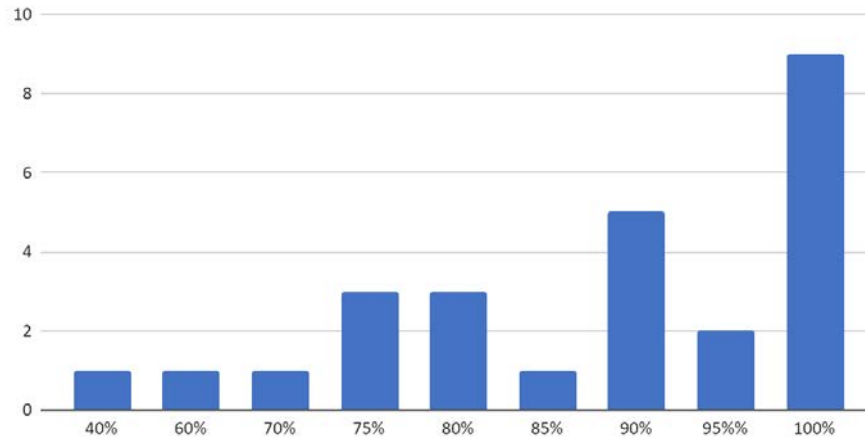
Business Operating Level

25 Responses



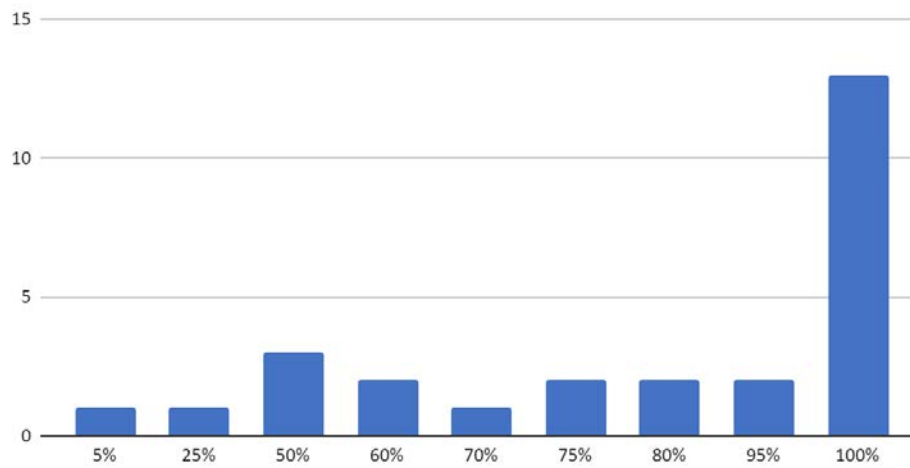
Percentage of Supplies/Services Received

26 Responses



Percentage of Goods/Services able to Ship/Deliver

27 Responses



Workforce

How many employees prior to Covid?

26 Responses

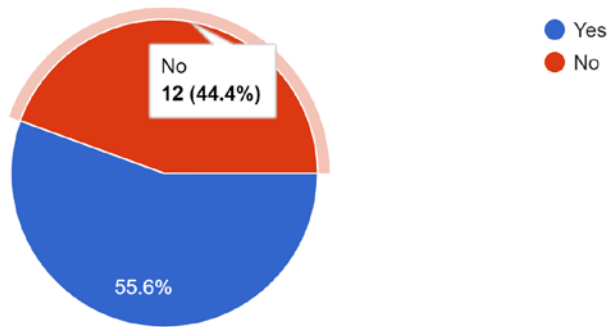
Full-time # = 850

Part-time # = 45

Total = 895

**not graphed as follow-up question will need to be asked in future.*

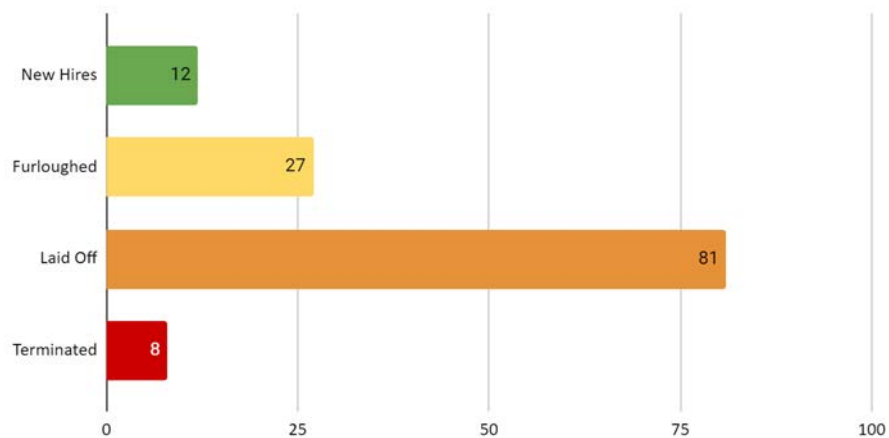
2. Has your employee count changed due to COVID-19 specifically?
27 responses



BRE Survey: 50 of the laid off have been rehired with funding as of June.

Workforce Change Variables Since Covid 19

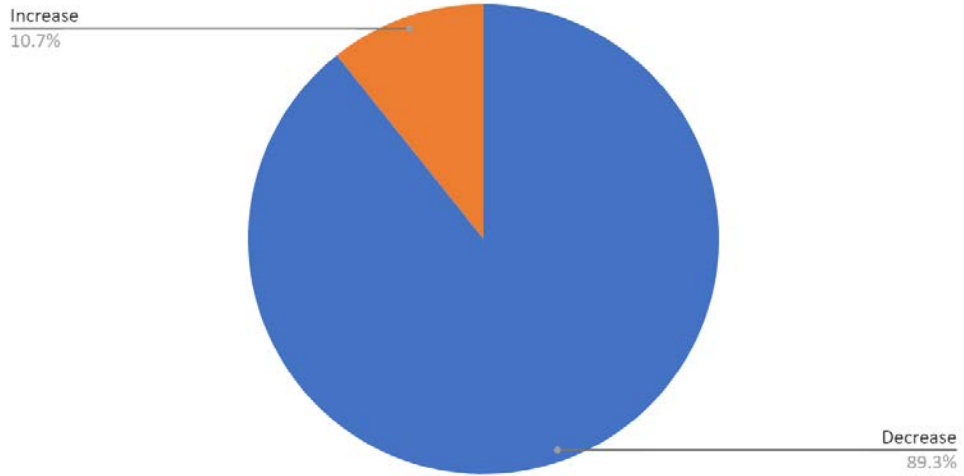
60.7% Response Rate (Response range 13-17)



Financial

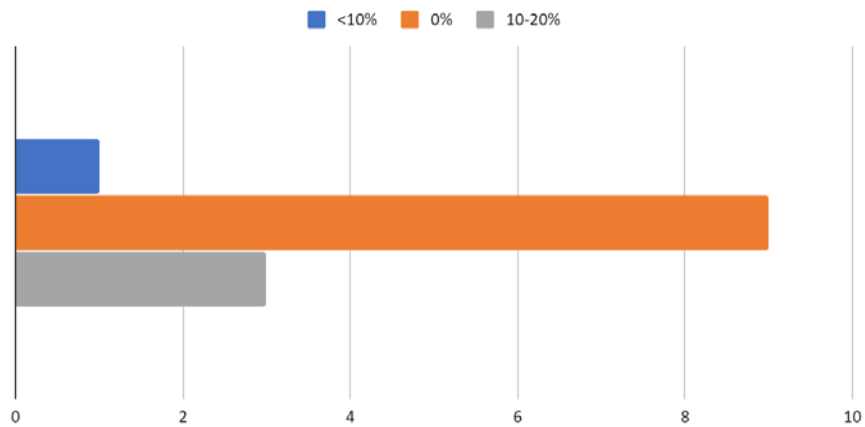
Percentage of Revenue Increase/Decrease since Covid 19

28 Responses



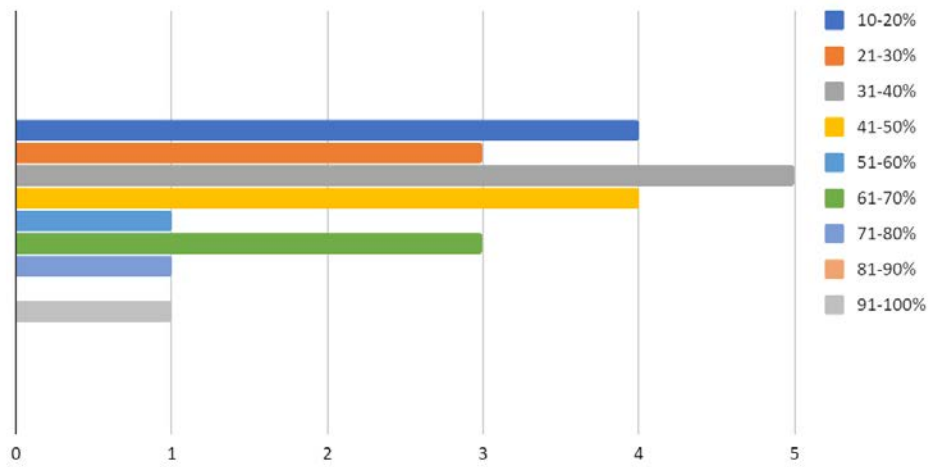
Revenue Increase

13 responses



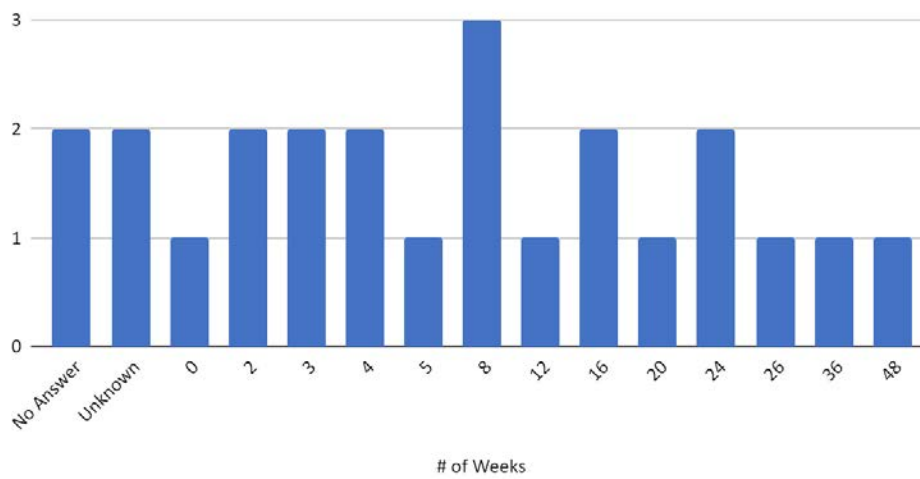
Percentage of Revenue Decrease

22 Responses



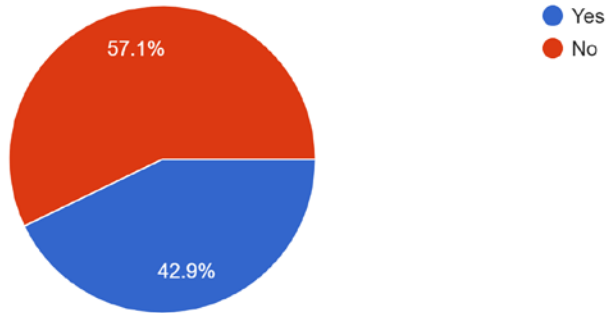
How Many Weeks of Shutdown Would your Business Survive?

24 responses



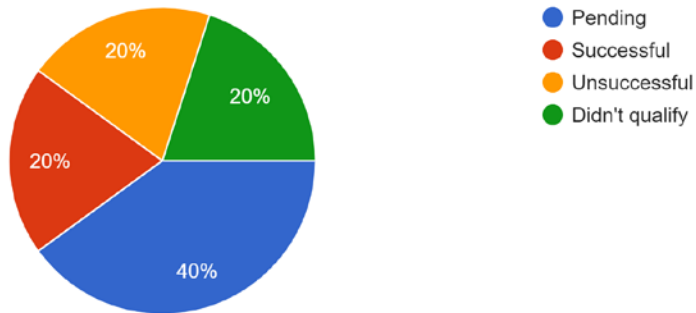
5. Did you apply for a US Small Business Administration Economic Injury Disaster Loan?

28 responses



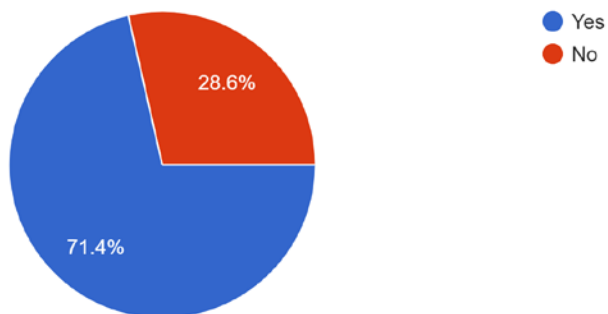
Status of EIDL application?

15 responses



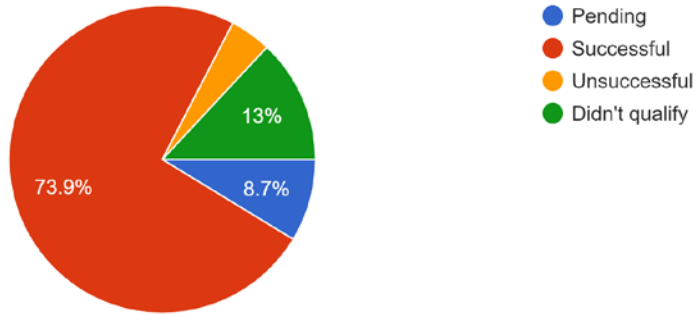
6. Have you applied for the Payroll Protection Program?

28 responses



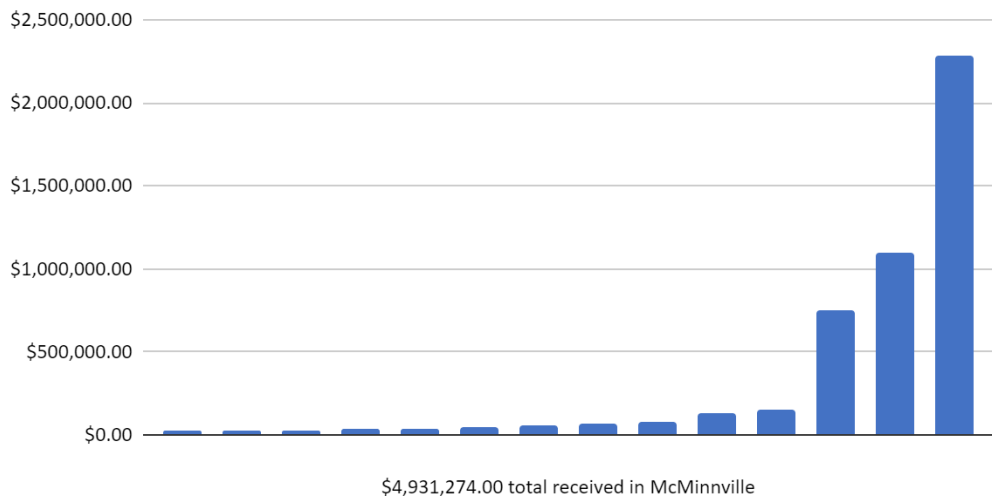
Status of PPP application?

23 responses



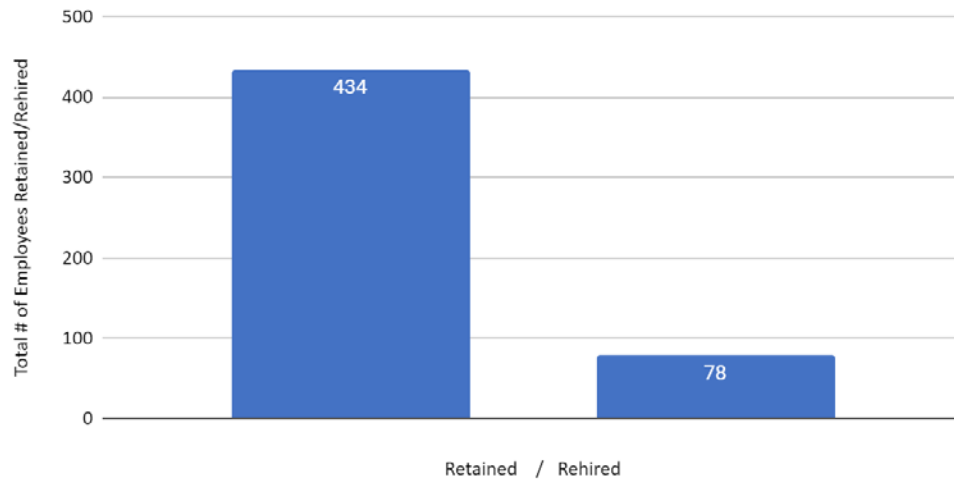
Amount of PPP Grant Received

15 responses

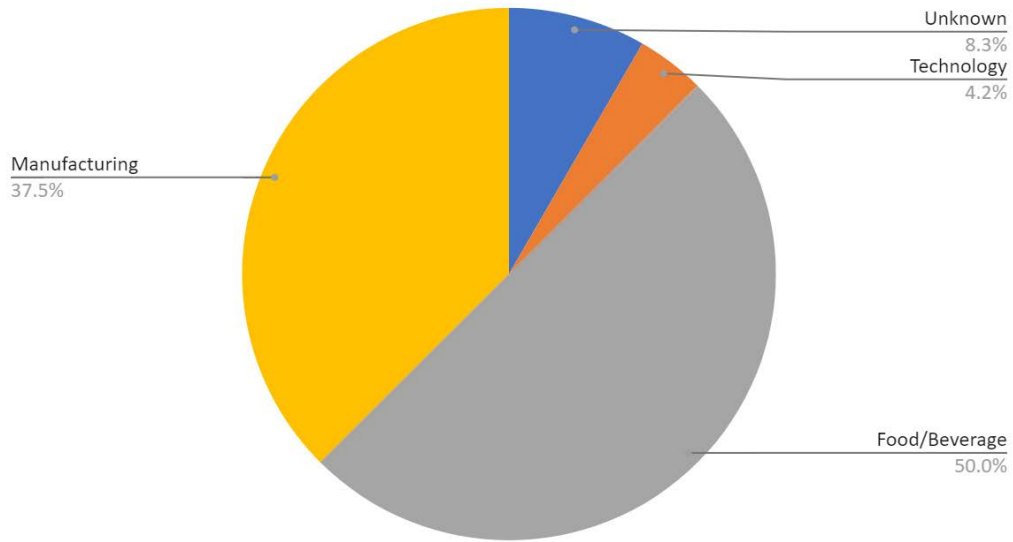


Total # of Employees Retained & Re-Hired with PPP Funds

avg. 15 responses



Respondents Industry Sector





July 23, 2020

City of McMinnville
231 NE Fifth Street
McMinnville, OR 97128

Re: Notice of Intent to Award: State of Oregon COVID-19 Emergency Business Assistance Grant Fund

Dear Heather Richards:

Thank you for the proposal submitted on behalf of City of McMinnville. As expected, there was continued interest in the program with 37 proposals seeking more than \$5.5 million in matching funds.

On July 14, 2020, the Oregon Emergency Board approved additional funding for the COVID-19 Emergency Business Assistance Grant Fund. Therefore, Business Oregon is pleased to offer City of McMinnville an award of \$100,000 to support small businesses in your region.

Please confirm your intent to accept this award no later than Monday, July 27, 2020 by 5:00 PM. Also, provide the name and title of individual authorized to sign the contract. Once we receive confirmation of your intent to accept, our team will begin preparing the contract and supplemental documentation for your review. Funding will occur once both parties have executed the contract. Once Business Oregon has provided full disbursement of proceeds to City of McMinnville, redeployment as grants to eligible businesses can begin in accordance with the contract.

Business Oregon will adjust the program timelines for your award to conform to the date of contract execution, including allowing up to two weeks for marketing, 45 days to deploy the funds, and with final closeout reports due within 30 days of deploying all the funds.

I will be acting as the contract administrator on behalf of Business Oregon and will be your primary point of contact for contract execution, disbursement of proceeds, contract reporting, and final loan forgiveness once all of the contract objectives and requirements have been met. My contact information is provided in the signature block below. We look forward to working with you to help Oregon's small businesses recover from this crisis.

Sincerely,

Michelle Bilberry
503-986-0142
michelle.bilberry@oregon.gov

**COVID-19 EMERGENCY BUSINESS ASSISTANCE PROGRAM
FORGIVABLE LOAN CONTRACT**

OBDD Contract Number C2020371

This forgivable loan agreement (“Contract”), dated as of the date the Contract is fully executed, is between the State of Oregon, acting through its Business Development Department (“OBDD”) and the City of McMinnville (“Recipient”) for capitalizing a COVID-19 Emergency Business Assistance Program sponsored by Recipient and described in Exhibit A (“Program”). This Contract becomes effective only when fully signed and approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Contract shall expire 45 days after the Program Completion Deadline. Contract termination shall not extinguish or prejudice OBDD’s right to enforce this Contract with respect to any default by Recipient that has not been cured.

This Contract includes Exhibit A - Program Description and Requirements and Exhibit B - FEDERAL AWARD IDENTIFICATION (Required by 2 CFR 200.331(a)).

OBDD is authorized to enter into Loan agreements and make Loans from the Oregon Business, Innovation and Trade Fund established in ORS 285A.227, including this Contract.

SECTION 1 - FUNDING ASSISTANCE

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, a forgivable loan (the “Loan”) in an aggregate amount not to exceed \$100,000.

SECTION 2 - DISBURSEMENT

- A. Full Disbursement. Upon execution of this Contract and satisfaction of all conditions precedent, OBDD shall disburse the full Loan to Recipient.
- B. Conditions Precedent to Disbursement. The OBDD’s obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its attorneys:
 - (1) This Contract duly signed by an authorized officer of Recipient; and
 - (2) Such other certificates, documents, opinions and information as OBDD may reasonably require.
 - (3) Documentation satisfactory to OBDD that, in addition to the Loan, Recipient has available or has obtained binding commitments for all funds necessary to complete the Program, including matching funds in at least a 1:1 ratio.

OBDD has no obligation unless it has appropriations, limitations, allotments or other expenditure authority sufficient to allow OBDD, in the exercise of its reasonable administrative discretion, to disburse funds in accordance with the terms of this Contract, and notwithstanding anything in the Contract, occurrence of such contingency does not constitute a default. Upon occurrence of such contingency, OBDD has no further obligation to disburse funds to Recipient.

SECTION 3 - USE OF LOAN; CARES ACT REQUIREMENTS

The Recipient shall use the Loan only for the activities described in Exhibit A. The Recipient may not use the Loan to cover costs scheduled to be paid for by other financing for the Program from another State of Oregon agency or any third party, or to retire any Recipient debt.

Recipient shall ensure that the project and all expenditures comply with Section 5001 of the federal CARES Act, through the Coronavirus Relief Fund, which is the source of funds for this Loan, and comply with any implementation guidance from the U.S. Department of the Treasury. Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act, requires that Recipient use the Loan to provide small business assistance grants to cover only those costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (2) were not accounted for in its budget most recently approved as of 27 March 2020; and (3) were or are incurred during the period that begins on 1 March 2020, and ends on 30 December 2020.

Recipient must ensure that any distribution or payment of the federal funds paid under this Contract, by means of any grant, subgrant, contract or other agreement between Recipient and another party includes the requirement that such funds must be used solely in a manner that complies with the provisions of the CARES Act.

Any Loan funds disbursed to Recipient that are not used according to this Contract or that remain after the Project is completed, this Contract is terminated or after the Program Completion Deadline, shall be immediately returned to OBDD, unless otherwise directed by OBDD.

SECTION 4 - LOAN REPAYMENT; LOAN FORGIVENESS

- A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. The obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Program, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Program or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. No Interest. The Loan bears no interest.
- C. Loan Forgiveness. OBDD shall forgive repayment and cancel the Loan by notice to Recipient, as soon as it determines that all of the following conditions are met:
- (1) Recipient has completed the Program no later than the Program Completion Deadline, which date is 45 days after receipt of the Loan proceeds, unless otherwise allowed by OBDD in writing.
 - (2) No Event of Default has occurred and continues.
 - (3) No later than 30 days after the Program Completion Deadline, Recipient submits the reporting required in Exhibit A, in form and substance satisfactory to OBDD.

D. Partial Loan Forgiveness; Repayment of Unforgiven Loan. If Recipient is unable to award grants to businesses (including matching funds) as required by this Contract, equal to the full amount of the Loan, OBDD will forgive that portion of the Loan meeting all the conditions in Subsection C above and notify Recipient in writing. Recipient shall pay all unforgiven Loan principal to OBDD not later than 30 days after receiving notice of partial forgiveness, unless otherwise provided by OBDD in writing.

SECTION 5 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Program related to the ability of Recipient to make all payments and perform all obligations required by this Contract.
- B. Internal Controls; Monitoring of Subrecipients. Recipient must have a system of internal controls in accordance with 2 CFR §200.303, and must implement the requirements of 2 CFR §§ 200.330 through 200.332 regarding Monitoring and Management of any subrecipients.
- C. Federal Audit Requirements. The Loan is federal financial assistance, and the Catalog of Federal Domestic Assistance (“CFDA”) number is 21.019. Recipient is a sub-recipient.
- (1) If Recipient receives federal funds in excess of \$750,000 in the Recipient’s fiscal year, it is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at its own expense submit to OBDD a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OBDD the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Contract.
 - (2) Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Recipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Contract.
 - (3) Recipient shall save, protect and hold harmless OBDD from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Contract. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and the State of Oregon.
- D. System for Award Management. Recipient must comply with applicable requirements regarding the federal System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. Recipient also must comply with applicable restrictions on subawards (“subgrants”) to subsequent tier subrecipients.
- E. Employee Whistleblower Protection. Recipient must comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Recipient must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712.

- F. Federal Funds. OBDD’s payments to Recipient under this Forgivable Loan will be paid by funds received by OBDD from the United States Federal Government. Recipient, by signing this Contract, certifies neither it nor its employees, contractors, subcontractors or subrecipients who will perform the Project activities are currently employed by an agency or department of the federal government.
- G. Records Retention. Recipient will cooperate with OBDD to provide all necessary financial information and records to comply with CARES Act reporting requirements. Recipient will keep proper books of account and records on all activities associated with the Loan, including, but not limited to grant awards and payments, instruments, agreements and other supporting financial records documenting the use of the Loan, including all grant applications and supplemental documentation provided by business applicants. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles and will retain these books of account and records from the later of the date of this Contract until five years after the Program Completion Deadline or the date that all disputes, if any, arising under this Contract have been resolved.
- H. Inspection. The Recipient shall permit OBDD, and any party designated by OBDD, the Oregon Secretary of State’s Office, the federal government and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the Program. The Recipient shall supply any Program-related information as OBDD may reasonably require.
- I. Notice of Event of Default. The Recipient shall give OBDD prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- J. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys’ fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors, that is related to this Program.

SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

A. Organization and Authority.

- (1) The Recipient is a municipality, validly organized and existing under the laws of the State of Oregon.
- (2) The Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive funding for the Program.
- (3) This Contract has been authorized by an ordinance, order or resolution of Recipient’s governing body if required by its organizational documents or applicable law.
- (4) This Contract has been duly executed by Recipient, and when executed by OBDD, is legal, valid and binding, and enforceable in accordance with their terms.

- B. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Program, or the ability of Recipient to perform all obligations required by this Contract. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit A, is true and accurate in all respects.
- C. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Program or the ability of Recipient to perform all obligations required by this Contract.
- D. Governmental Consent. The Recipient has obtained or will obtain all approvals, notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the undertaking and completion of the Program.

SECTION 7 - DEFAULT

Any of the following constitutes an “Event of Default”:

- A. Payment Failure. The Recipient fails to make any Loan payment when due.
- B. Misleading Statement. Any material false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Loan or the Program.
- C. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through B of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 8 - REMEDIES

Upon the occurrence of an Event of Default, OBDD may pursue any remedies available under this Contract, at law or in equity. Such remedies include, but are not limited to, termination of OBDD’s obligations to make the Loan or further disbursements, return of all or a portion of the Loan amount, and declaration of ineligibility for the receipt of future awards from OBDD. OBDD may also recover all or a portion of the outstanding balance due under the Loan from Recipient by deducting the amount from any payment due to Recipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law. If, as a result of an Event of Default, OBDD demands return of all or a portion of the Loan amount, Recipient shall pay the amount upon OBDD’s demand. OBDD reserves the right to turn over any unpaid debt from this Contract to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. The remedies are cumulative and not exclusive of any remedies provided by law.

In the event OBDD defaults on any obligation in this Contract, Recipient’s remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD’s obligations.

SECTION 9 - TERMINATION

In addition to terminating this Contract upon an Event of Default as provided in Section 8, OBDD may terminate this Contract with notice to Recipient under any of the following circumstances:

- A. The Oregon Department of Administrative Services notifies OBDD of an anticipated shortfall in available revenues.
- B. OBDD fails to receive sufficient funding, appropriations or other expenditure authorizations to allow OBDD, in its reasonable discretion, to continue making payments under this Contract.
- C. There is a change in federal or state laws, rules, regulations or guidelines so that the Program funded by this Contract is no longer eligible for funding.

This Contract may be terminated at any time by mutual written consent of the parties.

SECTION 10 - MISCELLANEOUS

- A. No Implied Waiver. No failure or delay on the part of OBDD to exercise any right, power, or privilege under this Contract will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- B. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- C. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses listed in Exhibit A, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

- D. Amendments. This Contract may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.
- E. Severability. If any provision of this Contract will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.
- F. Successors and Assigns. This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and assigns, except that Recipient may not assign or transfer its rights, obligations or any interest without the prior written consent of OBDD.
- G. Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.
- H. Integration. This Contract (including all exhibits, schedules or attachments) constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- I. No Third Party Beneficiaries. OBDD and Recipient are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- J. Survival. All provisions of this Contract that by their terms are intended to survive shall survive termination of this Contract.
- K. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.
- L. Attorney Fees. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract will be entitled to recover from the other its reasonable attorney fees and costs and expenses at trial, in a bankruptcy, receivership or similar proceeding, and on appeal. Reasonable attorney fees shall not exceed the rate charged to OBDD by its attorneys.
- M. Public Records. OBDD's obligations under this Contract are subject to the Oregon Public Records Laws.

SIGNATURE PAGE FOLLOWS

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Business Development Department



CITY OF MCMINNVILLE

By: _____
Chris Cummings, Interim Director

By: _____
Jeff Towery, City Manager

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson per email dated 30 July 2020

Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - PROGRAM DESCRIPTION AND REQUIREMENTS

OBDD

State of Oregon, acting by and through its
Business Development Department,
775 Summer Street NE Suite 200
Salem OR 97301-1280

Contract Administrator: Michelle Bilberry

Telephone: 503-856-2483

Email: michelle.bilberry@oregon.gov

Recipient

City of McMinnville

231 NE Fifth Street
McMinnville OR 97128

Contact: Heather Richards, Planning Director

Telephone: 541-604-4152

Email: Heather.Richards@mcminnvilleoregon.gov

Program Requirements

Recipient will operate a COVID-19 Emergency Business Assistance Fund that provides grants to individual businesses affected by the COVID-19 epidemic, as described below. Recipient will provide its own funds for the Program to match the Loan amount, in at least a 1:1 ratio.

Eligible Business Applicants

1. Businesses must be adversely affected economically in either one of the following two categories:
 - Those for-profit and non-profit (limited to 501(c)(3) corporations) businesses that were prohibited from operation as directed by the Governor of Oregon's Executive Order No. 20-12.
 - Those for-profit businesses that can demonstrate a one month decline in sales due to the COVID-19 epidemic of 50% or more in one of the months of March, April, May, June, July or August 2020 as compared against sales in the month of January 2020 or February 2020, or for companies with cyclical or seasonal sales, compared with the comparable month in 2019. Those 501(c)(3) non-profit businesses that can demonstrate a decline in revenue due to the COVID-19 epidemic of 50% or more in one of the months of March, April, May, June, July or August 2020 as compared against revenue in the month of January 2020 or February, or for non-profits with cyclical or seasonal revenues, the comparable month in 2019.
2. Businesses must have 25 or fewer employees.

Ineligible Business Applicants

Ineligible applicants include the following categories of businesses:

1. Passive real estate holding companies and others holding passive investments.
2. Non-profit entities that do not have federal 501(c)(3) status.
3. Businesses that fail to certify they are not delinquent on federal, state or local taxes that were due before the date of application.
4. Businesses that do not certify they are in compliance and will comply with all federal, state and local laws and regulations.
5. Businesses not headquartered and with principal operations in Oregon.
6. Businesses not registered to do business in Oregon (Secretary of State Business Registry verification) if such registration is required.

7. Performing arts venues and cultural or arts organizations that receive funds under the statewide Business and Cultural Support program established by the 14 July 2020 Legislative Emergency Board. (Recipient must notify any applicants that are performing arts venues and cultural organizations about this exclusion. Should such an applicant wish to apply under this program and waive their ability to apply under the Business and Cultural Support program, contact OBDD for direction.)

Program Access

It is intended that these funds are equally accessible to all Oregonians, so Recipient will conduct a robust marketing program that reaches out locally to businesses owned by members of historically disadvantaged population groups (including but not limited to Asian, Black, Hispanic, Native American, and Women Owned Businesses) at least to the extent described in its proposal to OBDD, and Recipient must:

- Utilize program marketing materials and application materials provided by OBDD and made available in languages that are representative of the local population.
- Conduct a stepped marketing program that reaches out and markets to members of historically disadvantaged population groups in advance of marketing to the general public.

Business Applications and Support Documentation

In general, Recipient will, applying its best judgment in individual cases, ensure that businesses:

- Document the federal assistance amount they have received as of the date of application from the Small Business Administration's Paycheck Protection Program (PPP); Economic Injury Disaster Loan Emergency Advance program (EIDL); or other federal programs for emergency pandemic funding. (Awards must be reduced by the amounts received from those programs.)
- Self-certify that their business incurred COVID-pandemic impacts between 1 March 2020 and 30 December 2020 (CARES Act funding restriction).
- Demonstrate:
 - That they were prohibited from operation as directed by Executive Order No. 20-12; or
 - That the for-profit business had a one month decline in revenue decrease of 50% or more due to the COVID-19 pandemic in the month of March, April, May, June, July or August 2020, as compared against the sales or revenues of January or February, or for companies with cyclical or seasonal sales, compared with the comparable month in 2019, or a non-profit business had a revenue decline of 50% or more due to the COVID-19 pandemic in one of the months of March, April, May, June, July or August 2020 as compared against revenue in the month of January 2020 or February 2020, or for non-profits with cyclical or seasonal revenues, the comparable month in 2019.
- Demonstrate they are headquartered and have principal operations in Oregon.
- Self-certify they are not subject to any of the ineligibility criteria.
- Self-certify that the business and its operations are, and will, remain compliant with all local, state and federal laws.
- Provide business, financial and ownership information sufficient to determine and verify eligibility (including whether or not business is owned by a Sole Proprietor).

Recipient will use a standard Grant Application Form for businesses, including a statement that applicant agrees that the State may pursue collection efforts for fraudulent or ineligible grant awards, as supplied by OBDD in multiple languages.

Grant Award Amounts

Awards to eligible businesses will be made as a grant. The amount of the grant will be the greater of two figures, subject to an applicant's ability and choice to provide documentation to support the second figure: the first based on the number of employees before the COVID-19 crisis (as of 29 February 2020); or the second based on the documented amount of fixed operating expenses for the 60 day period of 1 January through 29 February 2020. Regardless of the basis used for the calculation, the applicant must certify that their COVID-pandemic impacts were incurred between 1 March 2020 and 30 December 2020. The eligible award amounts are as follows:

- 0-5 employees
 - \$2,500, or
 - 60-day fixed expenses up to a maximum of \$5,000.
- 6-10 employees
 - \$5,000, or
 - 60-day fixed expenses up to a maximum of \$10,000.
- 11-15 employees
 - \$7,500, or
 - 60-day fixed expenses up to a maximum of \$15,000.
- 16-20 employees
 - \$10,000, or
 - 60-day fixed expenses up to a maximum of \$20,000.
- 20-25 employees
 - \$12,500, or
 - 60-day fixed expenses up to a maximum of \$25,000.

Not less than 50% of all Recipient's awards must be made to Sole Proprietor owners (with or without other employees).

Grant Award Amount Reductions

Recipient will reduce any grant award amount by any amount applicant has received from federal CARES Act funds or other federal funds including: Small Business Administration's Paycheck Protection Program (PPP); Economic Injury Disaster Loan Emergency Advance program (EIDL); and other federal programs for emergency pandemic funding.

Review of Applications

Recipient must confirm that all information and certifications provided by business applicants meet all Program requirements, including but not limited to:

- Demonstrate:
 - That the business applicant was prohibited from operation as directed by Executive Order No. 20-12; or
 - That the business applicant had a sales decrease of 50% or more due to the COVID-19 pandemic in the month of March, April, May, June, July or August 2020, as compared against the sales in January or February 2020, or for companies with cyclical or seasonal sales, compared with the comparable month in 2019. For a non-profit business, a 50% or more decline of revenue due to the COVID-19 pandemic in one of the months of March, April, May, June, July or August 2020 as compared against revenue in the month of January 2020 or February 2020, or for non-profits with cyclical or seasonal revenues, the comparable month in 2019.
- Demonstrate that the business applicant is headquartered and with principal operations in Oregon.
- Provide sufficient documentation of employee head count.

Reporting of Awards

To assist in preventing multiple grants to any business, Recipient must send notification of every award to the OBDD Contract Administrator no later than 24 hours after making the award decision, utilizing a Pre-award report form provided by OBDD.

Within 30 days of fully deploying the Loan, or 30 days after the Program Completion Deadline, whichever occurs first, Recipient will deliver a final report on the Program and information on the grant recipients on a form provided by OBDD, which will include but is not limited to:

- Number of applications received
- A listing of the direct costs incurred in the administration of the Program (payroll, marketing, et cetera)
- Number of awards made
 - Awards by #, \$ and % of allocation by voluntary reported demographic information
 - Awards by #, \$, and % of allocation by regions as defined by OBDD (i.e., Central, Coastal, Eastern, Portland, Southern, and Valley)
 - Award by #, \$, and % of allocation by company size / number of employees (0-5, 6-10, et cetera)
 - Award by #, \$ and % of allocation to sole proprietors
 - Total amount of Recipient's matching funds applied to awards made under the Program, by \$ and % match to the Loan.
- Individual business grant recipient data
 - Name of company
 - Employer Identification Number (EIN)
 - Oregon Business Identification Number (BIN)
 - Address of company
 - NAICS industry code

- Amount of award
- Federal award amounts received, listed by program
- Amount of Emergency Small Business Assistance Program award received in earlier rounds
- Legal business entity type
- # of employees as of 29 February 2020
- Reported # of jobs retained due to the award
- For owners of businesses:
 - First and last name
 - Percentage of ownership
 - Demographics as reported in a demographic questionnaire for all owners with 20% or more ownership.
- A certification by Recipient that no Loan proceeds were used to retire any of Recipient's debt.
- Any other additional information if requested by OBDD as necessary for CARES Act compliance.

Tax Responsibility

Recipient is responsible for all federal or state taxes applicable to any portion of the Loan that is forgiven. Recipient is responsible to administer all federal or state tax requirements applicable to grant awards, including delivery of IRS Form 1099-G to grant recipients.

Program Completion Deadline

Recipient must complete grant awards to eligible businesses no later than the Program Completion Deadline, which date is 45 days after receipt of the Loan proceeds, unless otherwise allowed by OBDD in writing. If Recipient is unable to complete grant awards to businesses (including matching funds) in its aggregate Loan amount by the Program Completion Deadline, Recipient shall return all unforgiven Loan principal to OBDD as provided by Section 4 of the Contract.

EXHIBIT B - FEDERAL AWARD IDENTIFICATION (REQUIRED BY 2 CFR 200.331(A))

| | |
|--|--|
| (i) Recipient Name*: <i>(must match DUNS registration)</i> | MCMINNVILLE, CITY OF |
| (ii) Recipient's DUNS number: | 08-525-6626 |
| (iii) Federal Award Identification Number (FAIN): | N/A |
| (iv) Federal award date: <i>(date of award to DAS by federal agency)</i> | 27 March 2020 |
| (v) Grant period of performance start and end dates: | Start: 1 March 2020 End: 30 December 2020 |
| (vi) Total amount of federal funds obligated by this Grant: | \$100,000 |
| (vii) **Total amount of federal award committed to Recipient by Agency: <i>(amount of federal funds from this FAIN committed to Recipient)</i> | \$100,000 |
| (viii) Federal award project description: | Coronavirus Relief Fund |
| (ix) Federal awarding agency: | U.S. Department of the Treasury |
| (x) Name of pass-through entity: | Oregon Business Development Department |
| (xi) Contact information for awarding official of pass-through entity: | George Naughton, D.A.S. Chief Financial Officer 155 Cottage Street NE Salem OR 97301 CoronavirusReliefFund@Oregon.gov |
| (xii) CFDA number, name, and amount: | Number: 21.019 Name: Coronavirus Relief Fund Amount: \$1,388,506,837.10 |
| (xiii) Is award research and development? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| (xiv) Indirect cost rate: | Not allowed per U.S. Treasury guidance |
| (xv) Is the 10% de minimis rate being used per §200.414? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

* For the purposes of this Exhibit B, "Subrecipient" refers to Recipient and "pass-through entity" refers to OBDD

** The total amount of federal funds obligated to the Subrecipient by the pass-through entity is the total amount of federal funds obligated to the Subrecipient by the pass-through entity during the current state fiscal year.



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

STAFF REPORT

DATE: August 11, 2020
TO: Mayor and City Councilors
FROM: Chuck Darnell, Senior Planner
SUBJECT: Ordinance No. 5095 – PDA 1-20 (Planned Development Amendment)

STRATEGIC PRIORITY & GOAL:

| | |
|---|--|
|  <p>GROWTH & DEVELOPMENT CHARACTER Guide growth & development strategically, responsively & responsibly to enhance our unique character.</p> |  <p>HOUSING OPPORTUNITIES (ACROSS THE INCOME SPECTRUM) Create diverse housing opportunities that support great neighborhoods.</p> |
|---|--|

Report in Brief:

This action is the consideration of Ordinance No. 5095, an ordinance approving a Planned Development Amendment that would amend the conditions of approval of the Planned Development Overlay District adopted by Ordinance No. 4667. The amendments would result in the allowance of multiple family dwellings and community buildings associated with residential uses and amendments to the existing 35 foot building height limitation. The amendments would also result in the addition of new conditions of approval requiring future review of a master plan prior to any development of the site, requiring a minimum of 10 percent of the site to be developed with usable open space if the site is developed with multiple family dwellings, and other minor procedural amendments to reflect current development review processes.

Background:

The subject property is located west of SE Norton Lane. The property is more specifically described as Parcel 1, Parcel 2, and Parcel 3, Partition Plat 2007-12. The property is also identified as Tax Lots 400, 404, and 405, Section 27, T. 4 S., R. 4 W., W.M. See Vicinity Map (Figure 1) below.

Attachments:

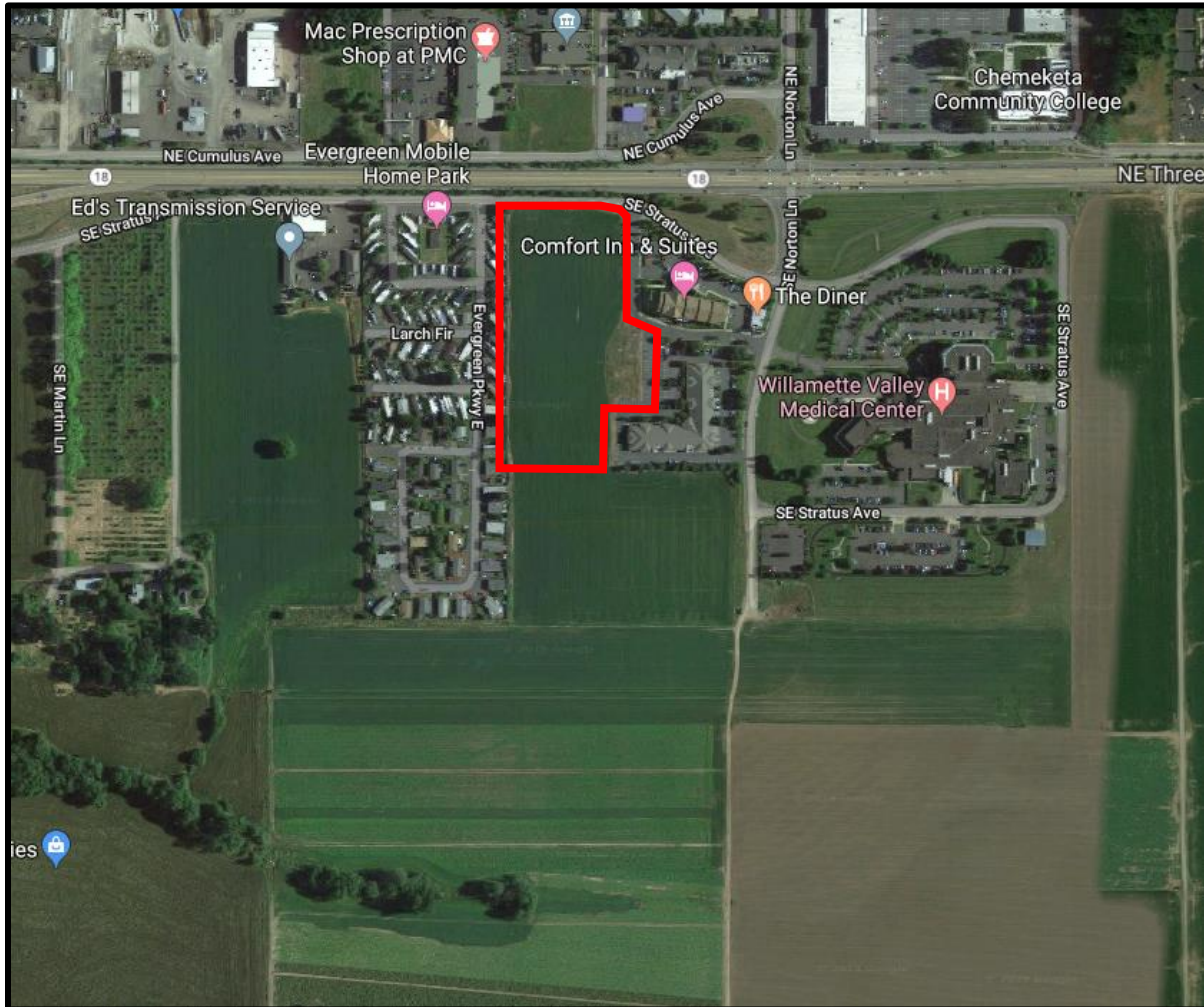
Attachment A: Ordinance No. 5095 including Exhibit A – PDA 1-20 Decision Document

Attachment B: Ordinance 4667

Attachment C: Public Notices

Attachment D: Draft Planning Commission Minutes, July 16, 2020

Attachment E: PDA 1-20 Application Materials

Figure 1. Vicinity Map (Property Lines Approximate)

In 1998, the City approved Ordinance 4667 which adopted the Planned Development Overlay District that exists on the subject site and the adjacent parcels today. Ordinance 4667 included 21 conditions of approval. Those conditions of approval are still applicable to the property and are provided in Ordinance 4667, which is included as Attachment B to this staff report. Two conditions of approval that are applicable to the current Planned Development Amendment request (PDA 1-20) limit the uses allowed within the Planned Development Overlay District and also limited the height of buildings within the overlay district. Those conditions of approval are provided below:

3. No building shall exceed the height of 35 feet.

7. That the subject site, outside of that area identified for "future development" is limited to professional office use, medical office use, or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than professional office use or medical office use may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.

Attachments:

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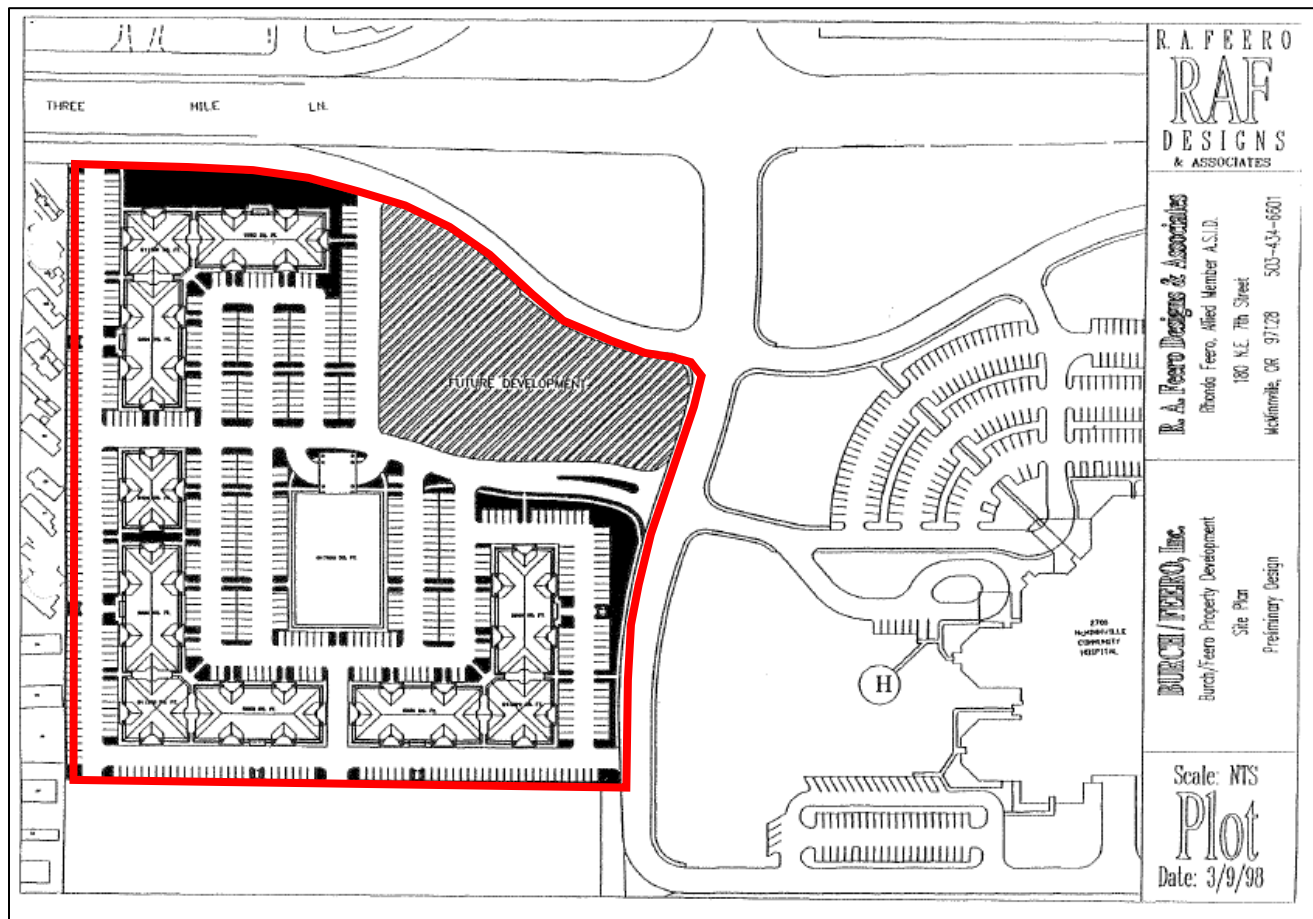
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Ordinance 4667 also adopted a master plan for the Planned Development Overlay District, which is shown below (property subject to the master plan highlighted):



As shown above, Ordinance 4667 and the master plan originally included all of the property at the southwest quadrant of the intersection of SE Stratus Avenue and SE Norton Lane. Only portions of the property in the master plan area have developed since the adoption of Ordinance 4667, and further land divisions and Planned Development Amendment applications have occurred since the adoption of Ordinance 4667.

In 2001, the property within the master plan area was partitioned into three parcels by Partition Plat 2001-40. Parcel 1 of Partition Plat 2001-40 was the southeastern office building in the master plan, and has since been developed in accordance with the master plan. Parcel 2 of Partition Plat 2001-40 is the subject site associated with the current Planned Development Amendment request (PDA 1-20). Parcel 3 of Partition Plat 2001-40 is the “Future Development” area shown in the Ordinance 4667 master plan.

Partition Plat 2001-40 is shown below:

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The applicant is requesting amendments to three of the existing conditions of approval in Ordinance 4667 and inclusion of two new conditions of approval, as described below:

- 1) Amend Condition 3 to remove stricken language:
~~“No building shall exceed the height of 35 feet.”~~
- 2) Amend Condition 7 to add the **bold** language:
 “That the subject site, outside of that area identified for “future development” is limited to professional office use, medical office use, **Multiple-Family Dwellings, community buildings appurtenant to residential uses** or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than a professional office use, or medical office use, or **Multiple-Family Dwellings, community buildings appurtenant to residential uses** may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.”
- 3) Amend Condition 16 to add **bold** language and remove the stricken language:
~~“That final development plans as approved by the Three Mile Lane Design Review Committee shall be placed on file with the Planning Department and become a part of the zone and binding on the owner developer.”~~

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director’s decision as to what constitutes a major or minor change. An appeal from a ruling by ~~him~~ **the Planning Director** may be made only to the Commission. Review of the Planning Director’s decision by the Planning Commission may be initiated at the request of any one of the commissioners.”

- 4) Add new Condition reflected in **bold** language:
“The master plan previously approved relating to Ordinance No. 4667 does not apply to the undeveloped portions of the subject site. An updated master plan shall be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site.”
- 5) Add new Condition reflected in **bold** language:
“If the site is developed as multiple family dwellings, an area equivalent to 10 percent of the gross area of the site shall be reserved for usable open space for residents of the multiple-family development site. The open space area shall be contained within the boundaries of the Subject Site and does not need to be contiguous. Area calculated and included as part of the 10 percent requirement must have dimensions of at least 20 feet. Any area may be located adjacent to the front yard setback area and may include 5 feet of the front yard set back towards the 10 percent open space. All open space areas may be counted towards the minimum 25 percent of the site area that must be landscaped.”

This land use request was considered in a public hearing by the McMinnville Planning Commission on July 16, 2020. 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 the land use application, subject to conditions of approval outlined in Ordinance No. 5095.

Attachments:

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Discussion:**Applicable Review Criteria**

The decision for this land-use application is dependent upon whether or not the application meets state regulations, the McMinnville Comprehensive Plan and the McMinnville Municipal Code (MMC). The application 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. The ordinance under consideration has an attached decision documents that provides the Findings of Fact and Conclusionary Findings for each land-use application. This document outlines the legal findings on whether or not the application meets the applicable criteria and whether or not there are conditions of approval that if achieved put the application in compliance with the criteria.

The specific review criteria for Planned Development Amendments in Section 17.74.070 of the McMinnville Municipal Code 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 a written narrative and findings to support their request for a Planned Development Amendment. The narrative and findings are provided in the application materials, and are also reiterated and expanded upon in the Decision Document for the land use application.

Amendments to Planned Development Overlay District

The amendments requested by the applicant fall into a few general topic areas, which will be described below separately. Those include amendments to the uses allowed to allow multiple family residential, a proposed new condition requiring open space if the site is developed with multiple family residential uses, a removal of an existing limitation on building height, a revision to the master plan associated with the Planned Development Overlay District, and other procedural amendments to reflect current City review processes.

Multiple Family Residential Use*Attachments:*

Attachment A: Ordinance No. 5095 including Exhibit A – PDA 1-20 Decision Document

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The applicant is requesting to amend the existing list of allowed uses to allow multiple family dwellings, with their argument primarily being that the amendment would allow for the provision a housing type that is needed in the community and that the proposed use is permitted in the underlying C-3 (General Commercial) zoning district. Overall, the Planning Commission concurred with the applicant's arguments for the allowance of multiple family dwelling units on the subject site. The proposed amendment would provide additional benefits to the community and the City as a whole by expanding the allowable uses on the subject site and providing an opportunity for a variety of land uses in the area of the planned development overlay district. The proposal would provide greater flexibility in the development of land, encourage mixed uses in the planned area, and allow for the development of a housing type that is needed in the community. The subject site also meets most of the locational requirements in the Comprehensive Plan for higher density housing, with exception to the adjacency to open space which will be discussed in more detail below.

In addition, in both the most recently acknowledged Housing Needs Analysis and the more recently completed Draft Housing Needs Analysis, additional land for residential use and specifically higher density use is identified as needed. While the allowance of multiple family residential on the subject site would not increase the amount of land designated specifically for higher density residential use, it would increase the potential for the development of higher density residential uses on a property with an existing, underlying zone that already permits multiple family residential use (C-3 General Commercial zone).

Open Space for Multiple Family Residential Use

The applicant has acknowledged that the subject site does not meet locational requirements for higher density housing from the Comprehensive Plan, specifically that the site is not immediately adjacent to public or private open or park space. The applicant has also acknowledged that the City has required the development of usable open space in other scenarios where this condition exists. Therefore, the applicant has suggested a new condition of approval to require that a minimum of 10 percent of the gross area of the site be developed with usable open space if the site is developed with multiple family dwellings. This 10 percent size is consistent with recent City requirements of other Planned Development Overlay Districts that contain multiple family residential uses. The applicant requested some language within the new condition of approval to allow for more flexibility in the development of the usable open space than what has been required in other scenarios.

The City's previous precedent for open space in Planned Development Overlay Districts with multiple family uses was to require the usable open space to be a contiguous area with each dimension being at least 25 feet. The usable open space has previously been required to be located outside of the front yard setback area, and was also allowed to count towards the minimum 25 percent of the site that must be landscaped (per MMC landscaping requirements for multiple family uses). The applicant's request seeks flexibility to allow for the open space areas to not be contiguous, to be a minimum dimension of 20 feet, and to allow the open space to encroach up to 5 feet into a front yard. The applicant's intent for these changes is to allow for multiple areas for open space due to the size of the site and to allow flexibility in providing different forms of usable open space, such as a playground oriented towards children and another space with benches for adults without children.

The Planning Commission found that there may be benefit in having the flexibility to provide multiple areas for usable open space on the subject site. However, the Planning Commission found that the minimum size of a contiguous area that has been required of other sites should be required on this site as well for consistency. The Planning Commission did provide an option for the applicant to request the open space to be non-contiguous at the time of the submittal of an updated master plan for the site (which

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will be described in more detail below), which would allow an opportunity for the City to review and consider the non-contiguous open space and how it is integrated into the site. The Planning Commission did recommend that the other size and locational requirements for the usable open space be consistent with requirements of other sites. Therefore, the Planning Commission recommended a final condition to require the usable open space areas to be contiguous, unless approved by the Planning Commission during the review of the updated master plan. The condition specifies that the minimum dimension still be 25 feet and not be allowed in the front yard. The front yard in the case of the subject site will be the Stratus Avenue frontage, and the Planning Commission did not find that the usable open space should be allowed to be located in an area immediately adjacent to a minor collector street that is also a Highway 18 frontage road.

Building Height

The applicant is requesting that the existing condition of approval that limits building height to 35 feet be removed. Their arguments for removing this building height limitation include that the previously approved master plan that identified a single story office park may no longer be applicable, that taller buildings exist in the immediately surrounding area, and that the underlying zoning district allows taller building heights. The underlying zoning district of C-3 (General Commercial) allows building height up to 80 feet. If multiple family residential uses were allowed as requested by the applicant, the C-3 zone requires that multiple family residential use follow the requirements of the R-4 (Multiple Family Residential) zone, which allows building heights up to 60 feet. The applicant has also cited other examples of taller buildings in the areas surrounding the site, including the Comfort Inn and Suites (which is within the same Planned Development Overlay District), Willamette Valley Medical Center across Norton Lane, and the Chemeketa Community College building across Highway 18.

Staff reviewed the original land use application materials (CPA 3-98 and ZC 6-98) from the applications that led to the adoption of Ordinance 4667 and the existing Planned Development Overlay District, in an effort to determine what the rationale or reasoning was for including the 35 foot building height limitation. Staff was not able to identify any specific language in the staff report, decision document, or minutes that provided reasoning for the 35 foot building height limitation. It was suggested as a condition of approval by staff in the staff report at that time, and was eventually included in the final decision of the City Council. The land use application at that time included building plans for the office park that is shown in the previously approved master plan. Those building plans identify the office park buildings being single story, and may have been the reason that the building height was limited at that time. As noted in the Background section above, only one of these buildings was ever developed, that being the existing single story medical office building on the southeastern portion of the Planned Development Overlay District immediately adjacent to Norton Lane.

However, the same 35 foot building height limitation is included on a number of Planned Development Overlay Districts in the Three Mile Lane corridor. This may have been intentional to limit building form and bulk from dominating the horizon along the corridor, where there is also a minimum 120 foot setback from the center of the highway and a pattern of lower-scale and horizontal building forms with distinctive roof features and patterns.

In further analyzing the history of the subject site and the land use decisions that have occurred, staff determined that the existing condition #3 in Ordinance 4667 was actually amended at the time of the development of the Comfort Inn and Suites building. In 2006, Ordinance 4851 was adopted and amended condition #3 in Ordinance 4667 to allow buildings up to 45 feet in height, but only applied to Parcel 1 of Partition Plat 2006-57 (referred to as Tax Lot 401 at the time and in Ordinance 4851). Parcel 1 of Partition

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Plat 2006-57 is the property of the Comfort Inn and Suites building. Ordinance 4851 amended condition #3 from Ordinance 4667 as follows:

“No building shall exceed the height of 35 feet, with the exception that tax lot 401 may be developed with a hotel with a maximum height of 45 feet, consistent with the drawing and plan submitted to the City as part of Docket ZC 10-05.”

At that point in time, the City had determined that a building height of 45 feet was acceptable for a parcel within the Planned Development Overlay District. However, this previous allowance for a height of 45 feet was only approved after more detailed building plans had been submitted to ensure the development was compatible with the Three Mile Lane Planned Development Overlay District.

The applicant’s request for the removal of the building height limitation is to allow for flexibility in the process of developing plans for the buildings on the subject site. The Planning Commission found that this additional flexibility could be consistent with the purpose of the Planned Development Overlay District, which includes allowing for greater flexibility and greater freedom of design in the development of land, to facilitate a desirable aesthetic and efficient use of open space, and to create public and private common open spaces. However, the Planning Commission is recommending that additional information should be required prior to allowing building heights to exceed the current limitation of 35 feet. Other existing and new conditions of approval still require that an updated master plan (condition #22 described in more detail below) and detailed building plans (condition #2) to be submitted to the City for review. These future review processes will allow for more detailed analysis of building design and how those buildings are oriented on the site, which will provide an opportunity for the City to address and mitigate any potential impact of a taller building on the subject site.

Based on those future review opportunities, the Planning Commission is recommending that, instead of removing the building height limitation entirely at this point in time, the condition related to building height be updated to provide an opportunity for the applicant to request additional building height at the time that the updated master plan and building plans are submitted for review by the City. The Planning Commission is recommending that the condition require that the request for additional building height include an analysis and survey of the height and setback of surrounding buildings in the Three Mile Lane Planned Development Overlay District, and that the height and setback of any proposed building on the subject site is similar to and consistent with the height and form of other buildings in the Three Mile Lane corridor and Three Mile Lane Planned Development Overlay District. The recommended condition also specifies that the Planning Commission would review the request for additional building height, and that the Planning Commission would also take into consideration the proposed architectural and building form for its compatibility with the architecture and building form of other buildings in the Three Mile Lane Planned Development Overlay District.

Master Plan

As discussed in detail in the Background section above, the original master plan adopted by Ordinance 4667 identified the development of an office park within the Planned Development Overlay District. Obviously, this master plan would not allow for the development of multiple family residential uses in a manner that would be functional for the type of use or beneficial for the future residents. Therefore, the applicant is requesting a new condition to state that the master plan previously approved by Ordinance 4667 not apply to the undeveloped portions of the site (which are the three parcels subject to the current Planned Development Amendment request). The applicant’s proposed condition would require that an updated master plan be submitted to the Planning Commission for review and approval prior to any development taking place.

Attachments:

Attachment A: Ordinance No. 5095 including Exhibit A – PDA 1-20 Decision Document

Attachment B: Ordinance 4667

Attachment C: Public Notices

Attachment D: Draft Planning Commission Minutes, July 16, 2020

Attachment E: PDA 1-20 Application Materials

Staff and the Planning Commission support this request, as the existing master plan is now over 20 years old and is not functional for the uses that may be allowed to be developed on the site, should the allowed uses be amended to include multiple family residential uses. However, in order to preserve the previous approvals and developments that have occurred in other portions of the Planned Development Overlay District, the Planning Commission is recommending some changes to the new condition of approval. The changes would require that the updated master plan identify existing developed portions of the Planned Development Overlay District, and that it would replace the previously approved master plan. The condition would require that the master plan incorporate all necessary shared access, parking, and utility easements to allow the existing developed portions of the Planned Development Overlay District to continue to operate without disruption. The condition would also specify that the updated master plan be reviewed by the Planning Commission, be processed as a Planned Development Amendment but with the Planning Commission making the final decision, and that the master plan review would be subject to the Planned Development Amendment review criteria and the Great Neighborhood Principles in the McMinnville Comprehensive Plan.

Procedural Amendments

The applicant had requested one procedural amendment to reflect the correct review process for future development of the site, which was to remove language from condition #16. However, after further analysis of the existing conditions of approval in Ordinance 4667 against the City's current development review processes and the other amendments to the Planned Development Overlay District being requested by the applicant, staff had identified some other procedural amendments that could be made as part of the current Planned Development Amendment process. These procedural amendments were reviewed by the Planning Commission and were recommended to include:

- Changes to condition #2 to reference the Three Mile Lane Development Review process that is currently followed by the City to satisfy the development review process required in the overarching Three Mile Lane Planned Development Overlay District (Ordinances 4131 and 4572). Three Mile Lane Development Review applications are currently reviewed by the Planning Director, as described in the application review process in MMC Section 17.72.110 (Applications – Director's Review with Notification). Appeals of that review process are captured by MMC Section 17.72.170, so the appeal language in the existing condition #2 is proposed to be removed.
- Changes to condition #16 to clarify that only the final master plan approved for the Planned Development Overlay District become part of the zone and binding on the owner and developer.
- Removal of language in condition #20 that is related to a change to the previously adopted master plan. This language required the removal of four specific parking spaces from the previously approved master plan. As requested by the applicant, the previously approved master plan would no longer be applicable to the subject site, so this language is proposed to be removed.

Summary of Public Hearing Process

The Planned Development Amendment (PDA 1-20) application was considered during a public hearing by the McMinnville Planning Commission on July 16, 2020, after the public hearing was noticed in the News Register and mailed to surrounding property owners as required by the MMC. The Planning Department did not receive any written testimony prior to the public hearing. One item of oral testimony was provided during the public hearing, which was in support of the application. 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 the land use application, subject to conditions of approval outlined in Ordinance No. 5095 and as described below.

Attachments:

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Planning Commission’s Recommended Conditions of Approval

Due to the complex history of the multiple land use decisions that apply to this Planned Development Overlay District, staff had suggested that the current conditions of approval from Ordinance 4667 and Ordinance 4851 be combined into the Decision Document for the current Planned Development Amendment (PDA 1-20), along with any additional amendments to the conditions resulting from the current request. This will provide clarity for the property owners, any future developers, and the City by carrying forward all conditions in one approval document.

Therefore, the Planning Commission is recommending the following conditions of approval, if the City Council supports the approval of the Planned Development Amendment (PDA 1-20) request:

1. That the conditions of approval of Ordinance 4667, as amended by Ordinance 4851, be amended as follows (text to be removed is shown with ~~strikeout~~, text to be added is **bold and underlined**):
 1. 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 frontages. An arborvitae hedge or some similar type of planted visual screen shall be required along the property lines adjacent to residentially zoned lands. Street tree planting, as required by the City's tree ordinance, shall be provided as well.
 2. Detailed plans showing building elevations, site layout, signage, landscaping, parking, and lighting must be submitted to and approved **through the Three Mile Lane Development Review application process** ~~by the McMinnville Three Mile Lane Design Review Committee~~ before actual development may take place. To the extent possible, the site and building design should be compatible with surrounding development. 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. ~~The applicant may appeal the decision of the Three Mile Lane Design Review Committee to the Planning Commission if notice of intent to appeal is filed in the Planning Department office within fifteen (15) days of the Committee's decision.~~
 3. No building shall exceed the height of 35 feet, with the exception that tax lot 401 may be developed with a hotel with a maximum height of 45 feet, consistent with the drawing and plan submitted to the City as part of Docket ZC 10-05.

The applicant may request additional building height in excess of 35 feet for any future building on Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12, if the request is made at the time of the submittal of the updated master plan and detailed building plans described in Condition 2 and Condition 22. The applicant’s request for additional building height shall include an analysis and survey of the height and setback of surrounding buildings in the Three Mile Lane Planned Development Overlay District. The height and setback of any proposed building on Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12 shall be similar to and consistent with the height and form of other buildings in the Three Mile Lane corridor and Three Mile Lane Planned Development Overlay District. The Planning Commission shall review and make a decision on the request for additional building height. The Planning Commission shall also take into consideration the proposed architectural

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and building form, and its compatibility with the architecture and building form of other buildings in the Three Mile Lane Planned Development Overlay District.

4. That if outside lighting is to be provided, it must be directed down and away from residential areas and public streets.
5. That the subject site, for purposes of signage, shall be redesignated to be a zone 3 property on the Three Mile Plan Map as contained in City Ordinance No. 4572. The entire parcel shall be entitled to two "monument" signs - one serving the entrance to the office complex and one serving the commercial area at the northeast corner of the site. These signs shall conform to the standards as set forth in the City Ordinance No. 4572.
6. All business, storage, or displays shall be conducted wholly within an enclosed building; except for off-street parking and loading. No drive up food service or beverage facility or facilities shall be permitted on the subject site.
7. That the subject site, outside of that area identified for "future development" is limited to professional office use, medical office use, **multiple-family dwellings, community buildings appurtenant to residential uses,** or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than professional office use, ~~or~~ medical office use, **multiple-family dwellings, or community buildings appurtenant to residential uses** may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.

If the site is developed as multiple family dwellings, a minimum of 10 percent of the gross area of the site shall be reserved for usable open space for residents of the multiple-family development site. The open space area shall be contained within the boundaries of the parcel or parcels being developed and shall be contiguous. The open space area may be non-contiguous if approved by the Planning Commission at the time of the review of the updated master plan, as described in Condition 22. Area calculated and included as part of the 10 percent open space requirement shall have dimensions of at least 25 feet in length and shall be located outside of the front yard setback area. All usable open space areas may be counted towards the minimum 25 percent of the site area that must be landscaped.

8. That this zone change shall not take effect until and unless CPA 3-98 is approved by the City Council.
9. That the conceptual master plan for that portion of the applicant's property identified for "future development" shall in no way be binding on the City.
10. That if restrictive covenants are proposed for the development they must meet with the approval of the Planning Director.
11. That the Planning Director shall be granted authority to amend the submitted site plan as may be necessary to accommodate the requirements of the Oregon Department of Transportation. All amendments shall be consistent with the City's development codes.
12. That a drainage and grading plan be submitted to the City Engineer for review and approval prior to the issuance of any development permits. At a minimum, the plan should

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include the finished grades of proposed public streets, and the nature and extent of street and utility construction. Where any cut or fill will exceed three feet in depth, a cross section shall also be submitted.

13. That utilities shall be extended to the property (or project) boundaries by the applicant, as may be required by the City Engineer or McMinnville Water and Light.
14. That any and all fill in areas of proposed construction of buildings shall be engineered and shall meet the approval of the Building Department.
15. That areas identified on the submitted site plan for future development shall be subject to the requirements of this zone change approval.
16. That ~~the final master plan development plans as approved by the Three Mile Lane Design Review Committee~~ shall be placed on file with the Planning Department and become a part of the zone and binding on the owner and developer.

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted ~~site~~ **master** plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by ~~him~~ **the Planning Director** may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the commissioners.

17. That the applicant secure from the Oregon Department of Transportation (ODOT) a permit for access to Highway 18, and the south frontage road, pursuant to OAR 734-50 (Highway Approach Roads, Crossings, Access Control, and Weight Restrictions). Evidence of such permit shall be required prior to release of any permits for this project.
18. That improvements to the Highway 18 frontage, as required by ODOT and the City of McMinnville, be done at the applicant's expense and be finalized prior to occupancy.
19. That the subject site is subject to the provisions of the Three Mile Lane Planned Development Ordinance, as amended.
20. That ~~the proposed off-street parking lot be amended by removing the four spaces adjacent to the frontage road nearest the area proposed for "future development" and in their place provide landscaping.~~ In addition, the applicant shall agree to in the future close the proposed southern access to Norton Lane, if warranted by the development of the property to the south.
21. That the owner must grant to the Willamette Valley Medical Center and the City of McMinnville the right to cause all airspace above the surface of the subject site such noise, vibrations, fumes, dust, fuel particles, and all other effects as may be caused by the operation of aircraft landing at or taking off from or operating at or on the Medical Center property and the McMinnville Municipal Airport. The owner must fully waive any right or cause of action which he may now or in the future raise against the Willamette Valley Medical Center and the City of McMinnville due to such circumstances noted above.

Attachments:

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22. That an updated master plan shall be submitted to the Planning Commission for review and approval prior to any development of Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12. The updated master plan shall replace the previously approved master plan and shall identify existing developed portions of the Planned Development Overlay District. The master plan shall incorporate necessary shared access, parking, and utility easements to allow the existing developed portions of the Planned Development Overlay District to continue to operate without disruption.

The review of the updated master plan shall be processed as a Planned Development Amendment, but the Planning Commission shall make the final decision on the updated master plan. The updated master plan shall be reviewed against the Planned Development Amendment review criteria in Section 17.74.070 of the McMinnville Municipal Code, and also against the Great Neighborhood Principles in Policy 187.50 of the McMinnville Comprehensive Plan.

Attachments:

- A. Ordinance No. 5095, including:
Exhibit A – PDA 1-20 Decision Document
- B. Ordinance 4667
- C. Public Notices
- D. Draft Planning Commission Minutes, July 16, 2020
- E. PDA 1-20 Application Materials

Fiscal Impact:

None.

Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5095 approving PDA 1-20 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 October 20, 2020. In order to hold a public hearing and meet all necessary noticing requirements, as well as provide time for the potential procedures for City Council action following the public hearing, the public hearing would need to be scheduled for the September 8, 2020 City Council meeting.
3. **DO NOT ADOPT** Ordinance No. 5095, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5095.

Recommendation:

Staff recommends that the Council adopt Ordinance No. 5095 which would approve PDA 1-20 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. 5095.”

Attachments:

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CD

Attachments:

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ORDINANCE NO. 5095

AN ORDINANCE AMENDING AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT TO ADD MULTIPLE FAMILY RESIDENTIAL AS AN ALLOWABLE USE, AMEND EXISTING BUILDING HEIGHT LIMITATIONS, AND AMEND THE MASTER PLAN FOR THE PLANNED DEVELOPMENT OVERLAY DISTRICT

RECITALS:

The Planning Department received an application (PDA 1-20) from the Housing Authority of Yamhill County, on behalf of property owner Burch Feero, Inc., requesting approval of a Planned Development Amendment. The property is currently located within a Planned Development Overlay District that was adopted by Ordinance 4667. The requested Planned Development Amendment would result in multiple family residential being an allowable use, amending existing building height limitations and open space requirements, and amending the master plan for the existing Planned Development Overlay District; and

The subject property is located at 235 SE Norton Lane. The property is more specifically described as Parcel 1, Parcel 2, and Parcel 3, Partition Plat 2007-12. The property is also identified as Tax Lots 400, 404, and 405, Section 27, T. 4 S., R. 4 W., W.M.; and

A public hearing was held on July 16, 2020 at 6:30 p.m., before the McMinnville Planning Commission after due notice had been provided in the local newspaper on July 7, 2020, 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 conditions:

1. That the conditions of approval of Ordinance 4667, as amended by Ordinance 4851, be amended as follows (text to be removed is shown with ~~strikeout~~, text to be added is **bold and underlined**):

1. 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 frontages. An arborvitae hedge or some similar type of planted visual screen shall be required along the property lines adjacent to residentially zoned lands. Street tree planting, as required by the City's tree ordinance, shall be provided as well.
2. Detailed plans showing building elevations, site layout, signage, landscaping, parking, and lighting must be submitted to and approved **through the Three Mile Lane Development Review application process** ~~by the McMinnville Three Mile Lane Design Review Committee~~ before actual development may take place. To the extent possible, the site and building design should be compatible with surrounding development. 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. ~~The applicant may appeal the decision of the Three Mile Lane Design Review Committee to the Planning Commission if notice of intent to appeal is filed in the Planning Department office within fifteen (15) days of the Committee's decision.~~
3. No building shall exceed the height of 35 feet, with the exception that tax lot 401 may be developed with a hotel with a maximum height of 45 feet, consistent with the drawing and plan submitted to the City as part of Docket ZC 10-05.

The applicant may request additional building height in excess of 35 feet for any future building on Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12, if the request is made at the time of the submittal of the updated master plan and detailed building plans described in Condition 2 and Condition 22. The applicant's request for additional building height shall include an analysis and survey of the height and setback of surrounding buildings in the Three Mile Lane Planned Development Overlay District. The height and setback of any proposed building on Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12 shall be similar to and consistent with the height and form of other buildings in the Three Mile Lane corridor and Three Mile Lane Planned Development Overlay District. The Planning Commission shall review and make a decision on the request for additional building height. The Planning Commission shall also take into consideration the proposed architectural and building form, and its compatibility with the architecture and building form of other buildings in the Three Mile Lane Planned Development Overlay District.

4. That if outside lighting is to be provided, it must be directed down and away from residential areas and public streets.
5. That the subject site, for purposes of signage, shall be redesignated to be a zone 3 property on the Three Mile Plan Map as contained in City Ordinance

No. 4572. The entire parcel shall be entitled to two "monument" signs - one serving the entrance to the office complex and one serving the commercial area at the northeast corner of the site. These signs shall conform to the standards as set forth in the City Ordinance No. 4572.

6. All business, storage, or displays shall be conducted wholly within an enclosed building; except for off-street parking and loading. No drive up food service or beverage facility or facilities shall be permitted on the subject site.
7. That the subject site, outside of that area identified for "future development" is limited to professional office use, medical office use, **multiple-family dwellings, community buildings appurtenant to residential uses,** or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than professional office use, ~~or~~ medical office use, **multiple-family dwellings, or community buildings appurtenant to residential uses** may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.

If the site is developed as multiple family dwellings, a minimum of 10 percent of the gross area of the site shall be reserved for usable open space for residents of the multiple-family development site. The open space area shall be contained within the boundaries of the parcel or parcels being developed and shall be contiguous. The open space area may be non-contiguous if approved by the Planning Commission at the time of the review of the updated master plan, as described in Condition 22. Area calculated and included as part of the 10 percent open space requirement shall have dimensions of at least 25 feet in length and shall be located outside of the front yard setback area. All usable open space areas may be counted towards the minimum 25 percent of the site area that must be landscaped.

8. That this zone change shall not take effect until and unless CPA 3-98 is approved by the City Council.
9. That the conceptual master plan for that portion of the applicant's property identified for "future development" shall in no way be binding on the City.
10. That if restrictive covenants are proposed for the development they must meet with the approval of the Planning Director.
11. That the Planning Director shall be granted authority to amend the submitted site plan as may be necessary to accommodate the requirements of the Oregon Department of Transportation. All amendments shall be consistent with the City's development codes.
12. That a drainage and grading plan be submitted to the City Engineer for review and approval prior to the issuance of any development permits. At a minimum, the plan should include the finished grades of proposed public streets, and the nature and extent of street and utility construction. Where any cut or fill will exceed three feet in depth, a cross section shall also be submitted.

13. That utilities shall be extended to the property (or project) boundaries by the applicant, as may be required by the City Engineer or McMinnville Water and Light.
14. That any and all fill in areas of proposed construction of buildings shall be engineered and shall meet the approval of the Building Department.
15. That areas identified on the submitted site plan for future development shall be subject to the requirements of this zone change approval.
16. That ~~the final master plan development plans as approved by the Three Mile Lane Design Review Committee~~ shall be placed on file with the Planning Department and become a part of the zone and binding on the owner and developer.

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted ~~site~~ master plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by ~~him~~ the Planning Director may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the commissioners.

17. That the applicant secure from the Oregon Department of Transportation (ODOT) a permit for access to Highway 18, and the south frontage road, pursuant to OAR 734-50 (Highway Approach Roads, Crossings, Access Control, and Weight Restrictions). Evidence of such permit shall be required prior to release of any permits for this project.
18. That improvements to the Highway 18 frontage, as required by ODOT and the City of McMinnville, be done at the applicant's expense and be finalized prior to occupancy.
19. That the subject site is subject to the provisions of the Three Mile Lane Planned Development Ordinance, as amended.
20. That ~~the proposed off-street parking lot be amended by removing the four spaces adjacent to the frontage road nearest the area proposed for "future development" and in their place provide landscaping.~~ In addition, the applicant shall agree to in the future close the proposed southern access to Norton Lane, if warranted by the development of the property to the south.
21. That the owner must grant to the Willamette Valley Medical Center and the City of McMinnville the right to cause all airspace above the surface of the subject site such noise, vibrations, fumes, dust, fuel particles, and all other effects as may be caused by the operation of aircraft landing at or taking off from or operating at or on the Medical Center property and the McMinnville Municipal Airport. The owner must fully waive any right or cause of action which he may now or in the future raise against the Willamette Valley Medical Center and the City of McMinnville due to such circumstances noted above.

22. That an updated master plan shall be submitted to the Planning Commission for review and approval prior to any development of Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12. The updated master plan shall replace the previously approved master plan and shall identify existing developed portions of the Planned Development Overlay District. The master plan shall incorporate necessary shared access, parking, and utility easements to allow the existing developed portions of the Planned Development Overlay District to continue to operate without disruption.

The review of the updated master plan shall be processed as a Planned Development Amendment, but the Planning Commission shall make the final decision on the updated master plan. The updated master plan shall be reviewed against the Planned Development Amendment review criteria in Section 17.74.070 of the McMinnville Municipal Code, and also against the Great Neighborhood Principles in Policy 187.50 of the McMinnville Comprehensive Plan.

3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 11th day of August, 2020, 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 AMENDMENT TO ADD MULTIPLE FAMILY RESIDENTIAL AS AN ALLOWABLE USE, AMEND EXISTING BUILDING HEIGHT LIMITATIONS, AND AMEND THE MASTER PLAN FOR AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT

DOCKET: PDA 1-20 (Planned Development Amendment)

REQUEST: Approval to amend the conditions of approval of the Planned Development Overlay District adopted by Ordinance 4667. The requested amendments would result in the allowance of multiple family dwellings and community buildings associated with residential uses and the removal of an existing 35 foot building height limitation. The requested amendments would also result in the addition of new conditions of approval requiring future review of a master plan prior to any development of the site, and requiring a minimum of 10 percent of the site to be developed with usable open space if the site is developed with multiple family dwellings.

LOCATION: 235 SE Norton Lane. The property is more specifically described as Parcel 1, Parcel 2, and Parcel 3, Partition Plat 2007-12. The property is also identified as Tax Lots 400, 404, and 405, Section 27, T. 4 S., R. 4 W., W.M.

ZONING: C-3 PD (General Commercial Planned Development)

APPLICANT: Housing Authority of Yamhill County, on behalf of property owner Burch Feero, Inc.

STAFF: Chuck Darnell, Senior Planner

DATE DEEMED COMPLETE: June 22, 2020

HEARINGS BODY & ACTION: The McMinnville Planning Commission makes a recommendation for approval or denial to the City Council.

HEARING DATE & LOCATION: July 16, 2020, Zoom Online Meeting ID 942 3599 8716

**HEARINGS BODY
& ACTION:**

The McMinnville City Council approves or denies the land-use application

**HEARING DATE
& LOCATION:**

August 11, 2020, Zoom Online Meeting ID **942 3599 8716**

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:

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.

RECOMMENDATION

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 1-20), **subject to the conditions of approval provided in Section II of this document.**

////////////////////////////////////
DECISION: APPROVAL WITH CONDITIONS
////////////////////////////////////

City Council: _____
Scott Hill, Mayor of McMinnville

Date: _____

Planning Commission: _____
Roger Hall, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

I. APPLICATION SUMMARY:

The applicant has provided information in their application narrative and findings (included 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 application (PDA 1-20) is a request for a Planned Development Amendment to amend conditions of approval from Ordinance 4667. The applicant is requesting that a condition of approval (condition #7) that currently limits use of the site to professional office, medical office, and other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. The requested amendment is to add multiple-family dwellings and community buildings appurtenant to residential uses to the list of allowable uses in the existing Planned Development Overlay District. The base C-3 zone allows multiple-family residential as a permitted use. The applicant is also requesting that an existing condition of approval (condition #3) that limits building height to 35 feet be removed, and that some language (in condition #16) related to future review processes be removed to reflect the current applicable review processes in the City's code. The applicant is also proposing that two new conditions of approval be added to reflect the potential changes in use in the Planned Development Overlay District, which are to require that the original master plan related to Ordinance 4667 not apply to the undeveloped portions of the subject site, and that an updated master plan be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the site. The second new condition proposed by the applicant would be to require 10 percent of the site to be reserved for usable open space if the site is developed as multiple family dwellings.

The subject property is located west of SE Norton Lane. The property is more specifically described as Parcel 1, Parcel 2, and Parcel 3, Partition Plat 2007-12. The property is also identified as Tax Lots 400, 404, and 405, Section 27, T. 4 S., R. 4 W., W.M.

Excerpts from Land Use Application Narrative and Findings:

Existing Conditions

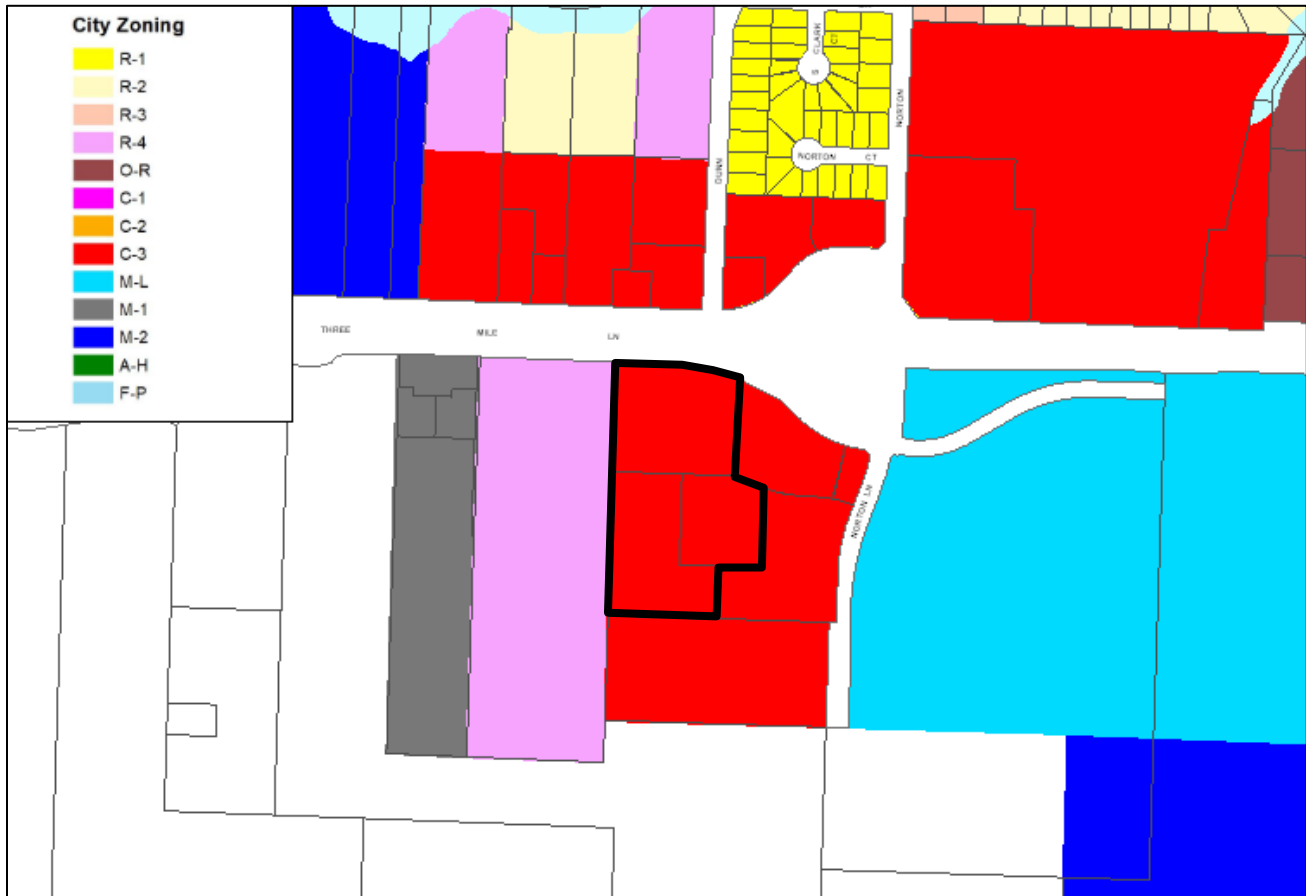
The Site is currently undeveloped and used for farming. The site is generally flat. There are no significant or distinguishing natural features associated with this property.

Access to the property is off SE Stratus Avenue, which is accessible from SE Norton Ln. Access to Highway 18 via Norton Lane is within 400 feet of the site. There is a signalized intersection of Norton Lane (SE & NE) with Highway 18. Immediately south of Highway 18, there is a three-way stop intersection of SE Norton Lane and SE Stratus Avenue. Stratus Avenue loops around the Medical Center and intersects back with SE Norton Lane across from the subject site.

Access and Utilities

The Site fronts on the south side of SE Stratus Avenue for approximately 376 feet. Access is available along this frontage. Additionally, easements with the properties to the east provide access from SE Norton Lane. Ordinance No. 4667 Conditions 18 and 19 provide for Oregon Department of Transportation review and approval, as required, of Highway 18 frontage improvements.

Figure 2. Zoning Map (Property Lines Approximate)



Background

Excerpts from Land Use Application Narrative and Findings:

The subject site is within the Three Mile Lane Planned Development Overlay area, originally established by Ordinance 4131 in 1981 and updated by Ordinance 4572 in 1994.

By Ordinance 4131, the City of McMinnville established Planned Development requirements for the Three Mile Lane area (Oregon Highway 18 Corridor). The area covered by this requirement extends north and south of Highway 18 from the eastern city limits west to the vicinity of the Three Mile Lane Spur intersection with Highway 18.

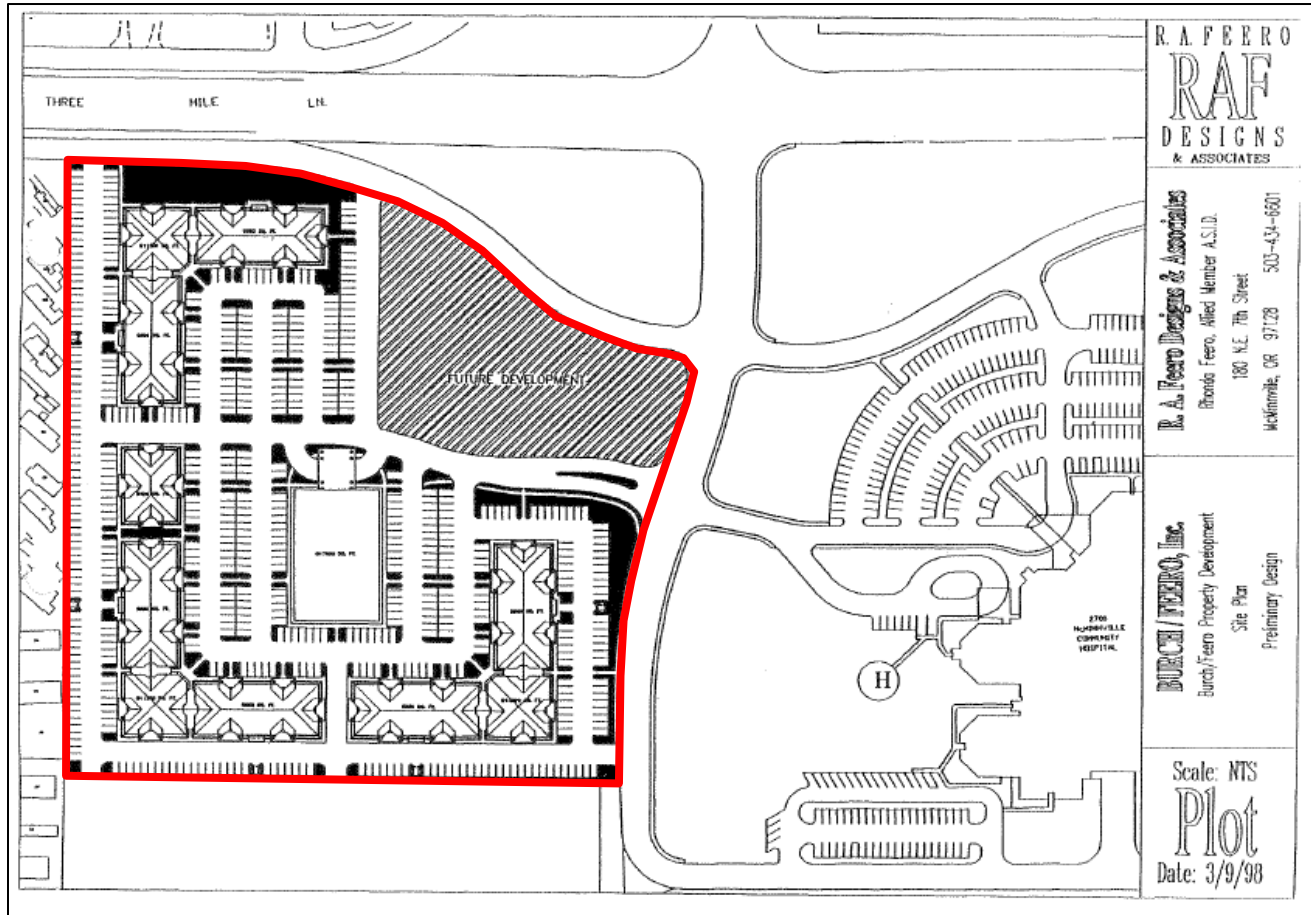
In 1994, Ordinance 4131 was amended to add specific development policies (Section 4) and signage regulations for Commercial lands (Section 5) by Ordinance 4572.

In 1998, the Owner made application for and received approval for Planned Development Amendment, Ordinance No. 4667. The Master Plan submitted in support of Ordinance 4667 included the Subject Site and two additional parcels (R4427 00402 and R4427 00401) that are no longer owned by the current owner and are not part of this application. The Master Plan called for development of an office park on the Subject Site and additional two tax lots. Development did not occur.

The owners have made the Subject Site available for sale. The Applicant and Owners originally entered into a Purchase and Sales Agreement on February 2020. This agreement has been amended. Owner and Applicant are cooperating to make this amendment.

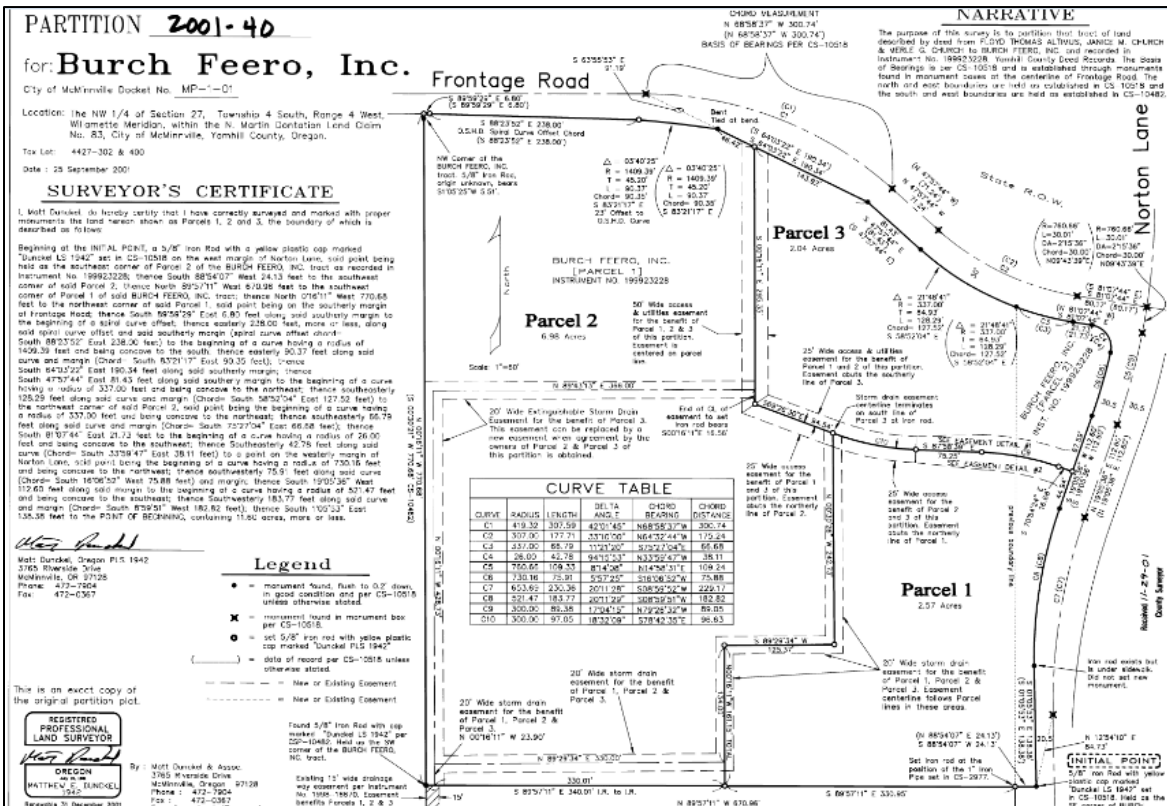
As described above, Ordinance 4667 adopted the Planned Development Overlay District that exists on the subject site and the adjacent parcels today. Ordinance 4667 included 21 conditions of approval. Those conditions of approval are still applicable to the property and are provided in Ordinance 4667, which is included as Attachment 2 to this Decision Document.

Ordinance 4667 also adopted a master plan for the Planned Development Overlay District, which is shown below (property subject to the master plan highlighted):

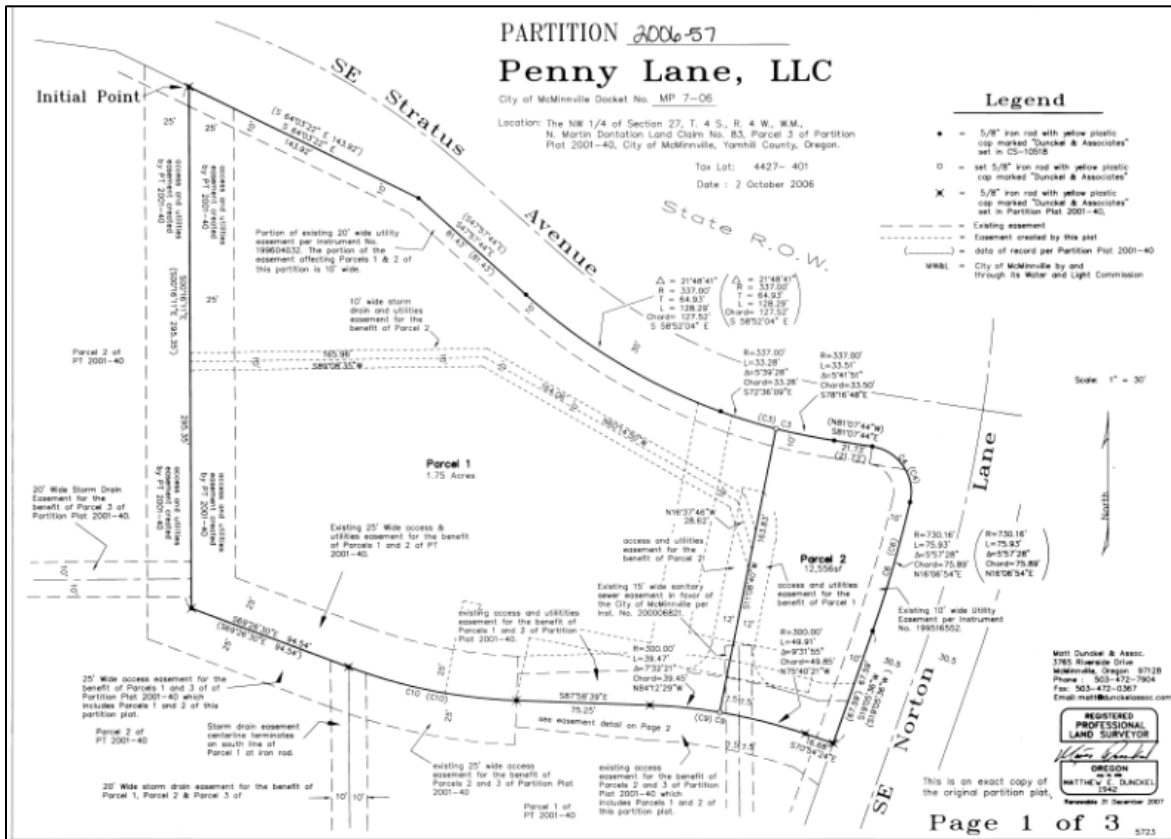


As shown above, Ordinance 4667 and the master plan originally included all of the property at the southwest quadrant of the intersection of SE Stratus Avenue and SE Norton Lane. Only portions of the property in the master plan area have developed since the adoption of Ordinance 4667, and further land divisions and Planned Development Amendment applications have occurred since the adoption of Ordinance 4667.

In 2001, the property within the master plan area was partitioned into three parcels by Partition Plat 2001-40. Parcel 1 of Partition Plat 2001-40 was the southeastern office building in the master plan, and has since been developed in accordance with the master plan. Parcel 2 of Partition Plat 2001-40 is the subject site associated with the current Planned Development Amendment request (PDA 1-20). Parcel 3 of Partition Plat 2001-40 is the "Future Development" area shown in the Ordinance 4667 master plan. Partition Plat 2001-40 is shown below:



The area shown as "Future Development" in the master plan was then partitioned again by Partition Plat 2006-57 into two parcels. Partition Plat 2006-57 is shown below:

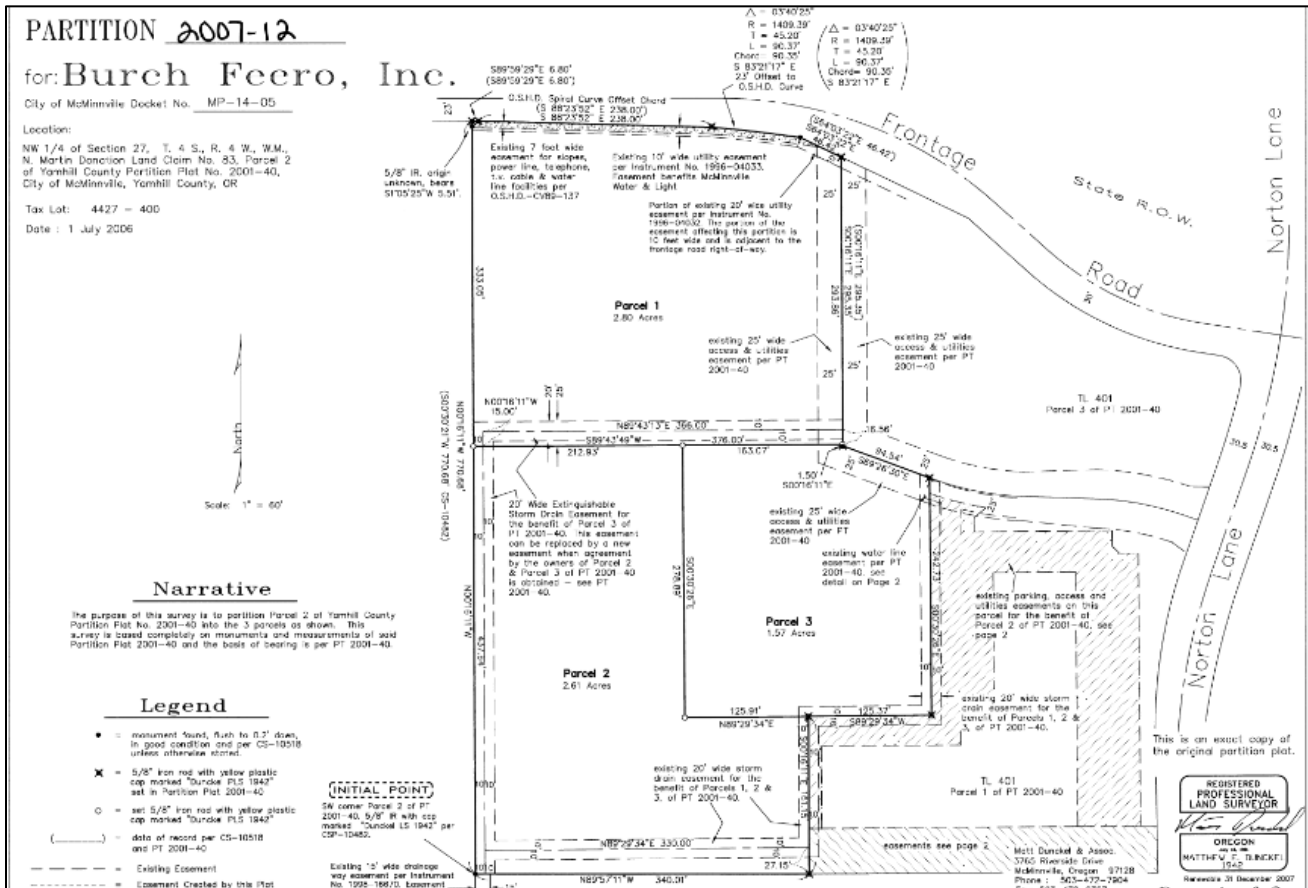


Parcel 1 of Partition Plat 2006-57 is now the site of the Comfort Inn and Suites, and was developed as approved under a subsequent Planned Development Amendment application that was approved after the adoption of Ordinance 4667 and applied only to that “Future Development” area. Ordinance 4851 was adopted in 2006, and amended the allowable building height to allow buildings up to 45 feet in height, but only applied to Parcel 1 of Partition Plat 2006-57 (referred to as Tax Lot 401 at the time and in Ordinance 4851). Ordinance 4851 actually amended condition #3 from Ordinance 4667 as follows:

“No building shall exceed the height of 35 feet, with the exception that tax lot 401 may be developed with a hotel with a maximum height of 45 feet, consistent with the drawing and plan submitted to the City as part of Docket ZC 10-05.”

Parcel 2 of Partition Plat 2006-57 later was approved by Ordinance 4884 in 2007 and Ordinance 4937 in 2011 which amended the allowable uses from Ordinances 4667 to eventually allow all uses in the underlying C-3 zone, with the exception of a few specific auto-oriented uses. Both Ordinance 4884 and Ordinance 4937 applied only to Parcel 2 of Partition Plat 2006-57, and neither resulted in any changes to Ordinance 4667 (other than finalizing the “Future Development” area in the master plan approved by Ordinance 4667).

In 2007, the subject site was partitioned again by Partition Plat 2007-12 into the three parcels that exist today. These three parcels are the parcels included in the subject site and the current Planned Development Amendment request (PDA 1-20). Partition Plat 2007-12 is shown below:



The applicant is requesting amendments to three of the existing conditions of approval in Ordinance 4667 and inclusion of two new conditions of approval, as described below:

- 1) Amend Condition 3 to remove stricken language:
"No building shall exceed the height of 35 feet."
- 2) Amend Condition 7 to add the **bold** language:
"That the subject site, outside of that area identified for "future development" is limited to professional office use, medical office use, **Multiple-Family Dwellings, community buildings appurtenant to residential uses** or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than a professional office use, or medical office use, or **Multiple-Family Dwellings, community buildings appurtenant to residential uses** may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site."
- 3) Amend Condition 16 to add **bold** language and remove the ~~stricken~~ language:
~~"That final development plans as approved by the Three Mile Lane Design Review Committee shall be placed on file with the Planning Department and become a part of the zone and binding on the owner developer.~~

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by

him **the Planning Director** may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the commissioners."

- 4) Add new Condition reflected in **bold** language:
"The master plan previously approved relating to Ordinance No. 4667 does not apply to the undeveloped portions of the subject site. An updated master plan shall be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site."
- 5) Add new Condition reflected in **bold** language:
"If the site is developed as multiple family dwellings, an area equivalent to 10 percent of the gross area of the site shall be reserved for usable open space for residents of the multiple-family development site. The open space area shall be contained within the boundaries of the Subject Site and does not need to be contiguous. Area calculated and included as part of the 10 percent requirement must have dimensions of at least 20 feet. Any area may be located adjacent to the front yard setback area and may include 5 feet of the front yard set back towards the 10 percent open space. All open space areas may be counted towards the minimum 25 percent of the site area that must be landscaped."

Summary of Criteria & Issues

The application (PDA 1-20) 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. 4667), and the request is only to expand the list of uses that are listed as permitted on the subject site, change the allowable building height, update the future review processes to reflect more current code procedures, and add new conditions of approval related to the development of the uses that would now be allowed on the site.

II. CONDITIONS:

1. That the conditions of approval of Ordinance 4667, as amended by Ordinance 4851, be amended as follows (text to be removed is shown with ~~strikeout~~, text to be added is **bold and underlined**):
 1. 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 frontages. An arborvitae hedge or some similar type of planted visual screen shall be required along the property lines adjacent to residentially zoned lands. Street tree planting, as required by the City's tree ordinance, shall be provided as well.
 2. Detailed plans showing building elevations, site layout, signage, landscaping, parking, and lighting must be submitted to and approved **through the Three Mile Lane Development Review application process** ~~by the McMinnville Three Mile Lane Design Review Committee~~ before actual development may take place. To the extent possible, the site and building design should be compatible with surrounding development. 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. ~~The applicant may appeal the decision of the Three Mile Lane Design Review Committee to the Planning Commission if notice of intent to appeal is filed in the Planning Department office within fifteen (15) days of the Committee's decision.~~
 3. No building shall exceed the height of 35 feet, with the exception that tax lot 401 may be developed with a hotel with a maximum height of 45 feet, consistent with the drawing and plan submitted to the City as part of Docket ZC 10-05.

The applicant may request additional building height in excess of 35 feet for any future building on Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12, if the request is made at the time of the submittal of the updated master plan and detailed building plans described in Condition 2 and Condition 22. The applicant's request for additional building height shall include an analysis and survey of the height and

setback of surrounding buildings in the Three Mile Lane Planned Development Overlay District. The height and setback of any proposed building on Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12 shall be similar to and consistent with the height and form of other buildings in the Three Mile Lane corridor and Three Mile Lane Planned Development Overlay District. The Planning Commission shall review and make a decision on the request for additional building height. The Planning Commission shall also take into consideration the proposed architectural and building form, and its compatibility with the architecture and building form of other buildings in the Three Mile Lane Planned Development Overlay District.

4. That if outside lighting is to be provided, it must be directed down and away from residential areas and public streets.
5. That the subject site, for purposes of signage, shall be redesignated to be a zone 3 property on the Three Mile Plan Map as contained in City Ordinance No. 4572. The entire parcel shall be entitled to two "monument" signs - one serving the entrance to the office complex and one serving the commercial area at the northeast corner of the site. These signs shall conform to the standards as set forth in the City Ordinance No. 4572.
6. All business, storage, or displays shall be conducted wholly within an enclosed building; except for off-street parking and loading. No drive up food service or beverage facility or facilities shall be permitted on the subject site.
7. That the subject site, outside of that area identified for "future development" is limited to professional office use, medical office use, **multiple-family dwellings, community buildings appurtenant to residential uses**, or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than professional office use, ~~or~~ medical office use, **multiple-family dwellings, or community buildings appurtenant to residential uses** may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.

If the site is developed as multiple family dwellings, a minimum of 10 percent of the gross area of the site shall be reserved for usable open space for residents of the multiple-family development site. The open space area shall be contained within the boundaries of the parcel or parcels being developed and shall be contiguous. The open space area may be non-contiguous if approved by the Planning Commission at the time of the review of the updated master plan, as described in Condition 22. Area calculated and included as part of the 10 percent open space requirement shall have dimensions of at least 25 feet in length and shall be located outside of the front yard setback area. All usable open space areas may be counted towards the minimum 25 percent of the site area that must be landscaped.

8. That this zone change shall not take effect until and unless CPA 3-98 is approved by the City Council.
9. That the conceptual master plan for that portion of the applicant's property identified for "future development" shall in no way be binding on the City.
10. That if restrictive covenants are proposed for the development they must meet with the approval of the Planning Director.

11. That the Planning Director shall be granted authority to amend the submitted site plan as may be necessary to accommodate the requirements of the Oregon Department of Transportation. All amendments shall be consistent with the City's development codes.
12. That a drainage and grading plan be submitted to the City Engineer for review and approval prior to the issuance of any development permits. At a minimum, the plan should include the finished grades of proposed public streets, and the nature and extent of street and utility construction. Where any cut or fill will exceed three feet in depth, a cross section shall also be submitted.
13. That utilities shall be extended to the property (or project) boundaries by the applicant, as may be required by the City Engineer or McMinnville Water and Light.
14. That any and all fill in areas of proposed construction of buildings shall be engineered and shall meet the approval of the Building Department.
15. That areas identified on the submitted site plan for future development shall be subject to the requirements of this zone change approval.
16. That ~~the final master plan development plans as approved by the Three Mile Lane Design Review Committee~~ shall be placed on file with the Planning Department and become a part of the zone and binding on the owner and developer.

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted site **master** plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by ~~him~~ **the Planning Director** may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the commissioners.

17. That the applicant secure from the Oregon Department of Transportation (ODOT) a permit for access to Highway 18, and the south frontage road, pursuant to OAR 734-50 (Highway Approach Roads, Crossings, Access Control, and Weight Restrictions). Evidence of such permit shall be required prior to release of any permits for this project.
18. That improvements to the Highway 18 frontage, as required by ODOT and the City of McMinnville, be done at the applicant's expense and be finalized prior to occupancy.
19. That the subject site is subject to the provisions of the Three Mile Lane Planned Development Ordinance, as amended.
20. That ~~the proposed off-street parking lot be amended by removing the four spaces adjacent to the frontage road nearest the area proposed for "future development" and in their place provide landscaping.~~ In addition, the applicant shall agree to in the future close the proposed southern access to Norton Lane, if warranted by the development of the property to the south.
21. That the owner must grant to the Willamette Valley Medical Center and the City of McMinnville the right to cause all airspace above the surface of the subject site such noise, vibrations, fumes, dust, fuel particles, and all other effects as may be caused by the operation of aircraft landing at or taking off from or operating at or on the Medical Center

property and the McMinnville Municipal Airport. The owner must fully waive any right or cause of action which he may now or in the future raise against the Willamette Valley Medical Center and the City of McMinnville due to such circumstances noted above.

22. **That an updated master plan shall be submitted to the Planning Commission for review and approval prior to any development of Parcel 1, Parcel 2, or Parcel 3 of Partition Plat 2007-12. The updated master plan shall replace the previously approved master plan and shall identify existing developed portions of the Planned Development Overlay District. The master plan shall incorporate necessary shared access, parking, and utility easements to allow the existing developed portions of the Planned Development Overlay District to continue to operate without disruption.**

The review of the updated master plan shall be processed as a Planned Development Amendment, but the Planning Commission shall make the final decision on the updated master plan. The updated master plan shall be reviewed against the Planned Development Amendment review criteria in Section 17.74.070 of the McMinnville Municipal Code, and also against the Great Neighborhood Principles in Policy 187.50 of the McMinnville Comprehensive Plan.

III. ATTACHMENTS:

1. PDA 1-20 Application and Attachments (on file with the Planning Department)
2. Ordinance No. 4667 (on file with the Planning Department)
3. Ordinance No. 4851 (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, Oregon Department of Transportation. The following comments were received:

- McMinnville Engineering Department

Per Jacobs Engineering's email dated June 12, 2020, sewer modeling indicates that sufficient sewer capacity exists to accommodate the additional flows created by the proposed PDA. The appropriate infrastructure improvements will be determined at the time of development.

- McMinnville Fire Department

We have no issues with this planned development.

- McMinnville Water and Light

Water is available on Stratus Ave at the NW corner of the parcel and at two locations on the neighboring parcel R442700404. The main on Stratus will need to be interconnected with at least one of the other existing main locations on R442700404. A McMinnville Water and Light Extension Agreement will be required.

- Oregon Department of Transportation

ODOT has received a copy of an application by the Housing Authority of Yamhill County to amend the Planned Development Ordinance No. 4667 for property located at 235 SE Norton Lane. We have reviewed the application materials and, as a land use matter only, ODOT has no comments to provide. The property fronts on SE Stratus Avenue which is an ODOT facility. The applicant will, therefore, have to apply to ODOT for a permit for any proposed access to Stratus Avenue.

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, July 7, 2020. As of the date of the Planning Commission public hearing on July 16, 2020, no public testimony had been received by the Planning Department.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

- A. The applicant, Housing Authority of Yamhill County, on behalf of property owner Burch Feero, Inc., held a neighborhood meeting on June 10, 2020.
- B. The applicant submitted the Planned Development Amendment application (PDA 1-20) on June 17, 2020.
- C. The application was deemed incomplete on June 17, 2020. The applicant submitted a revised application on June 19, 2020 that included the information identified and requested in the incomplete notification.
- D. The application was deemed complete on June 22, 2020. Based on that date, the 120 day land use decision time limit expires on October 20, 2020.
- E. 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, Oregon Department of Transportation.

Comments received from agencies are addressed in the Decision Document.

- F. Notice of the application and the July 16, 2020 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 25, 2020.
- G. Notice of the application and the July 16, 2020 Planning Commission public hearing was published in the News Register on Tuesday, July 7, 2020, in accordance with Section 17.72.120 of the Zoning Ordinance.
- H. No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.

- I. On July 16, 2020, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT – GENERAL FINDINGS

1. **Location:** 235 SE Norton Lane. The property is more specifically described as Parcel 1, Parcel 2, and Parcel 3, Partition Plat 2007-12. The property is also identified as Tax Lots 400, 404, and 405, Section 27, T. 4 S., R. 4 W., W.M.
2. **Size:** Approximately 6.98 acres.
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3 PD (General Commercial Planned Development)
5. **Overlay Zones/Special Districts:** Three Mile Lane Planned Development Overlay District (Ordinance No. 4131 and Ordinance No. 4572). Planned Development Overlay District (Ordinance 4667, as amended by Ordinance 4851).
6. **Current Use:** Undeveloped
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None
8. **Other Features:** The site is described by the applicant as being generally flat. 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 is available to serve the site.
 - f. **Easements:** There are a number of private and public utility and access easements on the subject site, as identified in Partition Plat 2007-12, Partition Plat 2006-57, and Partition Plan 2001-40
10. **Transportation:** The site is adjacent to SE Stratus Avenue, which is identified as a minor collector 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 56 feet (with no bike lane) or 66 feet (with bike lane). Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to Oregon Department of Transportation and City standards on the site's SE Stratus Avenue frontage at the time of development.

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, policies, 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 comprehensive plan map is already consistent with these Goals and this Policy. The subject site and surrounding properties to the south and east are designated commercial and zoned C-3PD.

The proposed amendment does not change this designation, and the property remains zoned C-3PD. The amendment only adds Multi-Family apartments to the list of allowed uses.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the proposed amendment to Condition 7 would not remove any ability to develop commercial uses on the subject site. Currently, and after the proposed amendment, professional office, medical office, or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility would be allowed to be developed on the site along with the additional use of multiple family dwelling units.

GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALY 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)*
- 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.*
- Policy 29.00 New direct access to arterials by large-scale commercial developments shall be granted only after consideration is given to the land uses and traffic patterns in the area of development as well as at the specific site. Internal circulation roads, acceleration/deceleration lanes, common access collection points, signalization, and other traffic improvements shall be required wherever necessary, through the use of planned development overlays.*

APPLICANT'S RESPONSE: As noted, the Subject Property is designated commercial, consistent with these policies. The designation does not change with this proposed amendment. Section 17.33.01 provides that Multifamily dwelling is permitted in C-3 zones. With this request, the applicant is requesting that the Multi-Family Dwellings not be excluded from base zone.

The provisions of Policy 29.00 remain in effect and have been implemented by the existing transportation improvements in the immediate area. As demonstrated by the traffic impact report attached with this application, the proposed Multi-Family use will generate less traffic impacts than the base commercial office uses.

FINDING: SATISFIED. The existing property is already designated on the Comprehensive Plan as Commercial, and is zoned C-3 PD (General Commercial Planned Development) as determined to meet Goal IV 3 and Policies 24.50 and 25.00 by the previous actions to amend the Comprehensive Plan (CPA 3-98) and adopt the existing Planned Development (ZC 6-98) by Ordinance 4667. The proposed amendment to add multiple family dwelling units as an allowed use would not remove any ability to develop commercial uses on the subject site. Currently, and after the proposed amendment, professional office, medical office, or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility would be allowed to be developed on the site.

The existing property has frontage on SE Stratus Avenue, which is identified as a minor collector in the Transportation System Plan, as adopted by Ordinance No. 4922 in 2010. Therefore, the consideration of the impacts of a new direct access on land uses and traffic patterns in the area of the development is not required by Policy 29.00 because the adjacent roadway is not an arterial. However, the applicant provided a copy of a recently completed traffic impact analysis report for an immediately adjacent property that analyzed the trip generation of the proposed multiple family residential use against other uses currently allowed under the existing Planned Development conditions of approval. The analysis determined that some of the existing uses, specifically medical office, could generate more daily trips than the proposed multiple family residential use.

- Proposal 6.00 A planned development overlay should be placed on the large cluster commercial development areas and the entrances to the City to allow for review of site design, on-site*

and off-site circulation, parking, and landscaping. The areas to be overlaid by this designation shall be noted on the zoning map and/or comprehensive plan map.

APPLICANT'S RESPONSE: The Three Mile Lane Planned Development is consistent with this proposal. The PD Overlay remains in effect, the amendment simply adds Multi-Family apartments as an allowed use and will maintain consistency with the underlying C-3 zoning.

Restoring the height permissible in the R-4 zone will allow for more options to site and design a project in a manner that allows for open space, circulation and achieving an optimal development capacity.

FINDING: SATISFIED BY CONDITIONS #1, #2, and #22. The City concurs with the applicant's findings, and adds that the existing conditions of approval from Ordinance No. 4667 remain in effect. Conditions 1 and 2 require site plan, landscape plan, and building plan review and approval by the Planning Director and Landscape Review Committee, respectively, prior to any development of the subject site. These reviews would ensure review of site design, on-site and off-site circulation, parking, and landscaping. In addition, a new condition of approval proposed by the applicant, condition 22, would require that an updated master plan be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site.

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.

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.

Policy 61.00 The City of McMinnville shall monitor the conversion of lands to residential use to ensure that adequate opportunities for development of all housing types are assured. Annual reports on the housing development pattern, housing density and mix shall be prepared for city review.

APPLICANT'S RESPONSE: The City has implemented these Policies through adoption of the Zoning Code, which includes residential zones accommodating various densities and housing types. Further, the underlying C-3 zone allows Multi-Family development, consistent with R-4 standards, per Section 17.33.010.3. The proposed amendment simply adds this allowed use, maintaining consistency with the C-3 code.

There is residential R-4 land immediately to the west of the subject site. The Planned Development Amendment controlling the lot to the south was recently amended to allow for Multi-Family. There is basis for concluding that R-4 residential is compatible with the professional and medical office commercial designation for the remainder of the Planned Development Area.

The requested change will not alter the current density allocated for the property. The allowed density will remain consistent with the R-4 standards for Multi-Family housing.

Therefore, the requested amendment maintains consistency with the applicable zoning.

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

Policy 64.00 The City of McMinnville shall work in cooperation with other governmental agencies, including the Mid-Willamette Valley Council of Governments and the Yamhill County Housing Authority, and private groups to determine housing needs, provide better housing opportunities and improve housing conditions for low and moderate income families.

Policy 66.00 The City of McMinnville shall continue to allow development of its fair share of the region's low-cost housing. The share accepted will be based on quantifiable studies which take into account the amount of the low-cost housing already in the community and the overall housing opportunities in the city and region.

APPLICANT'S RESPONSE: Oregon's Statewide Housing Plan defines a shortage of 4,945 units of affordable housing in Yamhill County. Applicant is a "housing authority" defined by ORS Chapter 456, operating in Yamhill County for the purpose of providing, "To provide decent, safe and sanitary urban or rural housing for persons or families of lower income."

Housing Authority of Yamhill County is the applicant.

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

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.

Policy 70.00 The City of McMinnville shall continue to update zoning and subdivision ordinances to include innovative land development techniques and incentives that provide for a variety of housing types, densities, and price ranges that will adequately meet the present and future needs of the community.

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: The area of the proposed amendment is zoned C-3 Commercial and therefore is not committed to low density development. The existing C-3 zoning is consistent with Goal V2 and the Policies 68, and 71.05.

Utilizing the existing Planned Development Amendment process to permit the development of Multi-Family is an innovation use of a zoning ordinance that is likely to result in creation of housing that will expand the variety of type and price available in McMinnville.

Restoring the height allowable by the base zone will allow for greater flexibility in development options. The base zone height of 60' is in keeping with the surrounding development pattern (Comfort Inn, medical center, and community college).

It is also worth noting the site is located in the Airport Overlay Zone, and specifically within the Horizontal Zone as defined by 17.52.060. A 60' height limit on the Subject Site will not cause the buildings to exceed the limits allowed in a Horizontal Zone.

FINDING: SATISFIED. The proposed Planned Development Amendment would result in the addition of multiple family residential to the list of allowed uses in the existing Planned Development area. The subject property is not designated as residential, but has an underlying zone of C-3 (General Commercial). The underlying C-3 zone allows multiple family residential uses as a permitted use, so the proposed amendment is not inconsistent with the underlying zone and provides an opportunity for the development of residential uses.

The most recently acknowledged Residential Buildable Lands Inventory, which was prepared in 2001, that identified a need for additional land for housing uses. That inventory, which was titled the McMinnville Buildable Land Needs Analysis and Growth Management Plan, identified a deficit of over 1,000 acres of land for housing in Table B-11 of Appendix B. More specifically, the analysis identified a need of 162 acres of R-4 (higher density) zoned land. The proposed amendment to allow multiple family residential on the subject site would not increase the amount of land designated specifically for higher density residential use, but it would increase the potential for the development of higher density residential uses on a property with an existing, underlying zone that already permits multiple family residential use (C-3 General Commercial zone).

In regards to building height, the limitation on building height was amended to allow buildings up to 45 feet in height, but was not removed entirely, as described in the findings for the Planned Development Amendment review criteria below.

Policy 71.09 Medium and High-Density Residential (R-3 and R-4) – The majority of residential lands in McMinnville are planned to develop at medium density range (4 – 8 units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses. High density residential development (8 – 30 dwelling units per net acre) uses typically include townhouses, condominiums, and apartments. 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.

- 1. Areas that are not committed to low density development;*

APPLICANT'S RESPONSE: The site is zoned C-3 Commercial and therefore is not committed to low density development. The existing C-3 zoning is consistent with Goal V2 and the Policies 68, 71.05 and 71.09.

The current Planned Development Overlay is consistent with the criteria for location of medium and high density residential, which is allowed under Policy 71.09 and also specifically allowed in the C-3 zone.

Ordinance 4667 did not list Multi-Family dwelling as a permitted use. Except for not having been listed in Ordinance 4667 the C-3 zone would otherwise allow Multi-Family Dwelling, consistent with R-4 standards, as a permitted use.

The applicant's intent is to develop Multi-Family Dwellings consistent with the R-4 standards, as required by the C-3 zone. Under the C-3 zoning, the density is not being increased, as the R-4 standards will be applied.

FINDING: SATISFIED. The City concurs with the applicant's findings, specifically that the existing underlying zone of C-3 (General Commercial) is not committed to low density development.

2. Areas that have direct access from collector or arterial streets;

APPLICANT'S RESPONSE: The subject site has direct access from the Highway 18 via from SE Stratus Avenue and SE Norton Lane.

FINDING: SATISFIED. The subject site has frontage on SE Stratus Avenue, which is identified as a minor collector in the Transportation System Plan, as adopted by Ordinance No. 4922 in 2010. Therefore, the subject site has direct access from a collector street.

3. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;

APPLICANT'S RESPONSE: The subject site is an open generally flat field, with no development restrictions.

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

4. Areas where the existing facilities have the capacity for additional development;

APPLICANT'S RESPONSE: The commercial area along Norton Lane is served by a full range of urban services including sanitary sewer, water, storm drainage and franchise utilities. All of these services generally have sufficient capacity to serve the proposed development.

With respect to Sewer capacity, in 2019 the property owner to the south commissioned a study to determine conveyance capacity for additional residential development. The study, performed by CH2M, determined capacity for additional residential development.

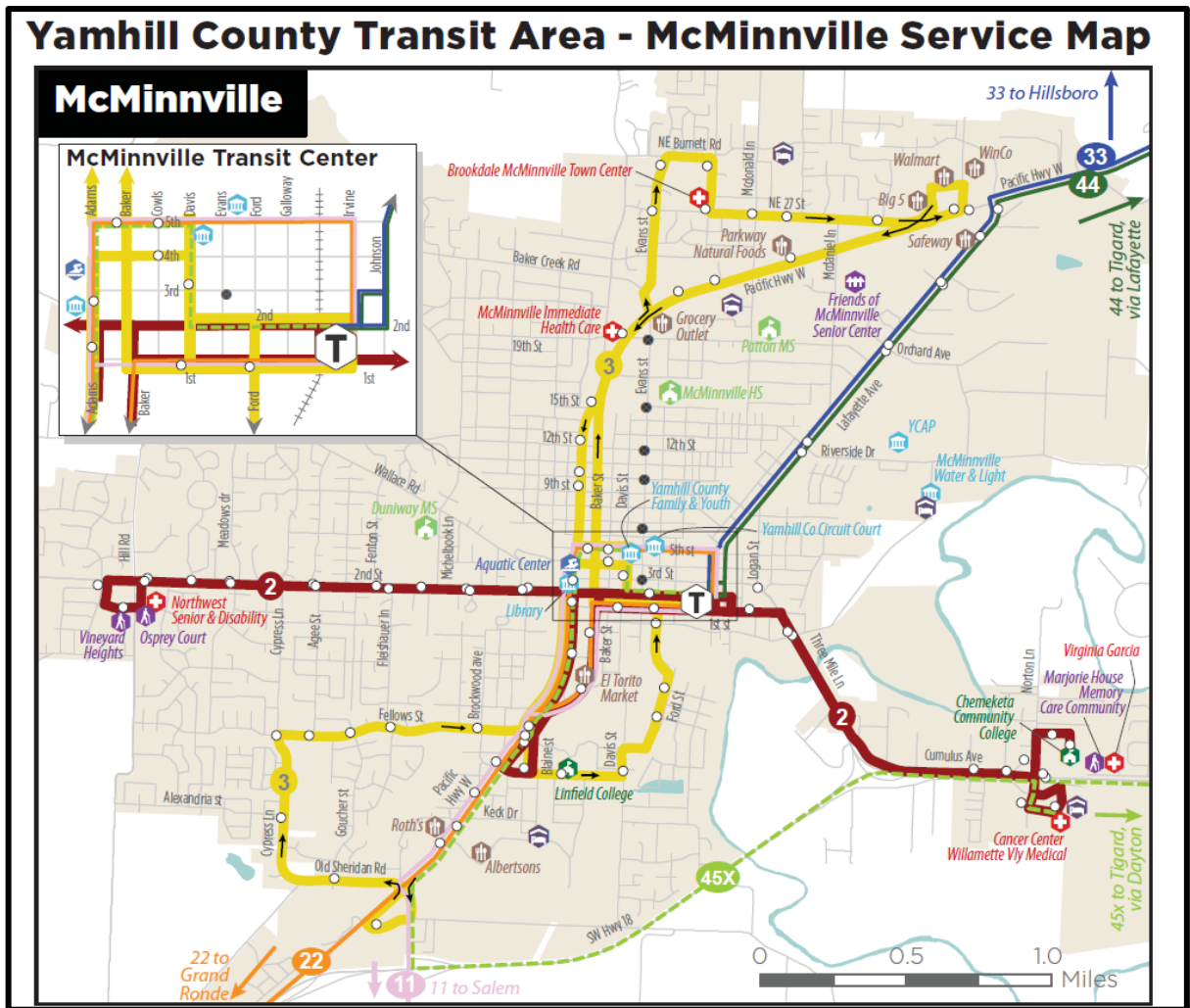
FINDING: SATISFIED. The Engineering Department provided comments (provided on June 30, 2020) on the proposed Planned Development Amendment, and noted that a recently completed analysis of the sanitary sewer conveyance system indicated that there is adequate system capacity to support the proposed amendment and eventual development of multiple family residential use on the site. That analysis was completed by Jacobs Engineering and communicated to the City on June 12, 2020. Existing conditions of approval from Ordinance No. 4667, which remain in effect, will require that final development plans include a detailed storm drainage plan (Condition 12), other utility improvements (Condition 13), and right-of-way

improvements (Conditions 17 and 18). At the time of development, all necessary permits will be required to be obtained by Oregon Department of Transportation (ODOT), as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific development type, ODOT permitting and review may require additional analysis of the eventual proposed use's impact on the surrounding transportation network.

5. Areas within one-quarter mile of existing or planned public transportation; and,

APPLICANT'S RESPONSE: Local Transit Routes 2 runs on the Highway and on SE Norton Lane to the Willamette Valley Medical Center, which is located across the street from the subject site. See the attached Route Map and Schedule, at the end of this Compliance Narrative.

Route 2 provides regularly scheduled weekday service. This route connects to the Transit Center for connection to the Yamhill County Transit route for access to the other parts of town.



FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that Route 2 provides roughly hourly weekday service, and connects to the McMinnville Transit Center, where riders could transfer to other routes, including commuter routes to surrounding cities.

6. *Areas that can be buffered from low density residential areas in order to maximize the privacy of established low density residential areas.*

APPLICANT'S RESPONSE: And, there is residential R-4 land immediately to the west of the subject site, which establishes the buffer of lower density residential per criteria 6.

The requested change will not alter the current density allocated to the property. The density will remain as is consistent with the R-4 standards for Multi-Family housing.

FINDING: SATISFIED. The subject site is not located adjacent to any existing low density residential areas. Therefore the subject site and area does not require any buffering from low density residential areas.

Policy 71.13 The following factors should serve as criteria in determining areas appropriate for high-density residential development:

1. *Areas which are not committed to low or medium density development;*

APPLICANT'S RESPONSE: The subject property is zoned C-3 General Commercial with a PD overlay. The C-3 zone allows high density residential use. Therefore it is not committed to low or medium density development.

FINDING: SATISFIED. The City concurs with the applicant's findings, specifically that the existing underlying zone of C-3 (General Commercial) is not committed to low density development.

2. *Areas which can be buffered by topography, landscaping, collector or arterial streets, or intervening land uses from low density residential areas in order to maximize the privacy of established low density residential areas;*

APPLICANT'S RESPONSE: There is no designated low density residential in the surrounding neighborhood. There is R-4 zoning to the west, which provides a buffer between the site and other zoning. Therefore this criterion is met.

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

3. *Areas which have direct access from a major collector or arterial street;*

APPLICANT'S RESPONSE: The subject site has direct access from the Highway 18 via SE Norton Lane. Therefore this criterion is met.

FINDING: SATISFIED. While Highway 18 (Three Mile Lane) is identified as a major arterial in the Transportation System Plan, as adopted by Ordinance No. 4922 in 2010, the subject site does not have direct access from Highway 18. The subject site has frontage and direct access only onto SE Stratus Avenue, which is identified as a minor collector in the Transportation System Plan, as adopted by Ordinance No. 4922 in 2010. However, the applicant provided a copy of a recently completed traffic impact analysis report for an immediately adjacent property that analyzed the trip generation of the proposed multiple family residential use against other uses currently allowed under the existing Planned Development conditions of approval. The analysis determined that some of the existing uses, specifically medical office, could generate

more daily trips than the proposed multiple family residential use. Therefore, the use allowed by the proposed amendment would not be more detrimental to the surrounding street network or transportation system than other uses currently allowed on the subject site by Ordinance No. 4667.

4. Areas which are not subject to development limitations;

APPLICANT'S RESPONSE: The subject site is an open generally flat field, with no development restrictions. Therefore this criterion is met.

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

5. Areas where the existing facilities have the capacity for additional development;

APPLICANT'S RESPONSE: Sewer capacity in the immediate area was analyzed by CH2M as part of the Planned Development Amendment recently approved for the lot immediately south. This study found sufficient capacity in the system to convey additional residential development.

FINDING: SATISFIED. The Engineering Department provided comments (provided on June 30, 2020) on the proposed Planned Development Amendment, and noted that a recently completed analysis of the sanitary sewer conveyance system indicated that there is adequate system capacity to support the proposed amendment and eventual development of multiple family residential use on the site. That analysis was completed by Jacobs Engineering and communicated to the City on June 12, 2020. Existing conditions of approval from Ordinance No. 4667, which remain in effect, will require that final development plans include a detailed storm drainage plan (Condition 12), other utility improvements (Condition 13), and right-of-way improvements (Conditions 17 and 18). At the time of development, all necessary permits will be required to be obtained by Oregon Department of Transportation (ODOT), as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific development type, ODOT permitting and review may require additional analysis of the eventual proposed use's impact on the surrounding transportation network.

6. Areas within a one-half mile wide corridor centered on existing or planned public transit routes;

APPLICANT'S RESPONSE: Local Transit Route 2 runs on the Highway 18 and on SE Norton Lane to the Willamette Valley Medical Center. The Medical Center is located with 250 feet of the site. See the attached route map and schedule included as an appendix. Therefore this criterion is met.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that Route 2 provides roughly hourly weekday service, and connects to the McMinnville Transit Center, where riders could transfer to other routes, including commuter routes to surrounding cities. More detail on the transit routes is provided in the finding of Policy 71.09(5) above.

7. Areas within one-quarter mile from neighborhood and general commercial shopping centers; and

APPLICANT'S RESPONSE: The City's zoning for Neighborhood Commercial is C-1, which General Commercial is C-2.

The subject property and adjacent property to the north (770 feet) to Stratus Avenue is zoned C-2, General Commercial, with a PD overlay. There is also C-2 zoning on the north side of the Highway 18 on both sides of NE Norton Lane.

The closest C-1 zoning is approximately 1/4 mile east of the Norton Lane intersection with the Highway 18.

Therefore this criterion is met.

FINDING: SATISFIED. While the McMinnville Municipal Code (MMC) does have a Neighborhood Business Zone (C-1), that zoning district has been applied very narrowly and is only designated on two parcels in the entire city limits (the two parcels that the applicant notes approximately ¼ mile east of the Norton Lane intersection with Highway 18). Also, the MMC does not have any definition of neighborhood or general commercial shopping centers. Therefore, the commercial designation of property is used in analyzing this Comprehensive Plan policy and high density residential locational factor. The subject site is located within one-quarter mile of commercially zoned property. The commercially zoned property within one-quarter mile of the subject site is zoned C-3 (General Commercial) – which is a correction on the applicant's response where General Commercial is identified as C-2 – to allow general retail, service, and shopping type uses.

8. Areas adjacent to either private or public permanent open space.

APPLICANT'S RESPONSE: The closest public open space to the site is Joe Dancer Park, which is located on E. Brooks Street, approximately 1.4 miles to the northwest.

Ordinance 4667 Conditions 1 & 2 requires approval of site design prior to issuance of a building permit. These conditions will ensure adequate open space is provided in the development. Therefore this criterion is met.

Applicant proposes a condition to provide for adequate open space in the Multi-Family housing project.

Supplemental Response: Open space is a critical element to a successful multifamily family project on the Subject Site. Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units. A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programming of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

There is currently no open space adjacent or conveniently located to the Subject Site. As a planned development, open space will be provided within the Subject Site that benefits residents of the site. The applicants proposed condition will ensure that the residents have access to an area equivalent to 10 percent of the gross size of the Subject site. The proposed condition further allows the Applicant to design the open space to meet the varied needs of residents of the site.

FINDING: SATISFIED WITH CONDITION #7. The subject site is not located adjacent to private or public open space. There are only three public parks within ½ mile of the subject site, and two of those parks (Bend-o-River and Kingwood) are what would be classified as Mini-Parks in the McMinnville Parks, Recreation, and Open Space Master Plan. The other park within ½ mile of the subject site is Joe Dancer Park, which is identified as a Community Park in the McMinnville Parks, Recreation, and Open Space Master Plan. However, Joe Dancer Park is located across the Yamhill River and is not actually accessible within a ½ mile distance of the subject site.

The factor for high density residential development calls for open space to be adjacent to the site, not within a certain distance. While there some opportunities for access to open space within one-half mile of the subject site, there is not any usable open space adjacent to the site. Not only is there no open space adjacent to the site, there is a lack of connectivity to open space in the surrounding area. As a planned development, open space needs to be provided that provides a benefit to the residents of the site. Therefore, condition 7 is updated to require that, if the site is developed with multiple-family residential uses, a minimum of 10 percent of the gross size of the site shall be reserved for usable open space for residents of the multiple-family development site. The condition of approval states that the usable open space area shall be a contiguous area, unless approved by the Planning Commission during the review of the updated master plan for the Planned Development Overlay District. The condition does require that each dimension of the open space be at least 25 feet in length, that the open space be located outside of the front yard setback area, and may be counted towards the minimum 25 percent of the site area that must be landscaped.

Planned Development Policies

Policy 72.00 Planned developments shall be encouraged as a favored form of residential development as long as social, economic, and environmental savings will accrue to the residents of the development and the city.

APPLICANT’S RESPONSE: The existing Planned Development Amendment, Ordinance 4667 includes development standards to ensure a residential development. Condition 2 requires “to the extent possible, the site and building design should be compatible with the surrounding development.”

FINDING: SATISFIED. The City concurs with the applicant’s findings. The existing Planned Development overlay, approved by Ordinance No. 4667, is not specifically residential, but is of an underlying commercial zone that allows for some types of residential uses, including the proposed multiple family residential use. The proposed amendment to allow multiple family residential use, along with the other commercial uses currently allowed by the existing Planned Development condition of approval, would provide an opportunity for a wider variety of housing types than is currently allowed.

Policy 73.00 Planned residential developments which offer a variety and mix of housing types and prices shall be encouraged.

APPLICANT'S RESPONSE: The proposed amendment will allow for Multi-Family Dwelling in the C-3 zone by removing its exclusions. The anticipate residential development will offer housing that is affordable, thus adding a missing housing type within the larger vicinity and City.

FINDING: SATISFIED. The City concurs with the applicant's findings. The existing Planned Development overlay, approved by Ordinance No. 4667, is not specifically residential, but is of an underlying commercial zone that allows for some types of residential uses, including the proposed multiple family residential use. The proposed amendment to allow multiple family residential use, along with the other commercial uses currently allowed by the existing Planned Development condition of approval, would provide an opportunity for a wider variety of housing types than is currently allowed.

Policy 74.00 Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs.

APPLICANT'S RESPONSE: There are no distinctive natural, topographic or aesthetic features associated with the site. The property is flat, and currently abuts farm land to the south, a mobile home part to the west, and office and hospitality to the east.

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

Policy 75.00 Common open space in residential planned developments shall be designed to directly benefit the future residents of the developments. When the open space is not dedicated to or accepted by the City, a mechanism such as a homeowners association, assessment district, or escrow fund will be required to maintain the common area.

APPLICANT'S RESPONSE: Open space is a critical element to a successful multifamily family project on the Subject Site.

There is currently no open space adjacent or conveniently located to the Subject Site. As a planned development, open space will be provided within the Subject Site that benefits residents of the site. The applicants proposes a condition will ensure that the residents have access to an area equivalent to 10 percent of the gross size of the Subject site. The proposed condition further allows the Applicant to design the open space to meet the varied needs of residents of the site.

Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units. A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programing of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

FINDING: SATISFIED WITH CONDITION #7. The City concurs with the applicant's findings. Staff would add that, while there some opportunities for access to open space within one-half mile of the subject site, there is not any usable open space adjacent to the site. Not only is there

no open space adjacent to the site, there is a lack of connectivity to open space in the surrounding area. As a planned development, open space needs to be provided that provides a benefit to the residents of the site. Therefore, condition 7 is updated to require that, if the site is developed with multiple-family residential uses, a minimum of 10 percent of the gross size of the site shall be reserved for usable open space for residents of the multiple-family development site. The condition of approval states that the usable open space area shall be a contiguous area, unless approved by the Planning Commission during the review of the updated master plan for the Planned Development Overlay District. The condition does require that each dimension of the open space be at least 25 feet in length, that the open space be located outside of the front yard setback area, and may be counted towards the minimum 25 percent of the site area that must be landscaped.

Policy 76.00 Parks, recreation facilities, and community centers within planned developments shall be located in areas readily accessible to all occupants.

APPLICANT'S RESPONSE: Open space is a critical element to a successful multifamily family project on the Subject Site.

There is currently no open space adjacent or conveniently located to the Subject Site. As a planned development, open space will be provided within the Subject Site that benefits residents of the site. The applicants proposes a condition will ensure that the residents have access to an area equivalent to 10 percent of the gross size of the Subject site. The proposed condition further allows the Applicant to design the open space to meet the varied needs of residents of the site.

Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units. A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programing of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

FINDING: SATISFIED WITH CONDITION #7. The City concurs with the applicant's findings. Staff would add that, while there some opportunities for access to open space within one-half mile of the subject site, there is not any usable open space adjacent to the site. Not only is there no open space adjacent to the site, there is a lack of connectivity to open space in the surrounding area. As a planned development, open space needs to be provided that provides a benefit to the residents of the site. Therefore, condition 7 is updated to require that, if the site is developed with multiple-family residential uses, a minimum of 10 percent of the gross size of the site shall be reserved for usable open space for residents of the multiple-family development site. The condition of approval states that the usable open space area shall be a contiguous area, unless approved by the Planning Commission during the review of the updated master plan for the Planned Development Overlay District. The condition does require that each dimension of the open space be at least 25 feet in length, that the open space be located outside of the front yard setback area, and may be counted towards the minimum 25 percent of the site area that must be landscaped.

Further, the existing conditions of approval from Ordinance No. 4667 remain in effect. Conditions 1 and 2 require site plan, landscape plan, and building plan review and approval by the Planning Director and Landscape Review Committee, respectively, prior to any development of the subject site. In addition, a new condition of approval proposed by the applicant, condition 22, would require that an updated master plan be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site. These reviews would ensure review of site design, on-site and off-site circulation, parking, and landscaping, which will allow an opportunity to review whether the required open space is located in an area readily accessible to all occupants.

Policy 77.00 The internal traffic system in planned developments shall be designed to promote safe and efficient traffic flow and give full consideration to providing pedestrian and bicycle pathways.

APPLICANT'S RESPONSE: No specific development plans are being proposed at this time. However, the applicant is proposing an apartment development. Typical development plans provide landscaped open space, circulation for pedestrians and bicycles.

Site plan details will be provided as required by Condition 2 of Ordinance 4667.

FINDING: SATISFIED. The existing conditions of approval from Ordinance No. 4667 remain in effect. Conditions 1 and 2 require site plan, landscape plan, and building plan review and approval by the Planning Director and Landscape Review Committee, respectively, prior to any development of the subject site. In addition, a new condition of approval proposed by the applicant, condition 22, would require that an updated master plan be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site. These reviews would ensure review of site design, on-site and off-site circulation, parking, and landscaping, which will allow an opportunity to review whether the internal traffic system promotes safe and efficient traffic flow and gives consideration to providing pedestrian and bicycle pathways.

Policy 78.00 Traffic systems within planned developments shall be designed to be compatible with the circulation patterns of adjoining properties.

APPLICANT'S RESPONSE: Traffic system improvements have been developed in the immediate neighborhood, including the Highway 18 intersection with Norton Lane, and the SE Norton Lane intersection with SE Stratus Avenue. These improvements provide basic and adequate circulation into, out of, and throughout the immediate neighborhood. These street improvements were made to meet the anticipated development within the area.

FINDING: SATISFIED. The site is adjacent to SE Stratus Avenue, which is identified as a minor collector 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 56 feet (with no bike lane) or 66 feet (with bike lane). Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City and Oregon Department of Transportation (ODOT) standards on the site's SE Stratus Avenue frontage at the time of development. These required right-of-way improvements will ensure the traffic system within planned developments will be compatible with adjoining properties. In addition, the applicant provided a copy of a recently completed traffic impact analysis report for an immediately adjacent property that analyzed the trip generation of the proposed multiple family residential use against other uses currently allowed under the existing Planned Development conditions of approval. The analysis determined that some of

the existing uses, specifically medical office, could generate more daily trips than the proposed multiple family residential use. At the time of development, all necessary permits will be required to be obtained by ODOT, as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific development type, ODOT permitting and review may require additional analysis of the eventual proposed use's impact on the surrounding transportation network.

Residential Design Policies

Policy 79.00 The density allowed for residential developments shall be contingent on the zoning classification, the topographical features of the property, and the capacities and availability of public services including but not limited to sewer and water. Where densities are determined to be less than that allowed under the zoning classification, the allowed density shall be set through adopted clear and objective code standards enumerating the reason for the limitations, or shall be applied to the specific area through a planned development overlay. Densities greater than those allowed by the zoning classification may be allowed through the planned development process or where specifically provided in the zoning ordinance or by plan policy. (Ord. 4796, October 14, 2003)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The proposed amendment to the existing Planned Development condition would add multiple family residential as an allowed use. Multiple family residential is a permitted use in the underlying C-3 (General Commercial) zone, subject to the standards and provisions of the R-4 (Multiple Family Residential) zone. Therefore, the future development, if it includes multiple family residential dwelling units, will be subject to the density requirements of the R-4 zone.

Further, existing conditions of approval from Ordinance No. 4667, which remain in effect, will require that final development plans include a detailed storm drainage plan (Condition 12), other utility improvements (Condition 13), and right-of-way improvements (Conditions 17 and 18). This will ensure that the density of the future development is shown to be able to be served by public services.

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: None.

FINDING: SATISFIED. Existing conditions of approval from Ordinance No. 4667, which remain in effect, will require that final development plans include a detailed storm drainage plan (Condition 12), other utility improvements (Condition 13), and right-of-way improvements (Conditions 17 and 18). This will ensure that the density of the future development is shown to be able to be served by public services. At the time of development, all necessary permits will be required to be obtained by Oregon Department of Transportation (ODOT), as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific development type, ODOT permitting and review may require additional analysis of the eventual proposed use's impact on the surrounding transportation network.

Specifically related to sanitary sewer service, the Engineering Department provided comments on the proposed Planned Development Amendment, and noted that a recently completed analysis of the sanitary sewer conveyance system indicated that there is adequate system capacity to support the proposed amendment and eventual development of multiple family residential use on the site.

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.*
- 4. 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.*
- 5. 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.

APPLICANT'S RESPONSE: The City's transportation Goal and Policies are further refined and implemented through the Transportation System Plan (TSP). The TSP provides the functional classification of streets, including arterial, collector and local designations.

The TSP identifies corridor improvements for the Highway 18 Corridor:

ODOT, the City of McMinnville and Yamhill County have mutually approved the Highway 18 Corridor Refinement Plan, which was completed in 1996. The Plan includes a series of traffic control and frontage roads improvements north and south of Highway 18, to include closing of the existing Norton Lane intersection, construction of a new interchange near the Evergreen Air Museum, and redesign of the current East McMinnville (Three Mile Lane) interchange for full, directional access.

Some frontage road improvements have been completed since the 1996 Plan was adopted. Exhibit 4-10 illustrates the current state of the Plan. It is important to note, however, that the northernmost collector access road depicted in the Highway 18 Corridor Refinement Plan is not shown in the TSP due to the fact that it is located outside of McMinnville's current urban growth boundary. Under Oregon Administrative Rule (OAR 660-012), transportation facilities outside of urban growth boundaries are not permitted as part of a TSP unless a "reasons" exception to the applicable goal(s) has been approved by the City. In this case, McMinnville finds such action premature due to the lack of certainty as to the street corridor's location and design. An amendment to this plan, and a Goal 2 (Land Use) exception, would be part of any future proposal to add this element to the TSP and permit its construction and use for urban purposes.

Some of the corridor improvements have already been completed, including the Norton Lane intersection and Stratus Avenue frontage road. The future interchange discussed is further to the east, at Cumulus Avenue. However, no decision regarding an interchange has yet been made.

The proposed amendment does not substantially alter the demand for transportation and public service improvement to any greater degree than the currently allowed uses.

Primary access to the property is from Highway 18, designated as an arterial street. SE Norton Lane intersects with Highway 18 north of the subject property. The property fronts on the west side of SE Norton Lane, just south of the intersection with SE Stratus Avenue. Stratus Avenue is classified as a collector.

FINDING: SATISFIED. The City concurs with the applicant's findings, but would clarify that the site is adjacent to SE Stratus Avenue, which is identified as a minor collector 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 56 feet (with no bike lane) or 66 feet (with bike lane).

Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City standards on the site's SE Stratus Avenue frontage at the time of development. These required right-of-way improvements will ensure that adequate access will be provided to the subject site, and the improvements will be completed to existing City standards. At the time of development, all necessary permits will be required to be obtained by Oregon Department of Transportation (ODOT), as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific development type, ODOT permitting and review may require additional analysis of the eventual proposed use's impact on the surrounding transportation network.

Further, Conditions 2 and 22 of Ordinance 4667 require site plan review and approval by the Planning Commission prior to any development of the subject site. These reviews would ensure review of site design and on-site and off-site circulation to ensure that the proposed access to serve future development will be compatible with the surrounding transportation system.

Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications.

2. Major, minor collectors.

-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)

-As far as is practical, residential collector streets should be no further than 1,800 feet apart in order to facilitate a grid pattern of collector streets in residential areas.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City standards on the site's SE Stratus Avenue frontage at the time of development. These required right-of-way improvements will ensure that adequate access will be provided to the subject site, and the improvements will be completed to existing City standards. At the time of development, all necessary permits will be required to be obtained by Oregon Department of Transportation (ODOT), as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific development type, ODOT permitting and review may require additional analysis of the eventual proposed use's impact on the surrounding transportation network.

Parking

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

Policy 127.00 The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.

Bike Paths

Policy 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connects residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities. (Ord.4922, February 23, 2010)

Policy 131.00 The City of McMinnville shall encourage development of bicycle and footpaths in scenic and recreational areas as part of future parks and activities.

Policy 132.00 The City of McMinnville shall encourage development of subdivision designs that include bike and foot paths that interconnect neighborhoods and lead to schools, parks, and other activity areas. (Ord. 4922, February 23, 2010; Ord. 4260, August 2, 1983)

Policy 132.15 The City of McMinnville shall require that all new residential developments such as subdivisions, planned developments, apartments, and condominium complexes provide pedestrian connections with adjacent neighborhoods.

APPLICANT'S RESPONSE: Conditions 1 and 2 of Ordinance 4667, and the proposed open space condition, require site plan review and approval by the Planning Commission prior to any development of the subject site. These reviews would ensure review of site design, including off-street parking and bike and pedestrian connections associated with the future development plan.

FINDING: SATISFIED. Conditions 1 and 2 require site plan, landscape plan, and building plan review and approval by the Planning Director and Landscape Review Committee, respectively, prior to any development of the subject site. In addition, new conditions of approval proposed by the applicant, conditions 7 and 22, would require that an updated master plan be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site and that open space be provided if the site is developed with multiple family residential uses. These reviews would ensure review of site design, including off-street parking and bike and pedestrian connections associated with the future development plan.

Supportive of General Land Use Plan Designations and Development Patterns

Policy 132.27.00 The provision of transportation facilities and services shall reflect and support the land use designations and development patterns identified in the McMinnville Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand—both short-term and long-term planned uses. (Ord. 4922, February 23, 2010)

APPLICANT'S RESPONSE: See response to Policies 117.00 - 121.00 above.

FINDING: SATISFIED. The City concurs with the applicant's findings, along with the additional findings provided for Policies 117.00 – 121.00 above.

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. Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City standards on the site's SE Stratus Avenue frontage 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.

Livability

Policy 132.35.00 Transportation facilities in the McMinnville planning area shall be, to the degree possible, designed and constructed to mitigate noise, energy consumption, and neighborhood disruption, and to encourage the use of public transit, bikeways, sidewalks, and walkways. (Ord. 4922, February 23, 2010)

Policy 132.41.20 Modal Balance – The improvement of roadway circulation must not impair the safe and efficient movement of pedestrians and bicycle traffic. (Ord. 4922, February 23, 2010)

Policy 132.41.25 Consolidate Access – Efforts should be made to consolidate access points to properties along major arterial, minor arterial, and collector roadways. (Ord. 4922, February 23, 2010)

Pedestrian Programs

Policy 132.54.00 Promoting Walking for Health and Community Livability – The City will encourage efforts that inform and promote the health, economic, and environmental benefits of walking for the individual and McMinnville community. Walking for travel and recreation should be encouraged to achieve a more healthful environment that reduces pollution and noise to foster a more livable community. (Ord. 4922, February 23, 2010)

APPLICANT’S RESPONSE: Conditions 1 and 2 of Ordinance 4667, and the proposed open space condition, require site plan review and approval by the Planning Commission prior to any development of the subject site. These reviews would ensure review of site design and on-site and off-site circulation to ensure that the proposed access to serve future development will be compatible with the surrounding transportation system.

FINDING: SATISFIED. Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City standards on the site’s SE Stratus Avenue frontage at the time of development. These required right-of-way improvements will ensure that adequate access will be provided to the subject site, and the improvements will be completed to existing City standards.

Further, Conditions 1 and 2 require site plan, landscape plan, and building plan review and approval by the Planning Director and Landscape Review Committee, respectively, prior to any development of the subject site. In addition, new conditions of approval proposed by the applicant, conditions 7 and 22, would require that an updated master plan be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site and that open space be provided if the site is developed with multiple family residential uses. These reviews would ensure review of site design and on-site and off-site circulation to ensure that the proposed access to serve future development will be compatible with the surrounding transportation system.

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: The surrounding development along SE Norton Lane has been constructed consistent with the Public Facilities Goal and these Policies for specific utilities. All required urban services are currently available and adequate to support development of the property consistent with these policies, assuming that CH2M makes positive findings with their sewer system analysis, being paid for by the applicant.

The proposed amendment will not result in development that will create substantially greater demands on the available services than the types of development that is already allowed.

FINDING: SATISFIED. Existing conditions of approval from Ordinance No. 4667, which remain in effect, will require that final development plans include a detailed storm drainage plan (Condition 12), other utility improvements (Condition 13), and right-of-way improvements (Conditions 17 and 18). This will ensure that the density of the future development is shown to be able to be served by public services. At the time of development, all necessary permits will be required to be obtained by Oregon Department of Transportation (ODOT), as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific

development type, ODOT permitting and review may require additional analysis of the eventual proposed use's impact on the surrounding transportation network.

Specifically related to sanitary sewer service, the Engineering Department provided comments on the proposed Planned Development Amendment, and noted that a recently completed analysis of the sanitary sewer conveyance system indicated that there is adequate system capacity to support the proposed amendment and eventual development of multiple family residential use on the site.

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:

- 1. 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: Conditions 2, 12, and 13 of the existing Ordinance remain in effect. Additionally, given the nature of the proposal development, application will adhere to the standards of the implementing regulations for the National Environmental Policy Act promulgated by the U.S. Department of Housing and Urban Development in CFR Part 58.

FINDING: SATISFIED. An existing conditions of approval from Ordinance No. 4667, which remains in effect, will require that final development plans include the provision of utility improvements (Condition 13). This will ensure that the density of the future development is shown to be able to be served by McMinnville Water and Light services. McMinnville Water and Light was provided an opportunity to review the proposal, and offered no objections to the proposed amendment to the allowable uses on the subject site.

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 offered no comments or objections to the proposed amendment to the allowable uses on the subject site.

Parks and Recreation

GOAL VII 3: TO PROVIDE PARKS AND RECREATION FACILITIES, OPEN SPACES, AND SCENIC AREAS FOR THE USE AND ENJOYMENT OF ALL CITIZENS OF THE COMMUNITY.

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

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Park fees shall be paid for each housing unit at the time of building permit application as required by McMinnville Ordinance 4282, as amended.

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 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.

Policy 177.00 The City of McMinnville shall coordinate with natural gas utilities for the extension of transmission lines and the supplying of this energy resource.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. McMinnville Water and Light and Northwest Natural Gas were provided an opportunity to review the proposal, and offered no objections to the proposed amendment to the allowable uses on the subject site.

GOAL IX 2: TO ESTABLISH A LAND USE PLANNING FRAMEWORK FOR APPLICATION OF THE GOALS, POLICIES, AND PROPOSALS OF THE McMINNVILLE COMPREHENSIVE PLAN

Policy 187.10 The City of McMinnville shall establish Great Neighborhood Principles to guide the land use patterns, design, and development of the places that McMinnville citizens live, work, and play. The Great Neighborhood Principles will ensure that all developed places include characteristics and elements that create a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood with enduring value, whether that place is a completely new development or a redevelopment or infill project within an existing built area.

Policy 187.20 The Great Neighborhood Principles shall encompass a wide range of characteristics and elements, but those characteristics and elements will not function independently. The Great Neighborhood Principles shall be applied together as an integrated and assembled approach to neighborhood design and development to create a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood, and to create a neighborhood that supports today's technology and infrastructure, and can accommodate future technology and infrastructure.

Policy 187.30 The Great Neighborhood Principles shall be applied in all areas of the city to ensure equitable access to a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood for all McMinnville citizens.

Policy 187.40 The Great Neighborhood Principles shall guide long range planning efforts including, but not limited to, master plans, small area plans, and annexation requests. The Great Neighborhood Principles shall also guide applicable current land use and development applications.

Policy 187.50 The McMinnville Great Neighborhood Principles are provided below. Each Great Neighborhood Principle is identified by number below (numbers 1 – 13), and is followed by more specific direction on how to achieve each individual principle.

1. *Natural Feature Preservation. Great Neighborhoods are sensitive to the natural conditions and features of the land.*
 - a. *Neighborhoods shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas, and landmark trees.*

APPLICANT'S RESPONSE: There are no significant natural features associated with the Subject Site. Approval of this request will not adversely impact sensitive natural features or conditions.

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

2. *Scenic Views. Great Neighborhoods preserve scenic views in areas that everyone can access.*
 - a. *Public and private open spaces and streets shall be located and oriented to capture and preserve scenic views, including, but not limited to, views of significant natural features, landscapes, vistas, skylines, and other important features.*

APPLICANT'S RESPONSE: Surrounding Uses adjacent to the Subject Site do not offer scenic views of natural features, landscapes or vistas. The larger vicinity within which the Subject Site is located do not offer scenic views of natural features, landscape or vistas. Granting the requested changes will not adversely impact a future design's ability to oriented open space or buildings.

No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to potential scenic views from the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles.

3. *Parks and Open Spaces. Great Neighborhoods have open and recreational spaces to walk, play, gather, and commune as a neighborhood.*
 - a. *Parks, trails, and open spaces shall be provided at a size and scale that is variable based on the size of the proposed development and the number of dwelling units.*
 - b. *Central parks and plazas shall be used to create public gathering spaces where appropriate.*
 - c. *Neighborhood and community parks shall be developed in appropriate locations consistent with the policies in the Parks Master Plan.*

APPLICANT'S RESPONSE: Open space is a critical element to a successful multifamily family project on the Subject Site.

There is currently no open space adjacent or conveniently located to the Subject Site. As a planned development, open space will be provided within the Subject Site that benefits residents of the site. The applicants proposes a condition will ensure that the residents have access to an area equivalent to 10 percent of the gross size of the Subject site. The proposed condition further allows the Applicant to design the open space to meet the varied needs of residents of the site.

Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units. A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programming of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

FINDING: SATISFIED WITH CONDITION #7 AND #22. The City concurs with the applicant's findings, but clarifies that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to the provision of park and open space within the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles. A condition of approval is included to require a minimum amount of usable open space within the subject site if the site is developed with multiple family residential uses.

4. *Pedestrian Friendly. Great Neighborhoods are pedestrian friendly for people of all ages and abilities.*
 - a. *Neighborhoods shall include a pedestrian network that provides for a safe and enjoyable pedestrian experience, and that encourages walking for a variety of reasons including, but not limited to, health, transportation, recreation, and social interaction.*
 - b. *Pedestrian connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces, and shall also be provided between streets that are disconnected (such as cul-de-sacs or blocks with lengths greater than 400 feet).*

APPLICANT'S RESPONSE: The Three Mile Lane Preferred Alternative identifies land uses and trail systems. Adjacent to the Subject Site on SE Stratus is an existing trail network. Within 75 feet of the site along SE Norton Lane is an existing trail network. Bisecting the site, running east west is an existing trail network.

No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to pedestrian connections within and around the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles.

5. *Bike Friendly. Great Neighborhoods are bike friendly for people of all ages and abilities.*
 - a. *Neighborhoods shall include a bike network that provides for a safe and enjoyable biking experience, and that encourages an increased use of bikes by people of all abilities for a variety of reasons, including, but not limited to, health, transportation, and recreation.*
 - b. *Bike connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces.*

APPLICANT'S RESPONSE: The Three Mile Lane Preferred Alternative identifies land uses and trail systems. Adjacent to the Subject Site on SE Stratus is an existing trail network. Within 75

feet of the site along SE Norton Lane is an existing trail network. Bisecting the site, running east west is an existing trail network.

No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to bicycle connections within and around the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles.

6. *Connected Streets. Great Neighborhoods have interconnected streets that provide safe travel route options, increased connectivity between places and destinations, and easy pedestrian and bike use.*
 - a. *Streets shall be designed to function and connect with the surrounding built environment and the existing and future street network, and shall incorporate human scale elements including, but not limited to, Complete Streets features as defined in the Comprehensive Plan, grid street networks, neighborhood traffic management techniques, traffic calming, and safety enhancements.*
 - b. *Streets shall be designed to encourage more bicycle, pedestrian and transit mobility with a goal of less reliance on vehicular mobility.*

APPLICANT'S RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to street improvements adjacent to the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles. Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City standards on the site's SE Stratus Avenue frontage at the time of development.

7. *Accessibility. Great Neighborhoods are designed to be accessible and allow for ease of use for people of all ages and abilities.*
 - a. *To the best extent possible all features within a neighborhood shall be designed to be accessible and feature elements and principles of Universal Design.*
 - b. *Design practices should strive for best practices and not minimum practices.*

APPLICANT'S RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed

and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to accessibility within the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles.

8. *Human Scale Design. Great Neighborhoods have buildings and spaces that are designed to be comfortable at a human scale and that foster human interaction within the built environment.*
 - a. *The size, form, and proportionality of development is designed to function and be balanced with the existing built environment.*
 - b. *Buildings include design elements that promote inclusion and interaction with the right-of-way and public spaces, including, but not limited to, building orientation towards the street or a public space and placement of vehicle-oriented uses in less prominent locations.*
 - c. *Public spaces include design elements that promote comfortability and ease of use at a human scale, including, but not limited to, street trees, landscaping, lighted public areas, and principles of Crime Prevention through Environmental Design (CPTED).*

APPLICANT'S RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to accessibility within the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles.

9. *Mix of Activities. Great Neighborhoods provide easy and convenient access to many of the destinations, activities, and local services that residents use on a daily basis.*
 - a. *Neighborhood destinations including, but not limited to, neighborhood-serving commercial uses, schools, parks, and other community services, shall be provided in locations that are easily accessible to surrounding residential uses.*
 - b. *Neighborhood-serving commercial uses are integrated into the built environment at a scale that is appropriate with the surrounding area.*
 - c. *Neighborhoods are designed such that owning a vehicle can be optional.*

APPLICANT'S RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date.

Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED. The proposed amendments to allow for multiple family residential uses on the subject site will introduce an opportunity for a mix of uses and activities within the area

surrounding the subject site. The existing development adjacent to the subject site and in the surrounding area is primarily commercial, which will provide services within walking distance to residential uses that could potentially be developed on the site.

10. *Urban-Rural Interface. Great Neighborhoods complement adjacent rural areas and transition between urban and rural uses.*

a. *Buffers or transitions in the scale of uses, buildings, or lots shall be provided on urban lands adjacent to rural lands to ensure compatibility.*

APPLICANT'S RESPONSE: Surrounding Uses buffer the Subject Site from adjacent rural land. The Subject Site is located within the Three Mile Lane Planned Development Overlay. The buffering nature of the surrounding uses and the context of the Three Mile Lane Planned Development make Multi-Family uses complement and transitional uses with nearby rural areas.

FINDING: SATISFIED. The City concurs with the applicant's findings, but clarifies that the subject site is surrounded by other property that is also within the McMinnville Urban Growth Boundary.

11. *Housing for Diverse Incomes and Generations. Great Neighborhoods provide housing opportunities for people and families with a wide range of incomes, and for people and families in all stages of life.*

a. *A range of housing forms and types shall be provided and integrated into neighborhoods to provide for housing choice at different income levels and for different generations.*

APPLICANT'S RESPONSE: Yamhill County is experience is shortage of affordable housing. This fact is documented in the Oregon Housing and Community Service State Housing Plan. Several studies have concluded barriers to the development of housing contribute to the shortage of supply. Housing starts falling short of household creation is a consequence leading to the shortage of housing.

The application is a Housing Authority organized under state law. Their purpose is to develop affordable housing. The applicant intends to develop a Multi-Family housing community consistent with their purpose and state law defining the powers of housing authorities.

As a result, the applicant's development of the subject site will provide Multi-family housing that is not prevalent in the City of McMinnville. Therefore, the creation of affordable housing by the Applicant will contribute to housing opportunities for a greater range of incomes in the City.

FINDING: SATISFIED. The City concurs with the applicant's findings, but adds that the type of housing envisioned by the applicant would also increase the range of housing opportunities in this specific area of the City.

12. *Housing Variety. Great Neighborhoods have a variety of building forms and architectural variety to avoid monoculture design.*

a. *Neighborhoods shall have several different housing types.*

b. *Similar housing types, when immediately adjacent to one another, shall provide variety in building form and design.*

APPLICANT'S RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned

Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date.

Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to building form and architectural variety within the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles.

13. *Unique and Integrated Design Elements. Great Neighborhoods have unique features, designs, and focal points to create neighborhood character and identity. Neighborhoods shall be encouraged to have:*

- a. *Environmentally friendly construction techniques, green infrastructure systems, and energy efficiency incorporated into the built environment.*
- b. *Opportunities for public art provided in private and public spaces.*
- c. *Neighborhood elements and features including, but not limited to, signs, benches, park shelters, street lights, bike racks, banners, landscaping, paved surfaces, and fences, with a consistent and integrated design that are unique to and define the neighborhood.*

APPLICANT'S RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date.

Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

FINDING: SATISFIED WITH CONDITION #22. The City concurs with the applicant's findings, particularly that no specific site development plan is proposed at this time. At the time of review of the master plan and site development plans, more thorough consideration shall be given to design elements within the subject site. Condition 22 requires that the review of the updated master plan be reviewed against the Great Neighborhood Principles.

GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNIVILLE.

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: [site public meeting]

FINDING: SATISFIED. 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

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

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 17.06. Definitions

17.06.015 General Definitions

Apartment House – See “Dwelling, Multifamily.”

Dwelling, Multi-Family – A building containing three or more dwelling units. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Dwelling Unit – A residence containing one or more rooms designed for occupancy by one family and having not more than one cooking facility. This includes both buildings constructed on-site and off-site, such as manufactured homes. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Family – For the purpose of this Zoning Ordinance, “family” refers to:
An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or other duly-authorized custodial relationship, living together as one housekeeping unit using one kitchen, and providing means of lodging to not more than two additional persons, excluding servants, or a group of not more than five unrelated persons, excluding servants, living together as one housekeeping unit using one kitchen. (Ord. 4988 §1, 2015; Ord. 4479A §1, 1991; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

APPLICANT’S RESPONSE: Referencing definitions as a basis for proposed amendments.

FINDING: SATISFIED. The City acknowledges the applicant's clarification of the definitions of apartment and multi-family dwelling. The use that is added to the amended Condition 7 of Ordinance 4667 is "multiple-family dwelling" because that is the specific use that is listed as permitted in the C-3 (General Commercial) zone in Section 17.33.010 of the McMinnville Zoning Ordinance.

Chapter 17.21. R-4 Multiple-Family Residential Zone

17.21.030 Lot size. In an R-4 zone, the lot size shall not be less than five thousand square feet, except that the lot area for common wall, single-family lots shall not be less than two thousand five hundred square feet per family. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.21.040 Yard requirements. In an R-4 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than fifteen feet;
- B. A side yard shall not be less than six feet, except an exterior side yard shall not be less than fifteen feet;
- C. A rear yard shall not be less than twenty feet;
- D. Whether attached to a residence or as a separate building, a covered storage facility for a vehicle on which the main opening is toward a street shall be located not less than twenty feet to the property line bordering the street;
- E. All yards shall be increased, over the requirements of this section, one foot for each two feet of building height over thirty-five feet. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.21.050 Building height. In an R-4 zone, a building shall not exceed sixty feet in height. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.21.060 Density requirements. In an R-4 zone, the lot area per family shall not be less than fifteen hundred square feet for each unit with two bedrooms or less, and not less than seventeen hundred fifty square feet for each unit with three bedrooms, and an additional five hundred square feet for each additional bedroom in excess of three in any one unit. The above requirements may be waived if the provisions of Section 17.21.020(M) are utilized. (Ord. 4796 §1(b), 2003; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Chapter 17.33. C-3 General Commercial Zone

17.33.010 Permitted Uses. In a C-3 zone, the following uses and their accessory uses are permitted:

- 3. Multiple-family dwelling subject to the provisions of the R-4 zone; [..]

APPLICANT'S RESPONSE: The base C-3 zone allows for Multi-Family Dwellings as a permitted use, subject to the R-4 zoning standards and density, per Chapter 17.21.

FINDING: SATISFIED. The City acknowledges that multiple-family dwellings are permitted in the underlying C-3 zone, subject to the same development standards, including setbacks, density, and height, would apply to the development of multiple-family dwellings in the R-4 zone.

Chapter 17.51. Planned Development Overlay

17.51.010 Purpose. 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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed amendment to allow multiple family residential use on the subject site would provide for greater flexibility and greater freedom of design in the development of the subject site than is currently allowed by the existing condition of approval. The proposed amendment to add multiple family residential as an allowed use would not remove any ability to develop other uses on the subject site. Currently, and after the proposed amendment, professional office, medical office, or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility, would still be allowed on the subject site, along with multiple family residential. This increases the opportunity for mixed uses in the planned development area. The proposed amendment to allow multiple family residential use on the subject site is also not a guise to circumvent the intent of the zoning ordinance, because multiple family residential is a permitted use in the existing, underlying C-3 (General Commercial) zoning district.

The applicant has also requested an amendment to building height to allow for greater flexibility and greater freedom in design in the development of the subject site. Findings related to this amendment to building height are provided below in the findings for the applicable Planned Development Amendment review criteria.

17.51.020 Standards and requirements. The following standards and requirements shall govern the application of a planned development in a zone in which it is permitted:

- A. The principal use of land in a planned development shall reflect the type of use indicated on the comprehensive plan or zoning map for the area. Accessory uses within the development may include uses permitted in any zone, except uses permitted only in the M-2 zone are excluded from all other zones. Accessory uses shall not occupy more than twenty-five percent of the lot area of the principal use;
- B. Density for residential planned development shall be determined by the underlying zone designations. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed amendment to allow multiple family residential use on the subject site will not be inconsistent with the comprehensive plan or zoning designation of the subject site, because multiple family residential is a permitted use in the existing, underlying C-3 (General Commercial) zoning district. The density of any eventual residential development will be determined by the existing regulations in the underlying C-3 zone.

17.51.030 Procedure. The following procedures shall be observed when a planned development proposal is submitted for consideration:

- A. The Commission shall consider the preliminary development plan at a meeting at which time the findings of persons reviewing the proposal shall also be considered. In reviewing the plan, the Commission shall need to determine 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;

APPLICANT'S RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date.

FINDING: SATISFIED WITH CONDITION #22. Section 17.51.030 is satisfied in that the Commission will have an opportunity to review a future development plan, per new condition 22 as proposed by the applicant, which would require that an updated master plan be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site. The updated master plan will be required to identify existing developed portions of the Planned Development Overlay District, and will replace the previously approved master plan. The master plan is required to incorporate all necessary shared access, parking, and utility easements to allow the existing developed portions of the Planned Development Overlay District to continue to operate without disruption. The condition specifies that the updated master plan be reviewed by the Planning Commission, be processed as a Planned Development Amendment but with the Planning Commission making the final decision, and that the master plan review would be subject to the Planned Development Amendment review criteria and the Great Neighborhood Principles in the McMinnville Comprehensive Plan.

In addition, conditions 1 and 2 require site plan, landscape plan, and building plan review and approval by the Planning Director and Landscape Review Committee, respectively, prior to any development of the subject site. Findings for the criteria listed in subsection A are provided below, as those criteria are the review criteria for a Planned Development Amendment, as found in 17.74.070 of the McMinnville Municipal Code.

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.

APPLICANT'S RESPONSE: Applicant has submitted a Planned Development Amendment request to be reviewed by the Planning Commission.

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

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 base zone of this site is C-3, which permits R-4. This amendment will restore the ability to include Multi-Family dwellings on this site. Developing Multi-Family housing in McMinnville will address the shortage of housing supply resulting from a decline in housing starts compared to households created, which is behind the rise in housing cost in Yamhill County. Oregon Housing and Community Services’ statewide housing plan estimated the shortage of housing in Yamhill County affordable to families earning less than 80% of the Area Median Income to be 4,945 units. More supply of housing is needed in the City of McMinnville.

The prior master plan called for the development of an office park with one or two story buildings. For this master plan, 35 feet was feasible. A residential project may include buildings that are three floors or greater. In an R-4 zone, a building shall not exceed sixty feet in height (17.21.050). This amendment restores the base zone requirements. Additionally, the project is subject to design review which will allow for consideration of design criteria prior to issuing a permit. This change is consistent with the height limited on the property to the south with the same zone. The Comfort Inn Suites, Medical Center and Chemketa Community College are nearby buildings that each exceed 35 feet.

FINDING: SATISFIED WITH CONDITIONS #2, #3, #7, #16 AND #20. The City generally concurs with the applicant’s findings, but does provide some clarifying points and additional findings below. Specifically, clarifying findings for the requested building height are provided below.

The most recently acknowledged Residential Buildable Lands Inventory, which was prepared in 2001, that identified a need for additional land for housing uses. That inventory, which was titled the McMinnville Buildable Land Needs Analysis and Growth Management Plan, identified a deficit of over 1,000 acres of land for housing in Table B-11 of Appendix B. More specifically, the analysis identified a need of 162 acres of R-4 (higher density) zoned land. The City of McMinnville is currently updating its Residential Buildable Lands Inventory and Housing Needs Analysis, and while these reports are not finalized or acknowledged, the analyses are identifying a deficit of land zoned for residential dwelling units. The proposed amendment to allow multiple family residential on the subject site would not increase the amount of land designated specifically for higher density residential use, but it would increase the potential for the development of higher density residential uses on a property with an existing, underlying zone that already permits multiple family residential use (C-3 General Commercial zone). The special objective of providing an opportunity for a housing type that is needed in the community warrants the departure from the existing Planned Development Overlay District’s limitation on uses on the subject site. Therefore, condition 7 is amended to allow for multiple family dwellings and also to allow community buildings associated with residential uses.

The applicant has also requested an amendment to remove an existing limitation on building height, which prohibits buildings from exceeding a height of 35 feet. As noted by the applicant, the master plan for the subject site that was originally adopted by Ordinance 4667 envisioned an office park and the limitation to 35 feet may have been feasible for the type of development proposed at that time. However, the underlying zoning district (C-3) allows for a maximum

building height of 80 feet. The subject site is also located within the Horizontal Zone of the Airport Overlay Zone, which has a height limitation of 309 feet above mean sea level. The subject site has an elevation of approximately 150 to 155 feet. Even if construction was allowed to the maximum height of the C-3 zone, the building height would not conflict with the Airport Overlay Zone standards.

There are multiple examples of buildings in the surrounding area that exceed 35 feet in height, including the Chemeketa Community College and Willamette Valley Medical Center. Also, since the time of adoption of Ordinance 4667, the “future development” area within the master plan has been developed. The Comfort Inn and Suites hotel building that was developed within the “future development” area was allowed by Ordinance 4851 to be constructed up to 45 feet in height. During that review process, 45 feet was determined to be an acceptable building height on the parcel immediately to the north of the subject site and within the same Planned Development Overlay District. However, this previous allowance for a height of 45 feet was only approved after more detailed building plans had been submitted to ensure the development was compatible with the Three Mile Lane Planned Development Overlay District. In addition, the same 35 foot building height limitation is included on a number of Planned Development Overlay Districts in the Three Mile Lane corridor. This limitation has resulted in a limit on building form and bulk from dominating the horizon along the corridor, where there is also a minimum 120 foot setback from the center of the highway and a pattern of lower-scale and horizontal building forms with distinctive roof features and patterns.

The applicant’s request for the removal of the building height limitation is to allow for flexibility in the process of developing plans for the buildings on the subject site. The City finds that this additional flexibility could be consistent with the purpose of the Planned Development Overlay District, which includes allowing for greater flexibility and greater freedom of design in the development of land, to facilitate a desirable aesthetic and efficient use of open space, and to create public and private common open spaces. However, the City finds that additional information should be required prior to allowing building heights to exceed the current limitation of 35 feet. Other existing and new conditions of approval require that an updated master plan (condition #22) and detailed building plans (condition #2) to be submitted to the City for review. These future review processes will allow for more detailed analysis of building design and how those buildings are oriented on the site, which will provide an opportunity for the City to address and mitigate any potential impact of a taller building on the subject site. Therefore, condition #3 is updated to provide an opportunity for the applicant to request additional building height at the time that the updated master plan and building plans are submitted for review by the City. The condition requires that the request for additional building height include an analysis and survey of the height and setback of surrounding buildings in the Three Mile Lane Planned Development Overlay District, and that the height and setback of any proposed building on the subject site is similar to and consistent with the height and form of other buildings in the Three Mile Lane corridor and Three Mile Lane Planned Development Overlay District. The condition specifies that the Planning Commission shall review the request for additional building height, and that the Planning Commission also take into consideration the proposed architectural and building form for its compatibility with the architecture and building form of other buildings in the Three Mile Lane Planned Development Overlay District.

Some other conditions of approval are updated to reflect current City policies and development review procedures, to avoid confusion in the next steps in the development review process. These include: changes to condition #2 to reference the Three Mile Lane Development Review process that is currently followed by the City to satisfy the development review process required in the overarching Three Mile Lane Planned Development Overlay District (Ordinances 4131 and 4572); changes to condition #16 to clarify that only the final master plan approved for the

Planned Development Overlay District become part of the zone and binding on the owner and developer; and removal of language in condition #20 that is related to the previously approved master plan which is now required to be updated.

17.74.070(B). *Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;*

APPLICANT'S RESPONSE: Findings supporting the claim that allowing Mullit-Family Dwellings on this site is not inconsistent with the Comprehensive Plan Volume II objectives are contained in Section IV of this supplemental information.

Removing Condition 3 would not result in a condition inconsistent with the Comprehensive Plan objectives. By removing the condition, the 60' height limit permissible in the base zone would be allowed. This height is consistent with the development pattern, character of the surrounding area, and the intent of the Three Mile Lane Development Plan.

FINDING: SATISFIED. The City concurs with the applicant's findings. The proposed Planned Development Amendment would not be inconsistent with the applicable goals and policies of the Comprehensive Plan, as described in more detail above in the specific findings for each Comprehensive Plan goal and policy. The City notes that the amendments to the building height were to allow buildings up to 45 feet in height, not to remove the existing condition of approval entirely.

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: Access to the Subject Site is from SE Stratus Avenue, which connects from SE Norton Lane and Highway 18. This proposed amendment does not alter access to the site or increase demand beyond estimated trip generation attributable to the current Planned Development Overlay Ordinance.

FINDING: SATISFIED. Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City standards on the site's SE Stratus Avenue frontage at the time of development. These required right-of-way improvements will ensure that adequate access will be provided to the subject site, and the improvements will be completed to existing City and Oregon Department of Transportation (ODOT) standards.

17.74.070(D). *The plan can be completed within a reasonable period of time;*

APPLICANT'S RESPONSE: The applicant is under contract to purchase the Subject Site. Closing will occur either before July 1, 2020 or (for reasons related to tax implications, after January 1, 2021). The applicant is in the process of engaging an architectural and engineering team need to support the creation of a master plan. Development efforts will continue in earnest.

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

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 existing streets serving the property are designed and constructed to City standards, with adequate capacity, based on the C-3 zoning. As part of the Planned Development Amendment process resulting in Ordinance 5072 for the property to the

south, the owner commissioned a Traffic Impact Report, prepared from Lancaster Engineering, which is part of the public record. The report compares the Multi-Family traffic impacts to those of the allowed commercial offices and Multi-Family housing. Below is a table reflecting the trip generation information.

| Type Use | Average Weekly Trip Rate | Total Weekly Trips | PM Peak Hours Trips |
|----------------------------|--------------------------|--------------------|---------------------|
| Senior Apartments * | 3.70/unit | 463 | .26/hr = 33 |
| Multi-Family Apartments ** | 7.32/unit | 842 | .56/hr = 64 |
| Medical Office *** | 34.8/1,000 sf | 4,486 | 3.46/hr = 446 |

*Senior units estimated using R-4 standards, at 25/acre = 125 units, with 1-2 bed units, 2-story structures.
 **Multi-Family estimated using R-4, at 23/acre = 115 units, with 2, 3 & 4 bed units, and mix of 2 and 3-story structures.
 ***Office use estimated at 128,900 square feet.

FINDING: SATISFIED. Conditions 17 and 18 of Ordinance 4667 will require right-of-way improvements to City standards on the site’s SE Stratus Avenue frontage at the time of development. These required right-of-way improvements will ensure that adequate access will be provided to the subject site, and the improvements will be completed to existing City and Oregon Department of Transportation (ODOT) standards. At the time of development, all necessary permits will be required to be obtained by ODOT, as Stratus Avenue is a facility under ODOT jurisdiction. Depending on intensity of development and specific development type, ODOT permitting and review may require additional analysis of the eventual proposed use’s impact on the surrounding transportation network.

The applicant has also provided a copy of a recently completed traffic impact analysis report for an immediately adjacent property that analyzed the trip generation of the proposed multiple family residential use against other uses currently allowed under the existing Planned Development conditions of approval. The analysis determined that some of the existing uses, specifically medical office, could generate more daily trips than the proposed multiple family residential use. Therefore, the use allowed by the proposed amendment would not be more detrimental to the surrounding street network or transportation system than other uses currently allowed on the subject site by Ordinance No. 4667.

17.74.070(F). *Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;*

APPLICANT’S RESPONSE: All necessary public and franchise utilities are available to the site. Stormwater services are also available and will be made part of a larger stormwater management plan once the project is fully designed.

FINDING: SATISFIED. Existing conditions of approval from Ordinance No. 4667, which remain in effect, will require that final development plans include a detailed storm drainage plan (Condition 12), other utility improvements (Condition 13), and right-of-way improvements (Conditions 17 and 18). This will ensure that the density of the future development is shown to be able to be served by public services.

Specifically related to sanitary sewer service, the Engineering Department provided comments on the proposed Planned Development Amendment, and noted that a recently completed analysis of the sanitary sewer conveyance system indicated that there is adequate system capacity to support the proposed amendment and eventual development of multiple family

residential use on the site. In addition, McMinnville Water and Light and other utility providers were provided an opportunity to review the proposal, and offered no objections to the proposed amendment to the allowable uses on the subject site.

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 noise, air, and water pollutants caused by the Multi-Family development allowed by this amendment will not result in any substantial change as compared to the current list of allowed uses, in particular the senior housing, which is substantially similar in potential impacts.

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

CD

ORDINANCE NO. 4667

An ordinance amending the City of McMinnville Comprehensive Plan Map from an existing Industrial designation to a Commercial designation and rezoning certain property from a County EF-40 (Exclusive Farm Use - 40-acre minimum) zone to a City C-3 PD (General Commercial Planned Development) zone on a parcel of land approximately eleven acres in size.

RECITALS

The Planning Commission received an application (CPA 3-98 / ZC 6-98) from Burch/Feero, Inc., dated March 13, 1998, for a comprehensive plan map amendment from an industrial designation to a commercial designation and zone change from a County EF-40 (Exclusive Farm Use - 40-acre minimum) zone to a C-3 PD (General Commercial Planned Development) zone on a parcel of land approximately eleven acres in size and described as Tax Lot 400, Section 27, T. 4 S., R. 4 W., W.M.

A public hearing was held on April 23, 1998, at 7:30 p.m. before the McMinnville Planning Commission after due notice had been given in the local newspaper on April 18, 1998, 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 review criteria listed in Chapter 17.72.035 of 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 amendment and zone change are consistent with the Comprehensive Plan; and

The Planning Commission approved said plan map amendment and zone change and has recommended said change to Council; and

Subsequently, additional material was received from the Department of Land Conservation and Development, requiring a public hearing before the City Council. In accordance with City ordinances, the public hearing was scheduled for June 9, 1998 at 7:30 p.m. in the City Council Chambers and was continued to June 23, 1998. Notice of said hearing was given by written notice to affected property owners and to the general public by legal notice in the local newspaper; and

The McMinnville City Council conducted the scheduled hearing at the time and date specified above in accordance with the standards adopted in City of McMinnville Ordinance No. 3682. The testimony of the proponents and opponents was received and, in addition, the record generated by the McMinnville Planning Commission, supplemental staff reports, supplemental reports from other agencies, and additional exhibits were duly incorporated into the record and were considered by the Council; and

The City Council, being fully informed about said request, found that said change conformed to the review criteria listed in Chapter 17.72.035 of 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 amendment and zone change are consistent with the Comprehensive Plan; 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 Burch/Feero, Inc.

Section 2. That the Comprehensive Plan Map shall be amended from an industrial designation to a commercial designation for the property described in Exhibit "A" which is attached hereto and incorporated herein by this reference.

Section 3. That the property described in Exhibit "A" is hereby rezoned from a County EF-40 (Exclusive Farm Use - 40-acre Minimum) zone to a C-3 PD (General Commercial Planned Development) zone, subject to the following conditions:

1. 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 frontages. An arborvitae hedge or some similar type of planted visual screen shall be required along the property lines adjacent to residentially zoned lands. Street tree planting, as required by the City's tree ordinance, shall be provided as well.
2. Detailed plans showing building elevations, site layout, signage, landscaping, parking, and lighting must be submitted to and approved by the McMinnville Three Mile Lane Design Review Committee before actual development may take place. To the extent possible, the site and building design should be compatible with surrounding

development. 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. The applicant may appeal the decision of the Three Mile Lane Design Review Committee to the Planning Commission if notice of intent to appeal is filed in the Planning Department office within fifteen (15) days of the Committee's decision.

3. No building shall exceed the height of 35 feet.
4. That if outside lighting is to be provided, it must be directed down and away from residential areas and public streets.
5. That the subject site, for purposes of signage, shall be redesignated to be a zone 3 property on the Three Mile Plan Map as contained in City Ordinance No. 4572. The entire parcel shall be entitled to two "monument" signs - one serving the entrance to the office complex and one serving the commercial area at the northeast corner of the site. These signs shall conform to the standards as set forth in the City Ordinance No. 4572.
6. All business, storage, or displays shall be conducted wholly within an enclosed building; except for off-street parking and loading. No drive up food service or beverage facility or facilities shall be permitted on the subject site.
7. That the subject site, outside of that area identified for "future development" is limited to professional office use, medical office use, or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than professional office use or medical office use may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.
8. That this zone change shall not take effect until and unless CPA 3-98 is approved by the City Council.
9. That the conceptual master plan for that portion of the applicant's property identified for "future development" shall in no way be binding on the City.
10. That if restrictive covenants are proposed for the development they must meet with the approval of the Planning Director.
11. That the Planning Director shall be granted authority to amend the submitted site plan as may be necessary to accommodate the

requirements of the Oregon Department of Transportation. All amendments shall be consistent with the City's development codes.

12. That a drainage and grading plan be submitted to the City Engineer for review and approval prior to the issuance of any development permits. At a minimum, the plan should include the finished grades of proposed public streets, and the nature and extent of street and utility construction. Where any cut or fill will exceed three feet in depth, a cross section shall also be submitted.
13. That utilities shall be extended to the property (or project) boundaries by the applicant, as may be required by the City Engineer or McMinnville Water and Light.
14. That any and all fill in areas of proposed construction of buildings shall be engineered and shall meet the approval of the Building Department.
15. That areas identified on the submitted site plan for future development shall be subject to the requirements of this zone change approval.
16. That final development plans as approved by the Three Mile Lane Design Review Committee shall be placed on file with the Planning Department and become a part of the zone and binding on the owner and developer.

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by him may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the commissioners.

17. That the applicant secure from the Oregon Department of Transportation (ODOT) a permit for access to Highway 18, and the south frontage road, pursuant to OAR 734-50 (Highway Approach Roads, Crossings, Access Control, and Weight Restrictions). Evidence of such permit shall be required prior to release of any permits for this project.
18. That improvements to the Highway 18 frontage, as required by ODOT and the City of McMinnville, be done at the applicant's expense and be finalized prior to occupancy.

19. That the subject site is subject to the provisions of the Three Mile Lane Planned Development Ordinance, as amended.
20. That the proposed off-street parking lot be amended by removing the four spaces adjacent to the frontage road nearest the area proposed for "future development" and in their place provide landscaping. In addition, the applicant shall agree to in the future close the proposed southern access to Norton Lane, if warranted by the development of the property to the south.
21. That the owner must grant to the Willamette Valley Medical Center and the City of McMinnville the right to cause all airspace above the surface of the subject site such noise, vibrations, fumes, dust, fuel particles, and all other effects as may be caused by the operation of aircraft landing at or taking off from or operating at or on the Medical Center property and the McMinnville Municipal Airport. The owner must fully waive any right or cause of action which he may now or in the future raise against the Willamette Valley Medical Center and the City of McMinnville due to such circumstances noted above.

Passed by the Council this 23rd day of June, 1998, by the following votes:

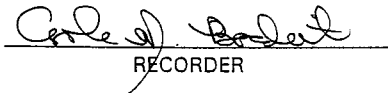
Ayes: Aleman, Hughes, Kirchner, Massey, Payne

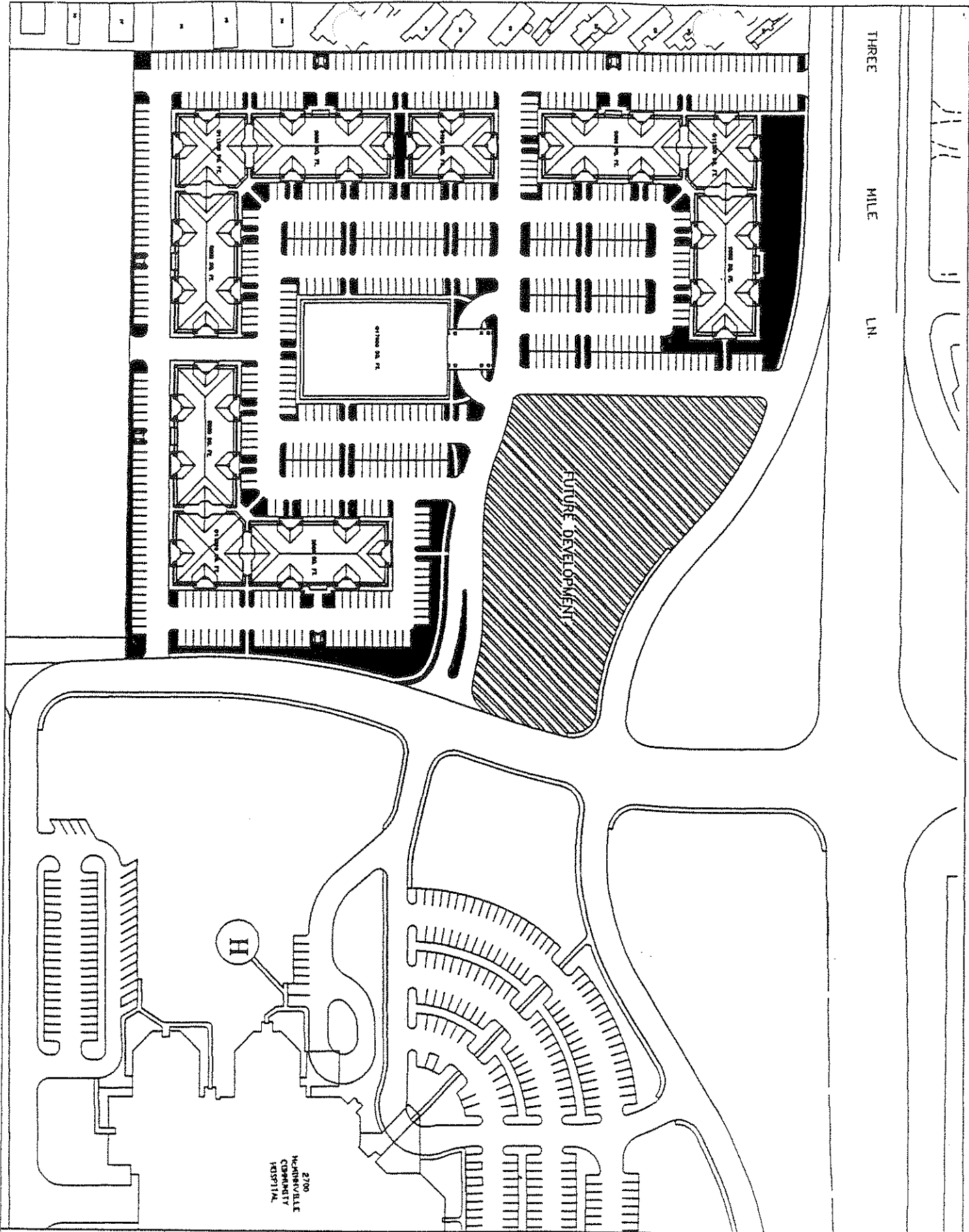
Nays:

Approved this 23rd day of June, 1998.


MAYOR

Attest:


RECORDER



THREE
MILE
LN

FUTURE DEVELOPMENT

H

2700
McMinnville
Community
Hospital

Date: 3/9/98
Scale: NTS
Plot

BURCH / FEERO, Inc.
Burch/Feero Property Development
Site Plan
Preliminary Design

R. A. Feero Designs & Associates
Rhonda Feero, Allied Member A.S.I.D.
180 N.E. 7th Street
McMinnville, OR 97128 503-434-6601

R. A. FEERO
DESIGNS
& ASSOCIATES
1726



PLANNING DEPARTMENT, 231 NE Fifth Street, McMinnville, Oregon 97128
www.mcminnvilleoregon.gov

PUBLIC HEARING NOTICE
PLANNING COMMISSION REVIEW OF A
PLANNED DEVELOPMENT AMENDMENT REQUEST
235 SE NORTON LANE

NOTICE IS HEREBY GIVEN that an application for a Planned Development Amendment has been submitted to the McMinnville Planning Department. The purpose of this notice is to provide an opportunity for surrounding property owners to submit comments regarding the application or to attend the public meeting of the Planning Commission where this request will be reviewed and a public hearing will be held. Please contact Chuck Darnell with any questions at 503-434-7311, or chuck.darnell@mcminnvilleoregon.gov.

| | |
|-------------------------------------|---|
| <u>DOCKET NUMBER:</u> | PDA 1-20 (Planned Development Amendment) |
| <u>REQUEST:</u> | Approval of a Planned Development Amendment to amend the conditions of approval of the existing Planned Development Overlay District governed by Ordinance 4667. The requested amendments would include: <ol style="list-style-type: none"> 1) Amending a condition of approval that currently limits use of the site to professional office, medical office, and other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility, to also allow multiple family dwellings and community buildings associated with residential uses. 2) Removal of a condition with an existing 35 foot building height limitation, resulting in the ability to construct to the maximum building height allowed in the underlying C-3 zone. 3) Addition of a new condition of approval requiring future review of a master plan prior to any development of the site. 4) Addition of a new condition of approval requiring a minimum of 10 percent of the site to be developed with usable open space if the site is developed with multiple family dwellings. |
| <u>APPLICANT:</u> | Housing Authority of Yamhill County, on behalf of property owner Burch Feero, Inc. |
| <u>SITE LOCATION(S):</u> | 235 SE Norton Lane (see attached map) |
| <u>MAP & TAX LOT(S):</u> | R4427 00400, R4427 00404, and R4427 00405 |
| <u>ZONE(S):</u> | C-3 PD (General Commercial Planned Development) |
| <u>MMC REQUIREMENTS:</u> | McMinnville Municipal Code (MMC) Section 17.74.070 (see reverse side for specific review criteria) |
| <u>NOTICE DATE:</u> | June 25, 2020 |
| <u>PUBLIC HEARING DATE:</u> | July 16, 2020 at 6:30 P.M. |

HEARING LOCATION:

Zoom Online Meeting:

<https://mcminnvilleoregon.zoom.us/j/94235998716?pwd=eGkySXU3dkh1MGZzeUlrMnJncXpJQT09>

Meeting Password: 641661

(See below for more detailed instructions on how to join Zoom meeting)

Proceedings: A staff report will be provided at least seven days before the public hearing. The Planning Commission will conduct a public hearing, take testimony, and then make a decision to either recommend approval of the application to the McMinnville City Council or deny the application.

Persons are hereby invited to attend (via Zoom – please see instructions below) the McMinnville Planning Commission hearing to observe the proceedings, and to register any statements in person (via Zoom – please see instructions below), by attorney, or by mail to assist the McMinnville Planning Commission in making a decision. Should you wish to submit comments or testimony on this application prior to the public meeting, please call the Planning Department office at (503) 434-7311, forward them by mail to 231 NE 5th Street, McMinnville, OR 97128, or by email to chuck.darnell@mcminnvilleoregon.gov.

The decision-making criteria, application, and records concerning this matter are available on the Planning Department's portion of the City of McMinnville webpage at www.mcminnvilleoregon.gov. The materials can also be made available at the McMinnville Planning Department office at 231 NE 5th Street, McMinnville, Oregon. However, due to the COVID-19 public health emergency, the Planning Department office is closed to walk-in customers. If you cannot access the materials electronically, please call the Planning Department at (503) 434-7311 to request a copy of the materials, and staff will assist in making the materials available physically by appointment and in a manner that meets social distancing requirements.

Appeal: Failure to raise an issue in person (via Zoom – please see instructions below) or by letter prior to the close of the public hearing with sufficient specificity precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the Commission to respond to the issue precludes an action for damages in circuit court.

Invitation to Zoom Meeting: The public is invited and welcome to attend the Planning Commission meeting. Due to the COVID-19 public health emergency and in accordance with Governor Kate Brown's Executive Order, the Planning Commission meeting is being held virtually through the Zoom meeting software to avoid gatherings and allow for social distancing. The Planning Department encourages those that are interested in participating and have access to technology to access the Zoom meeting online or through the call in options (see below for details).

The public may join the Zoom meeting online here:

<https://mcminnvilleoregon.zoom.us/j/94235998716?pwd=eGkySXU3dkh1MGZzeUlrMnJncXpJQT09>

Meeting Password: 641661

The public may also join the Zoom meeting by phone by following the instructions below:

+1 669 900 9128 US (San Jose)
Meeting ID: 942 3599 8716

If you do not have access to a telephone or computer to participate in the meeting, a conference room with access to a computer to participate in the Zoom Online Meeting can be provided at the Community Development Center at 231 NE 5th Street, McMinnville, OR 97128. Please call the Planning Department at (503) 434-7311 at least 24 hours in advance of the meeting for assistance. Participation in the conference room will be limited to accommodate social distancing guidelines and will be provided on a first-come, first-served basis.

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 24 hours in advance by contacting the City Manager (503) 434-7405 – 1-800-735-1232 for voice, or TDY 1-800-735-2900.

REVIEW CRITERIA:

McMinnville Municipal Code

MMC, Section 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:

- 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.

Comprehensive Plan Goals and Policies:

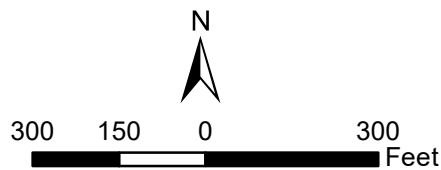
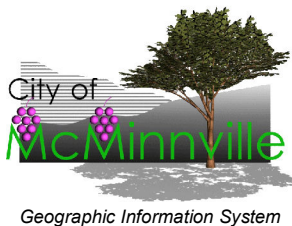
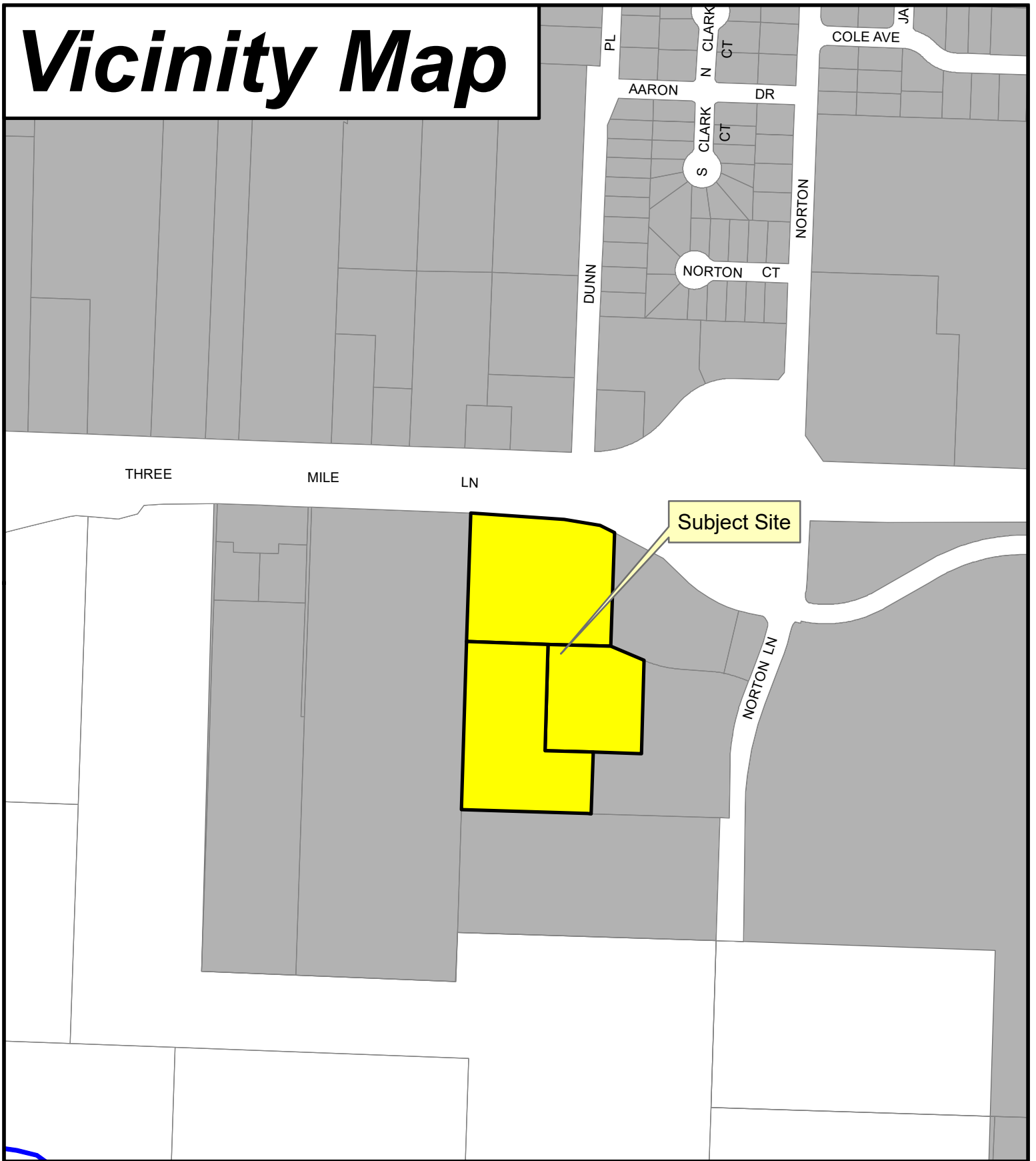
All applicable goals and policies apply to this request.

Planned Development Overlay Ordinances

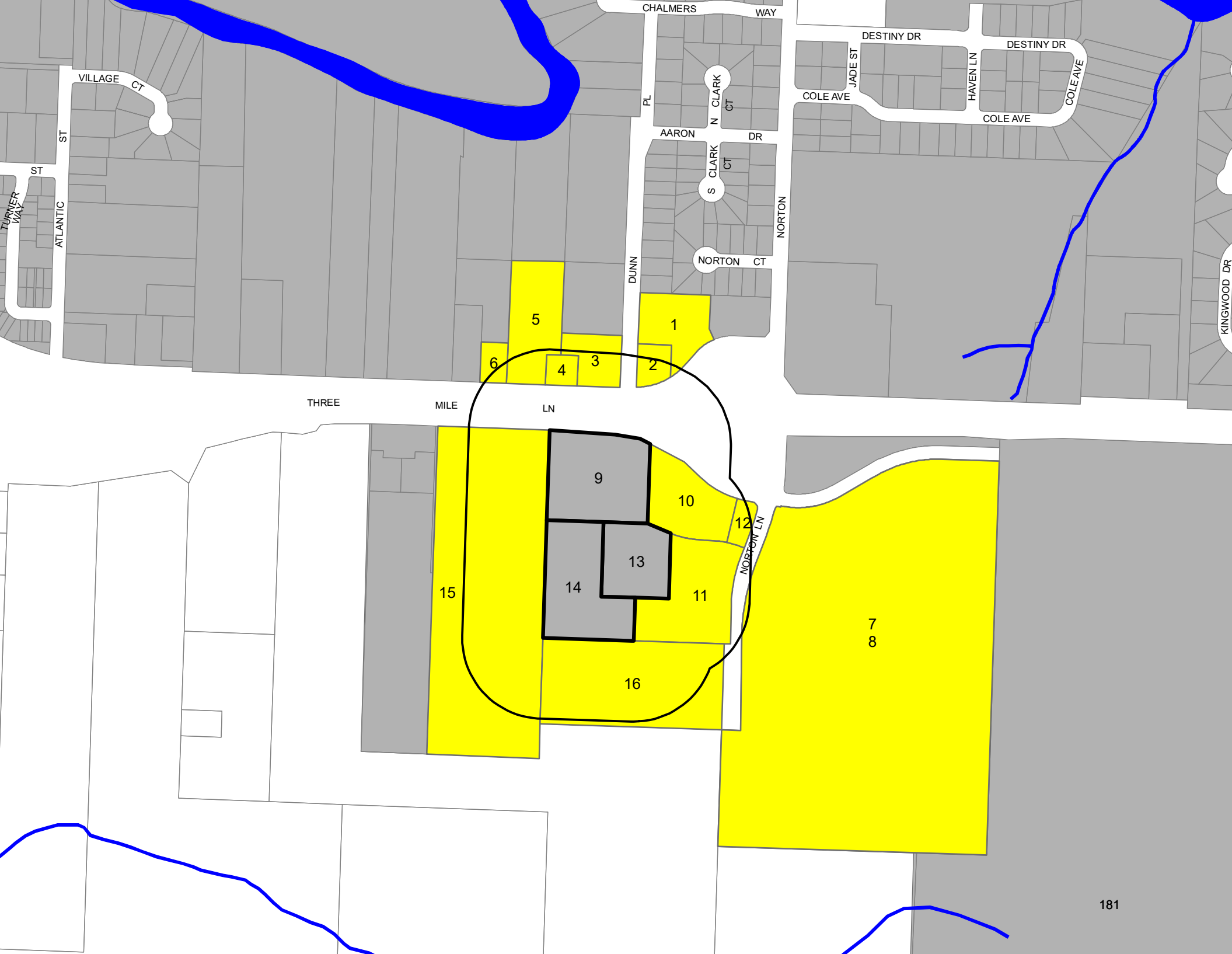
Ordinance No. 4667:

All applicable criteria found in Planned Development Ordinances 4667 shall apply to this request.

Vicinity Map



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7801



PDA 1-20

| Map No. | Tax Lot | Site Address | Owner | Attn: | Mailing Address | City | State | Zip |
|---------|--------------|------------------------|-------------------------------------|-------------------------------|------------------------------|-------------|-------|-------|
| 1 | R4422CD01600 | 2535 NE CUMULUS AVE | EJJ PROPERTIES INC | | 2535 NE CUMULUS AVE | MCMINNVILLE | OR | 97128 |
| 2 | R4422CD01601 | 2525 NE CUMULUS AVE | LOISELLE ANDRE | | PO BOX 20340 | SALEM | OR | 97307 |
| 3 | R4422CD01702 | | | | | | | 0 |
| 4 | R4422CD01800 | 2445 NE CUMULUS AVE | M2HB LLC | | 235 SE NORTON LN STE A | MCMINNVILLE | OR | 97128 |
| 5 | R4422CD01901 | 2435 NE CUMULUS AVE | PMC INVESTMENTS LLC | | 2435 NE CUMULUS AVE STE A | MCMINNVILLE | OR | 97128 |
| 6 | R4422CD02003 | 2397 NE CUMULUS AVE | K SHORE HOLDINGS LLC | | 9800 NE MEADOW LOOP RD | NEWBERG | OR | 97132 |
| 7 | R4427 00301 | 2700 SE STRATUS AVE | MPT OF MCMINNVILLE-CAPELLA LLC | | 1000 URBAN CENTER DR STE 501 | BIRMINGHAM | AL | 35242 |
| 8 | R4427 00301 | 2700 SE STRATUS AVE | MPT OF MCMINNVILLE-CAPELLA LLC | | 1000 URBAN CENTER DR STE 501 | BIRMINGHAM | AL | 35242 |
| 9 | R4427 00400 | 235 NE NORTON LN C | BURCH FEERO INC | | 20325 SW POWERHOUSE HILL | MCMINNVILLE | OR | 97128 |
| 10 | R4427 00401 | 2520 SE STRATUS AVE | MAC HOTEL PROPERTIES LLC | | 2520 SE STRATUS AVE | MCMINNVILLE | OR | 97128 |
| 11 | R4427 00402 | 375 SE NORTON LN | ROBERTI INVESTMENT COMPANY LLC | | 10333 MAIN ST STE 263 | BELLEVUE | WA | 98004 |
| 12 | R4427 00403 | 2580 SE STRATUS AVE | MAC DINING LLC | | 2580 SE STRATUS AVE | MCMINNVILLE | OR | 97128 |
| 13 | R4427 00404 | | BURCH FEERO INC | | 237 NE FORD ST STE 1 | MCMINNVILLE | OR | 97128 |
| 14 | R4427 00405 | | BURCH FEERO INC | | 237 NE FORD ST STE 1 | MCMINNVILLE | OR | 97128 |
| 15 | R4427 00500 | 2400 SE STRATUS AVE 38 | EVERGREEN MOBILE HOME PARK LLC | | 836 SW CURRY ST #1300 | PORTLAND | OR | 97239 |
| 16 | R4427 00701 | | KWDS LLC | | PO BOX 145 | WILSONVILLE | OR | 97070 |
| | | | HOUSING AUTHORITY OF YAMHILL COUNTY | | 135 NE DUNN PL | MCMINNVILLE | OR | 97128 |
| | | | MICHAEL ANDRES | STRUCTURE DEVLOPMENT ADVISORS | 2826 NE HAMBLET ST | PORTLAND | OR | 97212 |

Date Sent 4/25/2020
 Sent By [Signature]



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

www.mcminnvilleoregon.gov

MINUTES

July 16, 2020
Planning Commission
Regular Meeting

6:30 pm
Zoom Online Meeting
McMinnville, Oregon

Members Present: Chair Roger Hall, Commissioners: Robert Banagay, Erin Butler, Susan Dirks, Gary Langenwalter, Roger Lizut, Amanda Perron, Beth Rankin, and Lori Schanche

Members Absent:

Staff Present: Heather Richards – Planning Director and Chuck Darnell – Senior Planner

1. Call to Order

Chair Hall called the meeting to order at 6:30 p.m.

2. Public Hearing

A. Quasi-Judicial Hearing: Conditional Use Permit (CU 1-20) – (Exhibit 1)

Request: Approval of a conditional use permit to allow for the operation of a short term rental on the subject property.

Location: 1113 NE 4th Street and is more specifically described as Tax Lot 600, Section 21BD, T. 4 S., R. 4 W., W.M.

Applicant: Casey McLane

Opening Statement: Chair Hall read the opening statement and described the application.

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 Commissioners had visited the site, but had no comments to make on the visit.

Staff Presentation: Senior Planner Darnell said this was a request for a Conditional Use Permit for property at 1113 NE 4th Street to allow the operation of a short term rental lodging use. The property was located in Zone 3 of the NE Gateway Planned Development Overlay District and in that district short term lodging was a conditional use. The NE Gateway District was adopted by ordinance in 2013. At that time short term rental lodging was referred to as vacation home rentals which required a conditional use. In 2014, vacation home rentals were changed to a

permitted use in residential zones and in 2018, the terminology of vacation home rentals was changed to short term rentals. This language was not updated in the NE Gateway District and the conditional use still applied. Also some District development standards also applied to this application. None of the activities proposed required development review and the District did not require off street parking. He explained the site plan which showed the existing improvements on the site. No changes were proposed to the structure or site. He then reviewed the conditional use criteria. The existing single family dwelling would retain its residential appearance and its consistency with the neighborhood. The applicant was proposing some operational measures for the use that would limit occupancy to five adults and they intended to prohibit events and parties to reduce potential conflicts with the surrounding residential uses. Staff recommended a condition that limited the occupancy to the five unrelated adults. This site was in the NE Gateway District that permitted a wide range of commercial and light industrial types of uses. Some of those would be much more impactful on livability than the proposed short term rental use. The other conditions recommended by staff included: registering with the City and participating in the Transient Lodging Tax program, providing CO2 and smoke detectors in bedrooms and hallways, limiting the size of signage and that it be wall mounted and meet the signage standards in the District, and not allowing parking in the driveway as the vehicles would go into the sidewalk. Staff recommended approval of the application with conditions. A question had been raised about how the City tracked short term rentals. The City required permitting of the rentals which was an annual renewable permit. If they found a rental that did not have a permit, they worked with the code compliance officer to have the owner go through the permitting process. Another question was about off street parking and whether there was enough space. The NE Gateway District did not require off street parking and it was likely that there would be on street parking for the rental. Another question had to do with food and review by the Department of Health. There was no mention of food service being provided for the site.

Commission Questions: Commissioner Butler asked about the five unrelated adults and how many could be there if they were related. Senior Planner Darnell said the language was based on the current definition in the zoning code of family and number of people allowed to occupy a dwelling unit which was a maximum of five unrelated and no limitation of related.

Planning Director Richards said the premise of the definition was somewhat antiquated and needed to be reviewed in terms of fair housing policies. Families varied quite a bit and they wanted to allow for that variation. They were trying to ensure that the impact of a short term rental was no more than the impact of a residence that would be next door to someone.

Commissioner Rankin thought it should be based on the number of bedrooms. It was almost a 1,200 square foot house and five adults would be a load on that structure. Planning Director Richards said it was hard for them to do that from a land use perspective because one bedroom could house more than two people. They were trying to create some parameters from a land use perspective and bringing in the same impact that they had in the residential areas. They could not by law define what a family was.

Commissioner Dirks asked if the applicant had a neighborhood meeting and if so, what was the response. Senior Planner Darnell said there was a neighborhood meeting and there was no objection from the neighborhood.

Commissioner Banagay had worked in the building that faced the home for six years. It was a quiet street. If no one objected, then he thought it was a good sign.

Applicant's Testimony: Casey Mclane, applicant, said what the Commission wanted for the neighborhood and community was the same thing he wanted. He did not want parties causing havoc on the neighborhood. He had put a lot of time and effort into making this a

special place and he wanted people to come out and enjoy McMinnville. Children were not allowed, and five adults would be the maximum. His neighbors were all in support and could contact him if there were any problems.

Public Testimony: None

Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

Commission Deliberation: None

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwalter MOVED to APPROVE CU 1-20 subject to the conditions of approval provided in the decision document. SECONDED by Commissioner Butler. The motion PASSED 9-0.

**B. Quasi-Judicial Hearing: Planned Development Amendment
(PDA 1-20) – (Exhibit 2)**

Request: Approval of a Planned Development Amendment to amend the conditions of approval of the existing Planned Development Overlay District governed by Ordinance 4667. The requested amendments would include:

- 1) Amending a condition of approval that currently limits use of the site to professional office, medical office, and other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility, to also allow multiple family dwellings and community buildings associated with residential uses.
- 2) Removal of a condition with an existing 35 foot building height limitation, resulting in the ability to construct to the maximum building height allowed in the underlying C-3 zone.
- 3) Addition of a new condition of approval requiring future review of a master plan prior to any development of the site.
- 4) Addition of a new condition of approval requiring a minimum of 10 percent of the site to be developed with usable open space if the site is developed with multiple family dwellings.

Location: 235 SE Norton Lane and is more specifically described as Tax Lots 400, 404, and 405, Section 27, T. 4 S., R. 4 W., W.M.

Applicant: Housing Authority of Yamhill County, on behalf of property owner Burch Feero, Inc.

Opening Statement: Chair Hall read the opening statement and described the application.

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 Commissioners had visited the site, but had no comments to make on the visit.

Staff Presentation: Senior Planner Darnell explained the request for a Planned Development Amendment for the property at 235 SE Norton Lane. The Planned Development Overlay District was adopted by ordinance in 1998. That ordinance zoned the site C-3 PD and placed a number of conditions and limitations on the property. It also included a master plan for a one story office park and future development area. Since that time one of the office buildings had built out, the Altimus Plaza. The future development area was built out in the late 2000's and the ordinance was amended to allow a taller building to 45 feet in height for the Comfort Inn and Suites. That amendment only applied to the hotel parcel. Additional amendments occurred to allow the development of The Diner restaurant. The subject site included three parcels that were partitioned in 2007. The amendments being requested were changes to some of the conditions of approval. The first was to remove Condition #3 which had to do with building height which allowed up to 35 feet. The second was to change Condition #7 which limited the use of the site to office or accessory commercial uses to allow multiple family dwellings and community buildings associated with residential use. The third was a procedural update to reflect the City's current review process in Condition #16. The fourth was to propose a new condition to require the existing master plan not apply to these three parcels and to require a future review of an updated master plan prior to any development occurring. The fifth was to add another new condition to require open space if the site was developed as multiple family but that the open space not be required to be contiguous, have a dimension of 20 feet, and to allow a slight extension into the front yard space.

Senior Planner Darnell then reviewed the applicable criteria. This was an existing Planned Development and the existing requirements of the site were the standard requirements the applicant was requesting a departure from. The City had to find that there were special physical conditions or objectives for what was being proposed to warrant the changes. There was need for additional land for residential use in the City identified in the most recent Buildable Lands Inventory and Housing Needs Analysis. The underlying zoning of C-3 did allow multiple family as a permitted use; it was just not allowed here. Staff supported the request for review of an updated master plan prior to development, especially if the multiple family use was approved and the current master plan was over 20 years old. Staff recommended a condition for this review, not only for these three parcels but also for parcels that were outside of this area, and that any necessary shared access, parking, or utility easements be incorporated into the updated plan and that the new master plan would replace the existing plan and that the updated master plan be reviewed by the Planning Commission through the Planned Development Amendment process and review criteria and against the Great Neighborhood Principles. The applicant explained the request to remove the existing 35 foot building height limitation was because the single story office park master plan would no longer be applicable based on a multiple family use and the underlying zoning had a taller building height. If multiple family was developed, they would be limited to 60 feet in height. There were other buildings in the surrounding area that appeared to be taller than 35 feet. Staff could not identify any specific reason for the 35 foot height, but this same height limitation was used in many other planned development overlay districts along the Three Mile Lane frontage corridor. There was an allowance for a 45 foot height on the adjacent parcel for the hotel. Staff suggested that the condition be revised to have the applicant follow a process to request the additional height at the time of the updated master plan and submission of building plans. There were goals and policies in the Comprehensive Plan that would be achieved by increasing the opportunity for multiple family housing. He explained the policies for locations for higher density housing such as being within one half mile of planned or existing transit, one half mile of commercial, and adjacent to public or private open space. This location was near transit and commercial but there were no adjacent open spaces. This was why the applicant proposed the condition to require 10% of the site be

used for open space which was consistent with the size requirement for other planned development overlay districts. Staff suggested that the other parameters requested for the open space not be included in the condition for consistency and equality, which would require the open space to be contiguous. Also the other features that had been required on other sites would also be required here, such as the dimension be 25 feet of open space and not allowing it in the front yard area. There were conditions that would require street improvements at the time of development. The applicant used a recently submitted trip generation analysis on the property to the south stating that a medical office development would generate more traffic than the proposed multiple family development. There were conditions for utility improvements and a study of those components at the time of development. The sanitary sewer capacity analysis showed there was enough capacity to accommodate a multiple family development. Staff recommended the Commission recommend approval to the City Council with amendments to the conditions. No public comments had been received for this application. The applicant had held a neighborhood meeting and there was no opposition raised at that meeting.

Commission Questions: Commissioner Schanche asked about the 35 foot height limitation. Senior Planner Darnell said staff could not find documentation about where it came from. It was the maximum height in lower density residential zones.

Commissioner Rankin thought they should allow the height adjustment, but require the larger open space.

Commissioner Langenwaller agreed. He would rather have an extra floor of apartments and keep the open space for the kids to play in. He thought because they could not find the reason for the 35 feet, holding onto it did not make sense to him. He thought they needed to do what was right moving forward, not be tied to the past by something arbitrary that they did not know what it meant anymore.

Commissioner Butler said it was a picturesque entry into McMinnville and she wouldn't want it to be marred by an exceptionally tall building. Was there a maximum height? Senior Planner Darnell said that was probably the intention, to preserve the horizon and view through the corridor. That was why staff thought they should set up a process where the applicant's height, setbacks, and building form be similar to other development in the corridor and allow for the Planning Commission to look at the building plans and how they could minimize impacts instead of selecting a building height now without knowing those details.

Commissioner Schanche was worried about making this multiple family because there would be people running across the street. She thought they should add neighborhood commercial to this area for people who might be living there. Senior Planner Darnell said small scale commercial uses would still be allowed on the property.

Commissioner Dirks asked how this proposal fit into the Three Mile Lane Plan. She thought this was supposed to be a mixed commercial area in that plan. Senior Planner Darnell said there was an alternative that was not yet finalized, but was the preferred alternative. It did identify the northern half of this site as commercial and the southern half as residential. There was still flexibility in the process and it was not completely inconsistent for the vision for the site.

Commissioner Langenwaller asked if there would be commercial development to the south of Hwy 18 just east of the hospital. That would provide some commercial support for the

housing nearby. He suggested a pedestrian bridge over Hwy 18 for safety. Senior Planner Darnell said the intent of the Three Mile Plan was to create a mixture of uses and better neighborhoods on both sides of the highway as well as improving crossings and intersections.

Applicant's Testimony: Mike Andrews, development consultant working for the Housing Authority, explained the Housing Authority was under contract from the current owner to acquire these three lots. The intent was to build an affordable housing project as there was a well-documented need for affordable housing in McMinnville. They were early in the development process and were close to selecting an architectural engineering team. The team would consist of architectural firms, landscape architects, civil engineers, and structural engineers to determine the right project for this site. They hoped to complete the conceptual design work during this calendar year. They would need to work with staff to better understand the specific requirements that would be put upon the project to get a building permit so they could make an application to the Department of Housing and Community Services for the necessary funding needed to construct the project. That application would need to be submitted in the first quarter of next year. The action tonight was the first step in the process and they knew they would need to do a design review in the future. Their requests tonight were to allow for the multi family use, modify the height, modify the open space, and clean up of the current master plan. This was a good site for multi family and they would take the point about the proximity to Hwy 18 and safety concerns into consideration. Regarding the height, the base zoning was C-3 which allowed R-4 that had a height of 60 feet. If approved, they planned to use the 60 feet as the maximum height. He thought there would be a variety of different heights for the project and they would think about how to site the buildings and what the proper height would be with proper sensitivity to the northern edge that was visible and had some safety and proximity considerations. The 35 foot height would be a constraint that would be limiting for them as they could not get a three story building at that height. In order to achieve the unit yield they hoped for and to accommodate the open space, some relief on the height would be needed. Coming back later when they had something specific was workable. Regarding open space, they wanted open space on the site. Their intent was not to limit it but to give themselves some room to balance the tension between height and open space and unit yield. He requested that the Commission be open to non-contiguous open space to the 10% level. The site was 304,000 square feet or 6.9 acres and 10% of that would be 30,000 square feet, just over two thirds of an acre. It would be helpful to have open space that was in proximity to windows and doors so parents could better watch their children. If it was non-contiguous they would be able to do that. They could also program the space differently so there could be space for older kids and younger kids. It would allow some flexibility that could make the site work well for residents. He thought they could come back with the design as they were doing for the height.

Joyce Morrow, Chair of the Housing Authority Board, said they had been looking for property to build affordable housing for a long time. The City had talked to them several times about the great need for affordable housing. They were different from other developers because they were looking at a different population.

Commission Questions: Commissioner Langenwalter said the Commission would be looking at a change to the open space requirement from 10% to 12.5% in the near future. If there was any way for them to go to 12.5% he would appreciate it especially with the number of children that would be in this development. Mr. Andrews said there were some challenges to the site given it had one right-of-way frontage and they had to work with the neighbors to

the east for access. There was a stormwater drainage easement that they had to be mindful of. Overall it was a great site and he thought they could come up with a great design. If there was flexibility for the height and open space, it would help them greatly.

Commissioner Langenwalter was in support of the flexibility of the height and open space. He asked if the parking for the medical offices was part of this site and if so what would happen to their parking. Mr. Andrews said there was a use and access easement granted to the owner of the medical offices by the current owner of the property. A similar condition existed for the hotel. The ingress and egress was shared between the hotel and parcel 1 of this property. Those were some of the quirks of the site that they had to accommodate and would influence how circulation occurred on the site and where the buildings would go, how they would maintain a quality front at the northern edge, and appropriate open space.

Public Testimony:

Proponent: Mark Davis, McMinnville resident, offered his strong support for the proposal. He had worked for the Housing Authority and served on the City's Affordable Housing Task Force. There was a need for more affordable housing and this project would provide it. He did have concerns about the location and questioned whether it was a good place for affordable housing. It was next to a busy highway and had no amenities without either crossing the highway or driving somewhere. A lot of this had to do with the land shortage in the City and the Housing Authority had to make do with the limited supply of land. The project needed to go ahead but it was not optimal. He did not think it would fit with the Great Neighborhood Principles because it was not close to a grocery store or park. They needed to get more land in the City so they could appropriately site affordable housing projects. They needed to do everything they could to make the site safe and usable now, but hopefully they could do better in the future.

Opponent: None

Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

Commission Deliberation: Commissioner Dirks had similar concerns as Mr. Davis. While she was in favor of the project she questioned the location. What they could do about it was make sure the Three Mile Lane Plan had commercial development and appropriate pedestrian support in this area to make it a more amenable area for what would be residential. Regarding the height, what staff had proposed was good. Regarding the open space, she suggested changing Condition #7 to allow it to be non-contiguous and that the open space be at a minimum of 10% so they could go up to 12.5% if they were able. The entire site plan would be subject to review by the Planning Commission.

Commissioner Lizut said they needed affordable housing in the City and there would be trade-offs. There was no optimal solution and there was give and take and they needed to proceed to address the main problem of providing affordable housing given the economic situations they had seen and the limitations of land that they could work with. This was a good place to start. He was in favor of the project and having further conversations. They needed to do what they could to start addressing this serious problem in the community.

Commissioner Butler thought more commercial would be going in on the south side that could serve this site.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Dirks MOVED to RECOMMEND the City Council APPROVE PDA 1-20 subject to the conditions of approval provided in the decision document and amending Condition #7 to require a minimum of 10% for open space and that the open space may be non-contiguous subject to review of the Planning Commission at the time of the updated master plan review. SECONDED by Commissioner Langenwalter. The motion PASSED 9-0.

Commissioner Perron left the meeting at 8:30 p.m.

The Commission took a short break until 8:40 p.m.

C. Legislative Hearing: Zoning Ordinance Text Amendments: General Provisions – Code Compliance (G 5-20) – (Exhibit 3)

Request: The City of McMinnville is initiating a legislative text amendment to amend Chapter 17.03, “General Provisions” relative to compliance, enforcement and violations of the Zoning Ordinance to align it with Chapter 2.50 of McMinnville Municipal Code.

Applicant: City of McMinnville

3. Work Session: Residential Site and Design Review: Cottage Clusters

4. Commissioner Comments

5. Staff Comments

6. Adjournment

Chair Hall adjourned the meeting at

Heather Richards
Secretary



Norton Lane Planned Development Amendment

OWNERS: Burch Feero, Inc
APPLICANT: Housing Authority of Yamhill County
APPLICANT REPRESENTATIVE: Structure Development Advisors, LLC



Norton Lane
Planned Development Amendment

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June 12, 2020

Heather Richards, Planning Director
Planning Department
City of McMinnville
231 NE Fifth Street
McMinnville, OR 97128

Re: 235 SE Norton Lane
R442700409
Planned Development Amendment

Dear Ms. Richards;

On behalf of the Housing Authority of Yamhill County, and with the consent of the property owners, please find the enclosed application to amend the existing Planned Development overlay Ordinance No 4667 relating to above reference property.

We appreciate the guidance and support provided by you and your department as we've developed this application and an overall approach to entitlements needed to support this project.

Housing Authority of Yamhill County intends to develop affordable housing on the subject site. Their experience as a developer and owner of affordable housing positions them well for this important project.

We are available to answer any questions you may have and look forward to working with you to move this application forward.

Best regards,



Michael Andrews
Principal

Cc: Joyce Morrow
Vickie Ybarguen

Norton Lane
Planned Development Amendment

APPLICATION FORM



Planning Department
 231 NE Fifth Street ◦ McMinnville, OR 97128
 (503) 434-7311 Office ◦ (503) 474-4955 Fax
www.mcminnvilleoregon.gov

| | |
|-------------------------|-------|
| Office Use Only: | |
| File No. | _____ |
| Date Received | _____ |
| Fee | _____ |
| Receipt No. | _____ |
| Received by | _____ |

Planned Development Amendment Application

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other _____

Applicant Name Housing Authority of Yamhill County Phone 503-833-4334

Contact Name Structure Development Advisors (Mike Andrews) Phone 503-318-5658
(If different than above)

Address 135 NE Dunn Pl,

City, State, Zip McMinnville, OR 97128

Contact Email vybarguen@hayc.org

Property Owner Information

Property Owner Name Burch Feero, Inc. Phone 503-434-0500 - Steve
(If different than above)

Contact Name Steve Burch / Doug Burch Phone 503-237-4494 - Doug

Address 20325 SW Power House Hill

City, State, Zip McMinnville, OR 97128

Contact Email steverburch@hotmail.com & dburch@viclink.com

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 235 SE Norton LN C, McMinnville, OR 97128

Assessor Map No. R442700400 - Total Site Area 6.98 acres

Subdivision _____ Block _____ Lot _____

Comprehensive Plan Designation Commercial Zoning Designation C-3 PD

1. Show in detail how your request seeks to amend the existing planned development overlay. State the reason(s) for the request and the intended use(s) of the property: _____

See attached supplemental information for response.

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 (Volume II): _____

See attached supplemental information for response.

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: _____

See attached supplemental information for response.


6. Describe, in detail, how the proposed use will affect traffic in the area. What is the expected trip generation? _____

See attached supplemental information for response.

In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, legible, and of a reproducible size). The site plan should show existing and proposed features such as: access; lot and street lines with dimensions in feet; distances from property lines; improvements; north direction arrow, and significant features (slope, vegetation, adjacent development, drainage, etc.).
- A copy of the current planned development overlay ordinance.
- A legal description of the subject site, preferably taken from the deed.
- Compliance of Neighborhood Meeting Requirements.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.


Applicant's Signature

6-12-2020
Date

DocuSigned by:

Property Owner's Signature

6/11/2020 | 8:18 PM PDT
Date

Norton Lane
Planned Development Amendment

Supplemental Information and Findings

**Norton Lane
Planned Development Amendment
Supplemental Information and Findings**

I. FACT SHEET

Owner: Burch Feero, Inc
Steve Burch

Applicant: Housing Authority of Yamhill County
Vickie Ybarguen, Executive Director
503-883-4318
vybarguen@hayc.org

Applicant Representative: Structure Development Advisors, LLC
Mike Andrews, Principal
503-318-5658
Mike@structurepdx.com

Community Meeting Date: June 10, 2020 @ 6PM

Location: 235 NE Norton LN C
McMinnville, OR 97128

Tax Lots R4427 00400 (Parent tax lot), R4427 00404 and R4427 00405

Size: 6.98 acres

Comprehensive Plan
Map Designation: Commercial

Zoning: C-3 PD (General Commercial Planned Development)

Overlay Zone / Special Districts: Three Mile Lane Planned Development Overlay District
(Ordinance No. 4131 and Ordinance 4572)

Current Use: Undeveloped

Inventoried Significant Resources:
Historic Resources: None
Other: None

Other Features: The slight is generally flat. There are no significant natural features associated with this property.

Utilities:

Water: Water service is available to the site.
Electric: Power service is available to the site.
Sewer: Sanitary service is available to the site.
Stormwater: Storm sewer service is available to the site.
Other: Other franchise utility service is available to the site. Gas is available to the site.

Transportation: The site is approximate to SE Norton Lane, which is identified as a minor collector in the McMinnville Transportation System Plan.

[The remainder of this page intentionally left blank]

II. SUMMARY:

Existing Conditions:

The Site is currently undeveloped and used for farming. The site is generally flat. There are no significant or distinguishing natural features associated with this property.

Access to the property is off SE Stratus Avenue, which is accessible from SE Norton Ln. Access to Highway 18 via Norton Lane is within 400 feet of the site. There is a signalized intersection of Norton Lane (SE & NE) with Highway 18. Immediately south of Highway 18, there is a three-way stop intersection of SE Norton Lane and SE Stratus Avenue. Stratus Avenue loops around the Medical Center and intersects back with SE Norton Lane across from the subject site.

Access and Utilities:

The Site fronts on the south side of SE Stratus Avenue for approximately 376 feet. Access available along this frontage. Additionally, easements with the properties to the east provide access from SE Norton Lane. Ordinance No. 4667 Conditions 18 and 19 provide for Oregon Department of Transportation review and approval, as required, of Highway 18 frontage improvements.

Included as an Attachment is a tax parcel map reflecting utility locations.

Surrounding Uses:

- North Immediately north of the site is SE Status Avenue and Highway 18. Across Highway 18 are a variety of commercial uses, including the offices of the Applicant.
- East The property immediately north of the subject property is the Altimus Plaza medical offices. Further to the north at the Stratus Avenue intersection are the Comfort Inn & Suites and the Diner restaurant.
- South The property immediately south is currently undeveloped. In 2019 Planned Development Overlay Ordinance No. 5072 was passed amending a prior Ordinance relating to this site.
- West The property immediately west of the subject property is the Evergreen Estates Mobile Home Park, which is zoned R-4.

Following is a Vicinity and Zoning map of the Site.

Figure 1: Vicinity Map

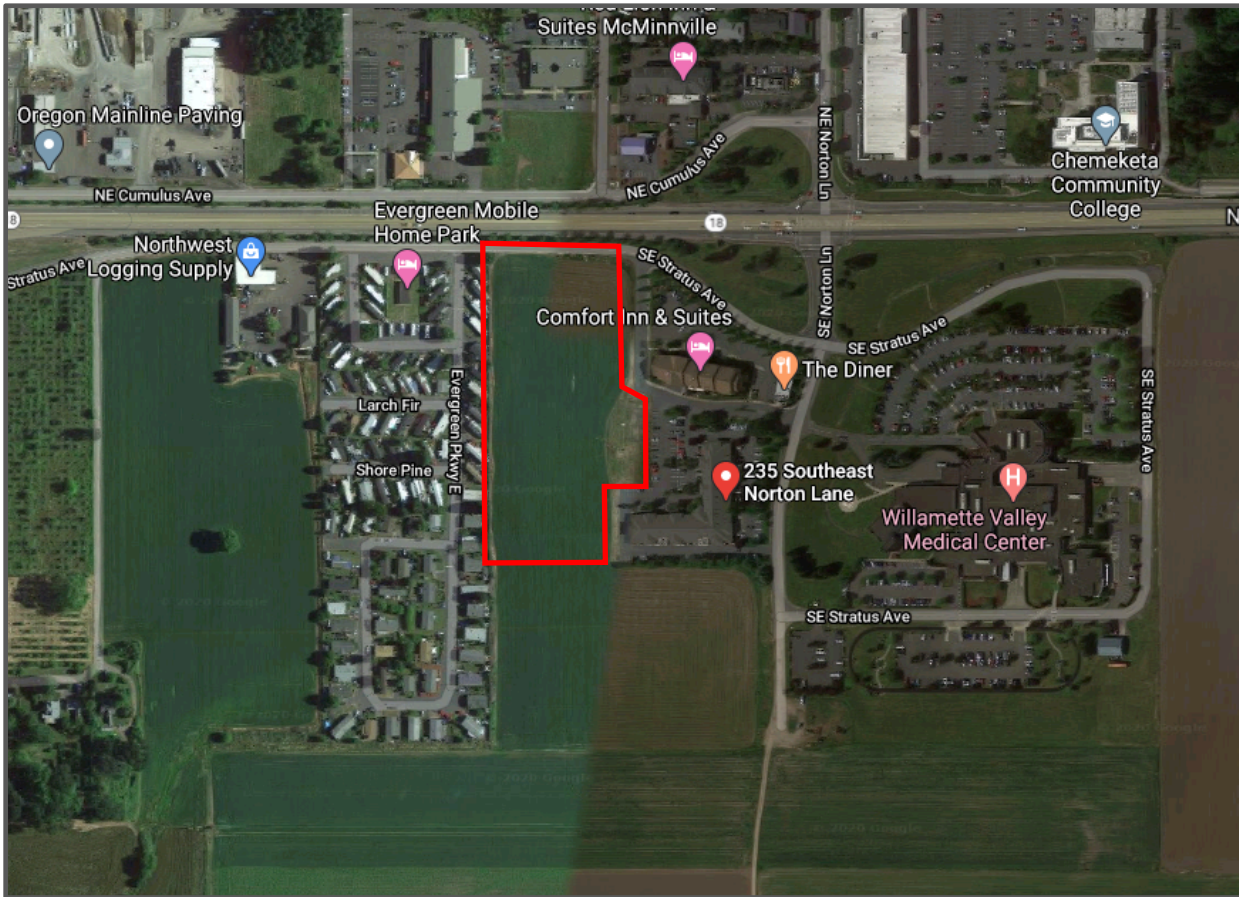
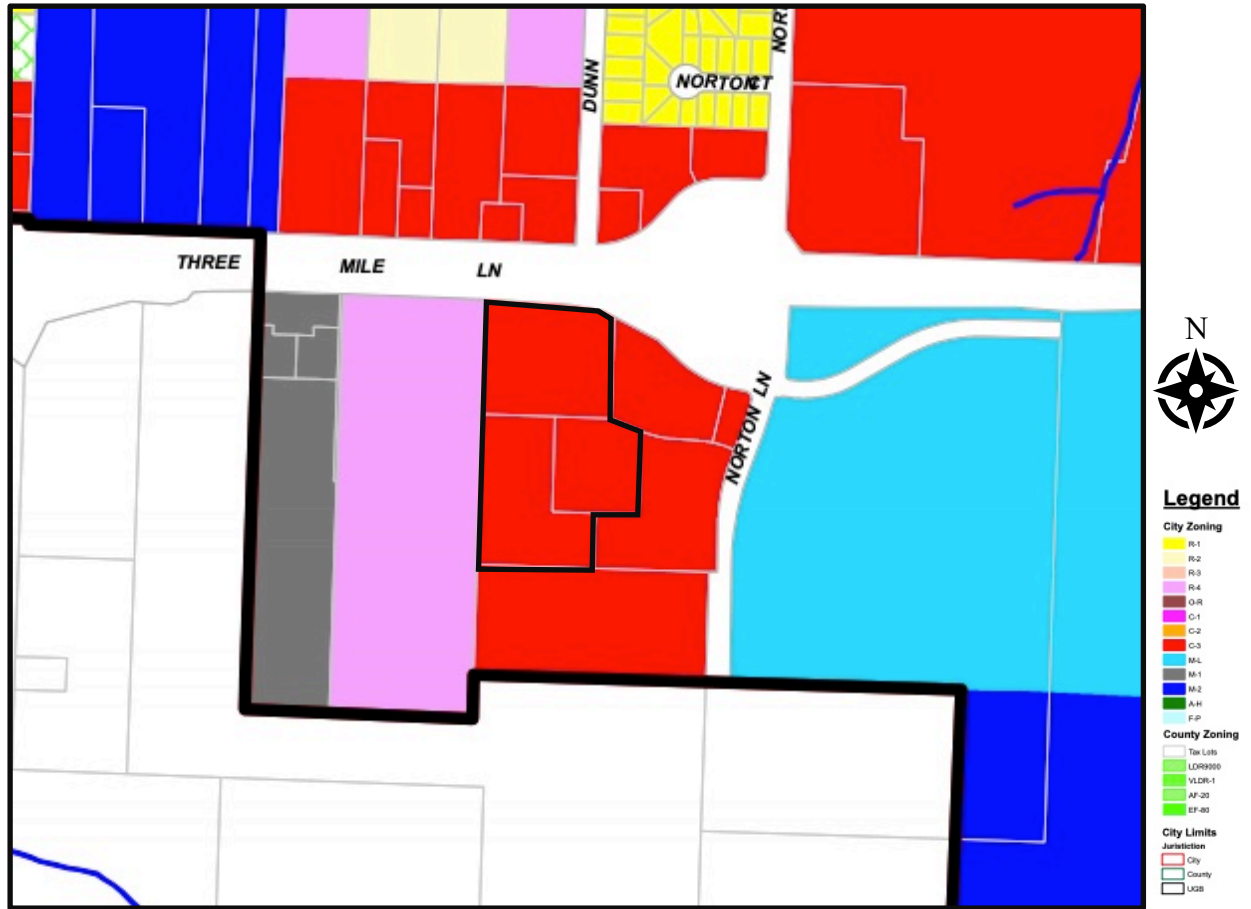


Figure 2: Zoning Map



Property Description:

The Subject Site consists of three tax lots; R4427 00400 (Parent tax lot), R4427 00404 and R4427 00405 and is known for address purposes of 235 SE Norton LN C. The Subject Site is 6.98 acres and is zoned C-3 PD.

Background:

The subject site is within the Three Mile Lane Planned Development Overlay area, originally established by Ordinance 4131 in 1981 and updated by Ordinance 4572 in 1994.

By Ordinance 4131, the City of McMinnville established Planned Development requirements for the Three Mile Lane area (Oregon Highway 18 Corridor). The area covered by this requirement extends north and south of Highway 18 from the eastern city limits west to the vicinity of the Three Mile Lane Spur intersection with Highway 18.

In 1994, Ordinance 4131 was amended to add specific development policies (Section 4) and signage regulations for Commercial lands (Section 5) by Ordinance 4572.

In 1998, the Owner made application for and received approval for Planned Development Amendment, Ordinance No. 4667. The Master Plan submitted in support of Ordinance 4667 include the Subject Site and two additional parcel (R4427 00402 and R4427 00401) that are no longer owned by the current owner and are not part of this application. The Master Plan called for development of an office park on the Subject Site and additional two tax lots. Development did not occur.

The owners have made the Subject Site available for sale. The Applicant and Owners originally entered into a Purchase and Sales Agreement on February 2020. This agreement has been amended. Owner and Applicant are cooperating to make this amendment.

Requested Amendments to Ordinance No. 4667:

The applicant requests the following amendments to the existing Planned Development Overlay ordinance for the Subject Site:

- 1) Amend Condition 7 to add the **bold** language:

“That the subject site, outside of that area identified for “future development” is limited to professional office use, medical office use, **Multiple-Family Dwellings, community buildings appurtenant to residential uses** or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than a professional office use, or medical office use, or **Multiple-Family Dwellings, community buildings appurtenant to residential uses** may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.”

DISCUSSION: The intent of this amendment is to add Multi-Family Dwelling as defined in Chapter 17.21 to the existing Planned Development Overlay as a permitted use. Additionally, propose adding language related to community buildings that is not currently allowed for in the C-3 PD zone. The intent is to allow for residential otherwise permitted in C-3 and for community rooms, meeting rooms, management space that is not residential but critical to the successful operations of the residential use.

- 2) Amend Condition 16 to add **bold** language and remove the ~~stricken~~ language:

~~“That final development plans as approved by the Three Mile Lane Design Review Committee shall be placed on file with the Planning Department and become a part of the zone and binding on the owner developer.”~~

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director’s decision as to what constitutes a major or minor change. An appeal from a ruling by ~~him~~ **the Planning Director** may be made only to the Commission. Review of the Planning Director’s decision by the Planning Commission may be initiated at the request of any one of the commissioners.”

DISCUSSION: Removal of the first sentence is proposed as a procedural accommodation to avoid confusion or conflict that would exist with two master plans simultaneously existing as part of the zone and both binding on the developer. City maintains standing to approve the new master plan.

- 3) Amend Condition 3 to remove stricken language:

~~“No building shall exceed the height of 35 feet.”~~

DISCUSSION: The prior master plan called for the development of an office park with one or two story buildings. For this master plan, 35 feet was feasible. A residential project may include buildings that are three floors or greater. In an R-4 zone, a building shall not exceed sixty feet in height (17.21.050). This amendment restores the base zone requirements. Additionally, the project is subject to design review which will allow for consideration of design criteria prior to issuing a permit. This change is consistent with the height limited on the property to the south with the same zone. The Comfort Inn Suites, Medical Center and Chemketa Community College are nearby buildings that each exceed 35 feet.

- 4) Add new Condition reflected in **bold** language:

“The master plan previously approved relating to Ordinance No. 4667 does not apply to the undeveloped portions of the subject site. An updated master plan shall be submitted to the Planning Commission for review and approval prior to any development of the existing, undeveloped portions of the subject site.”

DISCUSSION: An additional procedural and housekeeping accommodation responding to the fact tax lots R4427 00402 and R4427 00401 are not part of this application.

- 5) Add new Condition reflected in **bold** language:

“If the site is developed as multiple family dwellings, an area equivalent to 10 percent of the gross area of the site shall be reserved for usable open space for residents of the multiple-family development site. The open space area shall be contained within the boundaries of the Subject Site and does not need to be contagious. Area calculated and included as part of the 10 percent requirement must have dimensions of at least 20 feet. Any area may be located adjacent to the front yard setback area and may include 5 feet of the front yard set back towards the 10 percent open space. All open space areas may be counted towards the minimum 25 percent of the site area that must be landscaped.”

DISCUSSION: Open space is a critical element to a successful multifamily family project on the Subject Site. Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units.

A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programming of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

Public Comments:

The applicant requested and received mailing address from the City of McMinnville for every property owner required to receive a notice. Notices were mailed on May 20, 2020. A notice was also mailed to the City of McMinnville Planning Department. A sign was posted on the site within 20' of the ROW on May 21, 2020. Copies of the mailing list, notice and picture of the sign are included.

The public meeting was held via a Zoom call on June 10, 2020 at 6PM. The Applicant, the Owners and the Applicant's Representative attended the call. Two members of the public not related to the project also attended. These members asked factual questions and expressed support for the project planned by the Applicant. Notes from this meeting are included. The application will also send to City a .mp4 file that is a recording of the meeting.

III. MCMINNVILLE ZONING ORDINANCE

Chapter 17.06.015 – General Definitions

Apartment House - See "Dwelling, Multifamily."

Dwelling, Multi-Family - A building containing three or more dwelling units. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Dwelling Unit - A residence containing one or more rooms designed for occupancy by one family and having not more than one cooking facility. This includes both buildings constructed on-site and off-site, such as manufactured homes. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Family - For the purpose of this Zoning Ordinance, "family" refers to:

An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or other duly-authorized custodial relationship, living together as one

housekeeping unit using one kitchen, and providing means of lodging to not more than two additional persons, excluding servants, or a group of not more than five unrelated persons, excluding servants, living together as one housekeeping unit using one kitchen. (Ord. 4988 §1, 2015; Ord. 4479A §1, 1991; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

RESPONSE: Referencing definitions as a basis for proposed amendments.

CHAPTER 17.21. R-4 MULTIPLE-FAMILY RESIDENTIAL ZONE

17.21.010 – Permitted Uses (A to T). In an R-4 zone, the following uses and their accessory uses are permitted.

C. Multi-Family dwelling

17.21.050 - Building height. In an R-4 zone, a building shall not exceed sixty feet in height. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.33.010 – Permitted Uses. In a C-3 Zone, the following and their accessory uses are permitted:

3. Multi-Family Dwelling subject to the provisions of the R-4 zone.

RESPONSE: The base C-3 zone allows for Multi-Family Dwellings as a permitted use, subject to the R-4 zoning standards and density, per Chapter 17.21.

CHAPTER 17.51 PLANNED DEVELOPMENT OVERLAY

17.51.010 Purpose, section B, “The Council, the Commission, or the property owner of a particular parcel may apply for a planned development designation to overlay an existing zone without submitting any development plans; however, no development of any kind may occur until a final plan has been submitted and approved.”

17.51.030 Procedure. The following procedures shall be observed when a planned development proposal is submitted for consideration:

- C. The Commission shall consider the preliminary development plan at a meeting at which time the findings of persons reviewing the proposal shall also be considered. In reviewing the plan, the Commission shall need to determine that:
1. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
 2. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;
 3. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;

4. The plan can be completed within a reasonable period of time;
5. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
6. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
7. 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;

RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date.

CHAPTER 17.74 REVIEW CRITERIA

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

RESPONSE: Applicant has submitted a Planned Development Amendment request to be reviewed by the Planning Commission.

17.74.070 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;

RESPONSE: The base zone of this site is C-3, which permits R-4. This amendment will restore the ability to include Multi-Family dwellings on this site. Developing Multi-Family housing in McMinnville will address the shortage of housing supply resulting from a decline in housing starts compared to households created, which is behind the rise in housing cost in Yamhill County. Oregon Housing and Community Services' statewide housing plan estimated the shortage of housing in Yamhill County affordable to families earning less than 80% of the Area Median Income to be 4,945 units. More supply of housing is needed in the City of McMinnville.

- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;

RESPONSE: Findings supporting the claim that allowing Mullit-Family Dwellings on this site is not inconsistent with the Comprehensive Plan Volume II objectives are contained in Section IV of this supplemental information.

Removing Condition 3 would not result in a condition inconsistent with the Comprehensive Plan objectives. By removing the condition, the 60' height limit permissible in the base zone would be allowed. This height is consistent with the development pattern, character of the surrounding area, and the intent of the Three Mile Lane Development Plan.

- C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;

RESPONSE: Access to the Subject Site is from SE Stratus Avenue, which connects from SE Norton Lane and Highway 18. This proposed amendment does not alter access to the site or increase demand beyond estimated trip generation attributable to the current Planned Development Overlay Ordinance.

- D. The plan can be completed within a reasonable period of time;

RESPONSE: The applicant is under contract to purchase the Subject Site. Closing will occur either before July 1, 2020 or (for reasons related to tax implications, after January 1, 2021). The applicant is in the process of engaging an architectural and engineering team need to support the creation of a master plan. Development efforts will continue in earnest.

- E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;

RESPONSE: The existing streets serving the property are designed and constructed to City standards, with adequate capacity, based on the C-3 zoning. As part of the Planned Development Amendment process resulting in Ordinance 5072 for the property to the south, the owner commissioned a Traffic Impact Report, prepared from Lancaster Engineering, which is part of the public record. The report compares the Multi-Family traffic impacts to those of the allowed commercial offices and Multi-Family housing. Below is a table reflecting the trip generation information.

| Type Use | Average Weekly Trip Rate | Total Weekly Trips | PM Peak Hours Trips |
|----------------------------|--------------------------|--------------------|---------------------|
| Senior Apartments * | 3.70/unit | 463 | .26/hr = 33 |
| Multi-Family Apartments ** | 7.32/unit | 842 | .56/hr = 64 |
| Medical Office *** | 34.8/1,000 sf | 4,486 | 3.46/hr = 446 |

*Senior units estimated using R-4 standards, at 25/acre = 125 units, with 1-2 bed units, 2-story structures.

**Multi-Family estimated using R-4, at 23/acre = 115 units, with 2, 3 & 4 bed units, and mix of 2 and 3-story structures.

***Office use estimated at 128,900 square feet.

- F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;

RESPONSE: All necessary public and franchise utilities are available to the site. Stormwater services are also available and will be made part of a larger stormwater management plan once the project is fully designed.

- 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.

RESPONSE: The noise, air, and water pollutants caused by the Multi-Family development allowed by this amendment will not result in any substantial change as compared to the current list of allowed uses, in particular the senior housing, which is substantially similar in potential impacts.

IV. CONSISTENCY WITH COMPREHENSIVE PLAN VOLUME II OBJECTIVES

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)

RESPONSE: The comprehensive plan map is already consistent with these Goals and this Policy. The subject site and surrounding properties to the south and east are designated commercial and zoned C-3PD.

The proposed amendment does not change this designation, and the property remains zoned C-3PD. The amendment only adds Multi-Family apartments to the list of allowed uses.

GOAL IV3: 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)

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.

Policy 29.00 New direct access to arterials by large-scale commercial developments shall be granted only after consideration is given to the land uses and traffic patterns in the area of development as well as at the specific site. Internal circulation roads, acceleration/deceleration lanes, common access collection points, signalization, and other traffic improvements shall be required wherever necessary, through the use of planned development overlays.

RESPONSE: As noted, the Subject Property is designated commercial, consistent with these policies. The designation does not change with this proposed amendment. Section 17.33.01 provides that Multifamily dwelling is permitted in C-3 zones. With this request, the applicant is requesting that the Multi-Family Dwellings not be excluded from base zone.

The provisions of Policy 29.00 remain in effect and have been implemented by the existing transportation improvements in the immediate area. As demonstrated by the traffic impact report attached with this application, the proposed Multi-Family use will generate less traffic impacts than the base commercial office uses.

Proposal 6.00

A planned development overlay should be placed on the large cluster commercial development areas and the entrances to the City to allow for review of site design, on-site and off-site circulation, parking, and landscaping. The areas to be overlaid by this designation shall be noted on the zoning map and/or comprehensive plan map.

RESPONSE: The Three Mile Lane Planned Development is consistent with this proposal. The PD Overlay remains in effect, the amendment simply adds Multi-Family apartments as an allowed use and will maintain consistency with the underlying C-3 zoning.

Restoring the height permissible in the R-4 zone will allow for more options to site and design a project in a manner that allows for open space, circulation and achieving an optimal development capacity.

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.

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.

Policy 61.00

The City of McMinnville shall monitor the conversion of lands to residential use to ensure that adequate opportunities for development of all housing types are assured. Annual reports on the housing development pattern, housing density and mix shall be prepared for city review.

RESPONSE: The City has implemented these Policies through adoption of the Zoning Code, which includes residential zones accommodating various densities and housing types. Further, the underlying C-3 zone allows Multi-Family development, consistent with R-4 standards, per Section

17.33.010.3. The proposed amendment simply adds this allowed use, maintaining consistency with the C-3 code.

There is residential R-4 land immediately to the west of the subject site. The Planned Development Amendment controlling the lot to the south was recently amended to allow for Multi-Family. There is basis for concluding that R-4 residential is compatible with the professional and medical office commercial designation for the remainder of the Planned Development Area.

The requested change will not alter the current density allocated for the property. The allowed density will remain consistent with the R-4 standards for Multi-Family housing.

Therefore, the requested amendment maintains consistency with the applicable zoning.

Policy 64.00

The City of McMinnville shall work in cooperation with other governmental agencies, including the Mid-Willamette Valley Council of Governments and the Yamhill County Housing Authority, and private groups to determine housing needs, provide better housing opportunities and improve housing conditions for low and moderate income families.

Policy 66.00

The City of McMinnville shall continue to allow development of its fair share of the region's low-cost housing. The share accepted will be based on quantifiable studies which take into account the amount of the low-cost housing already in the community and the overall housing opportunities in the city and region

RESPONSE: Oregon's Statewide Housing Plan defines a shortage of 4,945 units of affordable housing in Yamhill County. Applicant is a "housing authority" defined by ORS Chapter 456, operating in Yamhill County for the purpose of providing, "To provide decent, safe and sanitary urban or rural housing for persons or families of lower income."

Housing Authority of Yamhill County is the applicant.

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.

Policy 70.00 The City of McMinnville shall continue to update zoning and subdivision ordinances to include innovative land development techniques and incentives that provide for a variety of housing types, densities, and price ranges that will adequately meet the present and future needs of the community.

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)

RESPONSE: The area of the proposed amendment is zoned C-3 Commercial and therefore is not committed to low density development. The existing C-3 zoning is consistent with Goal V2 and the Policies 68, and 71.05.

Utilizing the existing Planned Development Amendment process to permit the development of Multi-Family is an innovation use of a zoning ordinance that is likely to result in creation of housing that will expand the variety of type and price available in McMinnville.

Restoring the height allowable by the base zone will allow for greater flexibility in development options. The base zone height of 60' is in keeping with the surrounding development pattern (Comfort Inn, medical center, and community college).

It is also worth noting the site is located in the Airport Overlay Zone, and specifically within the Horizontal Zone as defined by 17.52.060. A 60' height limit on the Subject Site will not cause the buildings to exceeds the limits allowed in a Horizontal Zone.

Policy 71.09 Medium and High-Density Residential (R-3 and R-4) - The majority of residential lands in McMinnville are planned to develop at medium density

range (4 - 8 units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses. High density residential development (8 - 30 dwelling units per net acre) uses typically include townhouses, condominiums, and apartments. 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.

1. Areas that are not committed to low density development;

RESPONSE: The site is zoned C-3 Commercial and therefore is not committed to low density development. The existing C-3 zoning is consistent with Goal V2 and the Policies 68, 71.05 and 71.09.

The current Planned Development Overlay is consistent with the criteria for location of medium and high density residential, which is allowed under Policy 71.09 and also specifically allowed in the C-3 zone.

Ordinance 4667 did not list Multi-Family dwelling as a permitted use. Except for not having been listed in Ordinance 4667 the C-3 zone would otherwise allow Multi-Family Dwelling, consistent with R-4 standards, as a permitted use.

The applicant's intent is to develop Multi-Family Dwellings consistent with the R-4 standards, as required by the C-3 zone. Under the C-3 zoning, the density is not being increased, as the R-4 standards will be applied.

2. Areas that have direct access from collector or arterial streets;

RESPONSE: The subject site has direct access from the Highway 18 via from SE Stratus Avenue and SE Norton Lane.

3. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;

RESPONSE: The subject site is an open generally flat field, with no development restrictions.

4. Areas where the existing facilities have the capacity for additional development;

RESPONSE: The commercial area along Norton Lane is served by a full range of urban services including sanitary sewer, water, storm drainage

and franchise utilities. All of these services generally have sufficient capacity to serve the proposed development.

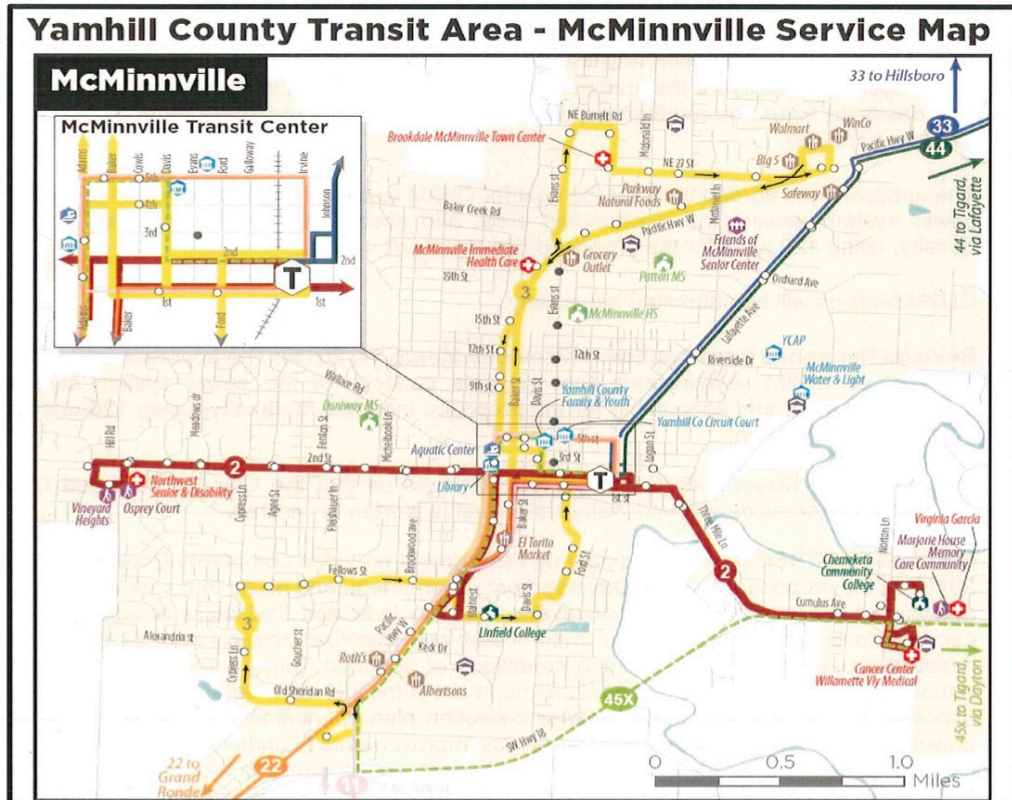
With respect to Sewer capacity, in 2019 the property owner to the south commissioned a study to determine conveyance capacity for additional residential development. The study, performed by CH2M, determined capacity for additional residential development.

- 5. Areas within one-quarter mile of existing or planned public transportation; and,

RESPONSE: Local Transit Routes 2 runs on the Highway and on SE Norton Lane to the Willamette Valley Medical Center, which is located across the street from the subject site. See the attached Route Map and Schedule, at the end of this Compliance Narrative.

Route 2 provides regularly scheduled weekday service. This route connects to the Transit Center for connection to the Yamhill County Transit route for access to the other parts of town.

Figure 3: Transit Map



6. *Areas that can be buffered from low density residential areas in order to maximize the privacy of established low-density residential areas.*

RESPONSE: And, there is residential R-4 land immediately to the west of the subject site, which establishes the buffer of lower density residential per criteria 6.

The requested change will not alter the current density allocated to the property. The density will remain as is consistent with the R-4 standards for Multi-Family housing.

Policy 71.13 The following factors should serve as criteria in determining areas appropriate for high- density residential development:

1. *Areas which are not committed to low or medium density development;*

RESPONSE: The subject property is zoned C-3 General Commercial with a PD overlay. The C-3 zone allows high density residential use. Therefore it is not committed to low or medium density development.

2. *Areas which can be buffered by topography, landscaping, collector or arterial streets, or intervening land uses from low density residential areas in order to maximize the privacy of established low-density residential areas;*

RESPONSE: There is no designated low density residential in the surrounding neighborhood. There is R-4 zoning to the west, which provides a buffer between the site and other zoning. Therefore this criterion is met.

3. *Areas which have direct access from a major collector or arterial street;*

RESPONSE: The subject site has direct access from the Highway 18 via SE Norton Lane. Therefore this criterion is met.

4. *Areas which are not subject to development limitations;*

RESPONSE: The subject site is an open generally flat field, with no development restrictions. Therefore this criterion is met.

5. *Areas where the existing facilities have the capacity for additional development;*

RESPONSE: Sewer capacity in the immediate area was analyzed by CH2M as part of the Planned Development Amendment recently approved for the lot immediately south. This study found sufficient capacity in the system to convey additional residential development.

6. *Areas within a one-half mile wide corridor centered on existing or planned public transit routes;*

RESPONSE: Local Transit Route 2 runs on the Highway 18 and on SE Norton Lane to the Willamette Valley Medical Center. The Medical Center is located with 250 feet of the site. See the attached route map and schedule included as an appendix. Therefore this criterion is met.

7. *Areas within one-quarter mile from neighborhood and general commercial shopping centers; and*

RESPONSE: The City's zoning for Neighborhood Commercial is C-1, which General Commercial is C-2.

The subject property and adjacent property to the north (770 feet) to Stratus Avenue is zoned C-2, General Commercial, with a PD overlay. There is also C-2 zoning on the north side of the Highway 18 on both sides of NE Norton Lane.

The closest C-1 zoning is approximately 1/4 mile east of the Norton Lane intersection with the Highway 18.

Therefore this criterion is met.

8. *Areas adjacent to either private or public permanent open space.*

RESPONSE: The closest public open space to the site is Joe Dancer Park, which is located on E. Brooks Street, approximately 1.4 miles to the northwest.

Ordinance 4667 Conditions 1 & 2 requires approval of site design prior to issuance of a building permit. These conditions will ensure adequate open space is provided in the development. Therefore this criterion is met.

Applicant proposes a condition to provide for adequate open space in the Multi-Family housing project.

Policy 72.00

Planned developments shall be encouraged as a favored form of residential development as long as social, economic, and environmental savings will accrue to the residents of the development and the city.

RESPONSE: The existing Planned Development Amendment, Ordinance 4667 includes development standards to ensure a residential development. Condition 2 requires “to the extent possible, the site and building design should be compatible with the surrounding development.”

Policy 73.00 *Planned residential developments which offer a variety and mix of housing types and prices shall be encouraged.*

RESPONSE: The proposed amendment will allow for Multi-Family Dwelling in the C-3 zone by removing its exclusions. The anticipate residential development will offer housing that is affordable, thus adding a missing housing type within the larger vicinity and City.

Policy 74.00 *Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs.*

RESPONSE: There are no distinctive natural, topographic or aesthetic features associated with the site. The property is flat, and currently abuts farm land to the south, a mobile home part to the west, and office and hospitality to the east.

Policy 75.00 *Common open space in residential planned developments shall be designed to directly benefit the future residents of the developments. When the open space is not dedicated to or accepted by the City, a mechanism such as a homeowners association, assessment district, or escrow fund will be required to maintain the common area.*

Policy 77.00 *The internal traffic system in planned developments shall be designed to promote safe and efficient traffic flow and give full consideration to providing pedestrian and bicycle pathways.*

RESPONSE: No specific development plans are being proposed at this time. However, the applicant is proposing an apartment development. Typical development plans provide landscaped open space, circulation for pedestrians and bicycles.

Site plan details will be provided as required by Condition 2 of Ordinance 4667.

Policy 78.00 *Traffic systems within planned developments shall be designed to be compatible with the circulation patterns of adjoining properties.*

RESPONSE: Traffic system improvements have been developed in the immediate neighborhood, including the Highway 18 intersection with

Norton Lane, and the SE Norton Lane intersection with SE Stratus Avenue. These improvements provide basic and adequate circulation into, out of, and throughout the immediate neighborhood. These street improvements were made to meet the anticipated development within the area.

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 ensure 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.*
- 4. 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.*
- 5. 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.

RESPONSE: The City's transportation Goal and Policies are further refined and implemented through the Transportation System Plan (TSP). The TSP provides the functional classification of streets, including arterial, collector and local designations.

The TSP identifies corridor improvements for the Highway 18 Corridor:

ODOT, the City of McMinnville and Yamhill County have mutually approved the Highway 18 Corridor Refinement Plan, which was completed in 1996. The Plan includes a series of traffic control and frontage roads improvements north and south of Highway 18, to include closing of the existing Norton Lane intersection, construction of a new interchange near the Evergreen Air Museum, and redesign of the current East McMinnville (Three Mile Lane) interchange for full, directional access.

Some frontage road improvements have been completed since the 1996 Plan was adopted. Exhibit 4-10 illustrates the current state of the Plan. It is important to note, however, that the northernmost collector access road depicted in the Highway 18 Corridor Refinement Plan is not shown in the TSP due to the fact that it is located outside of McMinnville's current urban growth boundary. Under Oregon Administrative Rule (OAR 660-012), transportation facilities outside of urban growth boundaries are not permitted as part of a TSP unless a "reasons" exception to the applicable goal(s) has been approved by the City. In this case, McMinnville finds such action premature due to the lack of certainty as to the street corridor's location and design. An amendment to this plan, and a Goal 2 (Land Use) exception, would be part of any future proposal to add this element to the TSP and permit its construction and use for urban purposes.

Some of the corridor improvements have already been completed, including the Norton Lane intersection and Stratus Avenue frontage road. The future interchange discussed is further to the east, at Cumulus Avenue. However, no decision regarding an interchange has yet been made.

The proposed amendment does not substantially alter the demand for transportation and public service improvement to any greater degree than the currently allowed uses.

Primary access to the property is from Highway 18, designated as an arterial street. SE Norton Lane intersects with Highway 18 north of the subject property. The property fronts on the west side of SE Norton Lane, just south of the intersection with SE Stratus Avenue. Stratus Avenue is classified as a collector.

Parking

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

Policy 127.00 The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.

Bike Paths

Policy 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connects residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities. (Ord.4922, February 23, 2010)

Policy 131.00 The City of McMinnville shall encourage development of bicycle and footpaths in scenic and recreational areas as part of future parks and activities.

Policy 132.00 The City of McMinnville shall encourage development of subdivision designs that include bike and foot paths that interconnect neighborhoods and lead to schools, parks, and other activity areas. (Ord. 4922, February 23, 2010; Ord. 4260, August 2, 1983)

Policy 132.15 The City of McMinnville shall require that all new residential developments such as subdivisions, planned developments, apartments, and condominium complexes provide pedestrian connections with adjacent neighborhoods.

RESPONSE: Conditions 1 and 2 of Ordinance 4667, and the proposed open space condition, require site plan review and approval by the Planning Commission prior to any development of the subject site. These reviews would ensure review of site design, including off-street parking and bike and pedestrian connections associated with the future development plan.

Supportive of General Land Use Plan Designations and Development Patterns

Policy 132.27.00 The provision of transportation facilities and services shall reflect and support the land use designations and development patterns identified in the McMinnville Comprehensive Plan. The design and implementation of transportation facilities an service shall be based on serving current and future travel demand-both short- term and long-term planned uses. (Ord. 4922, February 23, 2010)

RESPONSE: See response to Policies 117.00-121.00 above.

Livability

Policy 132.35.00 Transportation facilities in the McMinnville planning area shall be, to the degree possible, designed and constructed to mitigate noise, energy consumption, and neighborhood disruption, and to encourage the use of public transit, bikeways, sidewalks, and walkways. (Ord. 4922, February 23, 2010)

Policy 132.41.20 Modal Balance – The improvement of roadway circulation must not impair the safe and efficient movement of pedestrians and bicycle traffic. (Ord. 4922, February 23, 2010)

Policy 132.41.25 Consolidate Access – Efforts should be made to consolidate access points to properties along major arterial, minor arterial, and collector roadways. (Ord. 4922, February 23, 2010)

Pedestrian Programs

Policy 132.54.00 Promoting Walking for Health and Community Livability – The City will encourage efforts that inform and promote the health, economic, and environmental benefits of walking for the individual and McMinnville community. Walking for travel and recreation should be encouraged to achieve a more healthful environment that reduces pollution and noise to foster a more livable community. (Ord. 4922, February 23, 2010)

RESPONSE: Conditions 1 and 2 of Ordinance 4667, and the proposed open space condition, require site plan review and approval by the Planning Commission prior to any development of the subject site. These reviews would ensure review of site design and on-site and off-site circulation to ensure that the proposed access to serve future development will be compatible with the surrounding transportation system.

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.

RESPONSE: The surrounding development along SE Norton Lane has been constructed consistent with the Public Facilities Goal and these Policies for specific utilities. All required urban services are currently available and adequate to support development of the property consistent with these policies, assuming that CH2M makes positive findings with their sewer system analysis, being paid for by the applicant.

The proposed amendment will not result in development that will create substantially greater demands on the available services than the types of development that is already allowed.

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:

1. *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 wastewater 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.*

RESPONSE: Conditions 2, 12, and 13 of the existing Ordinance remain in effect. Additionally, given the nature of the proposal development, application will adhere to the standards of the implementing regulations for the National Environmental Policy Act promulgated by the U.S. Department of Housing and Urban Development in CFR Part 58.

GOAL IX 1: TO PROVIDE ADEQUATE LANDS TO SERVICE THE NEEDS OF THE PROJECTED POPULATION TO THE YEAR 2023, AND TO ENSURE THE CONVERSION OF THESE LANDS IN AN ORDERLY, TIMELY MANNER TO URBAN USES.

Policy 187.50 The McMinnville Great Neighborhood Principles are provided below. Each Great Neighborhood Principle is identified by number below (numbers 1 – 13), and is followed by more specific direction on how to achieve each individual principle

11. Housing for Diverse Incomes and Generations. Great Neighborhoods provide housing opportunities for people and families with a wide range of incomes, and for people and families in all stages of life.

GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

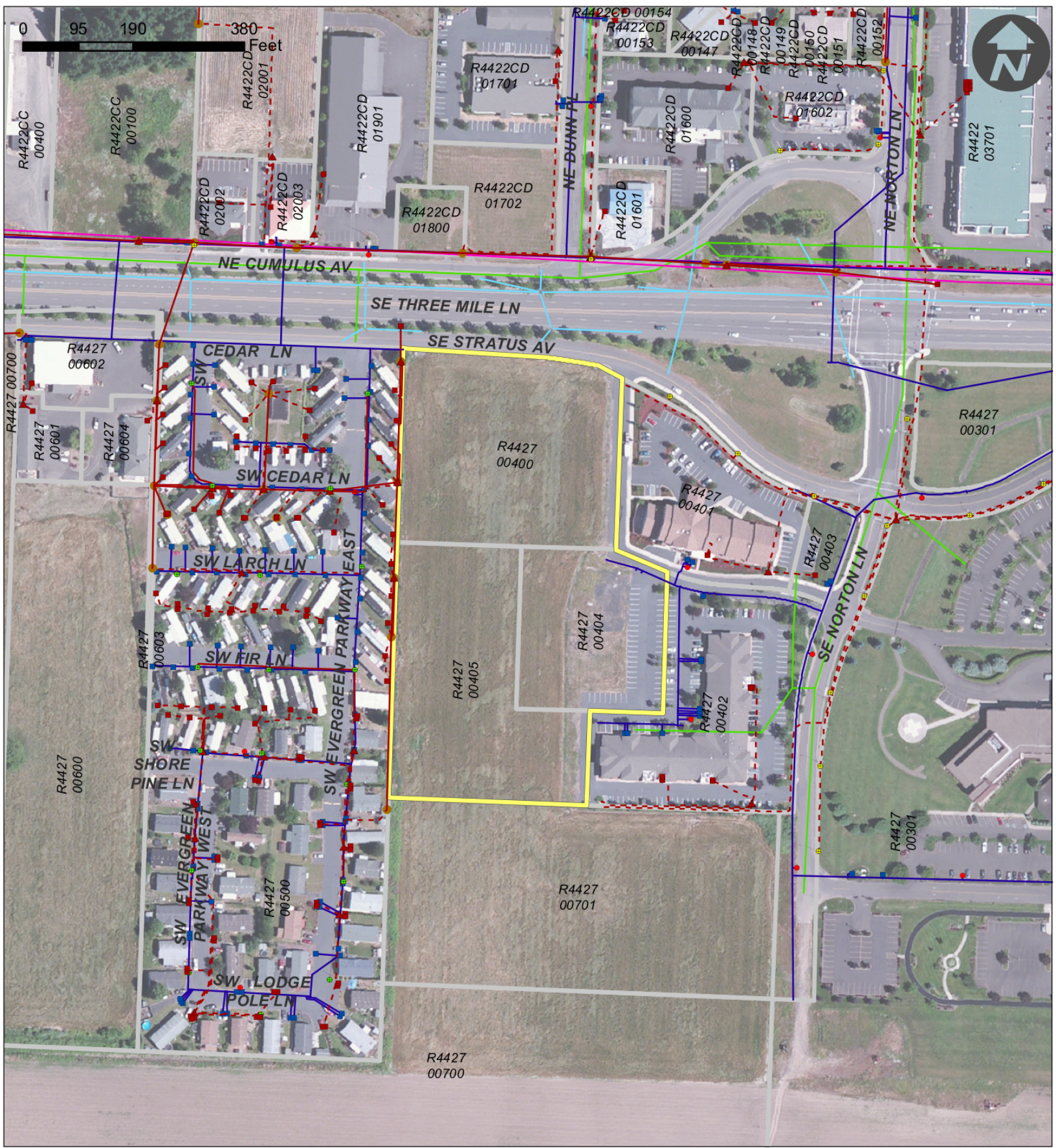
GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.

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.

RESPONSE: [site public meeting]

Norton Lane
Planned Development Amendment

SITE DESCRIPTION



- | | | | | |
|-------------------|---------------------------|-------------------|---------------|------------------|
| ■ Power Meter | ▲ Transformer | ● Pole | ■ Water Meter | — Storm Sewer |
| ⊕ Municipal Light | - - - - Underground Power | ● City Hydrant | — Water Mains | — Sanitary Sewer |
| ● Rental Light | — Overhead Power | ● Private Hydrant | — Fiber Optic | |

235 SE Norton Lane / Hwy 18

PARTITION 2001-40

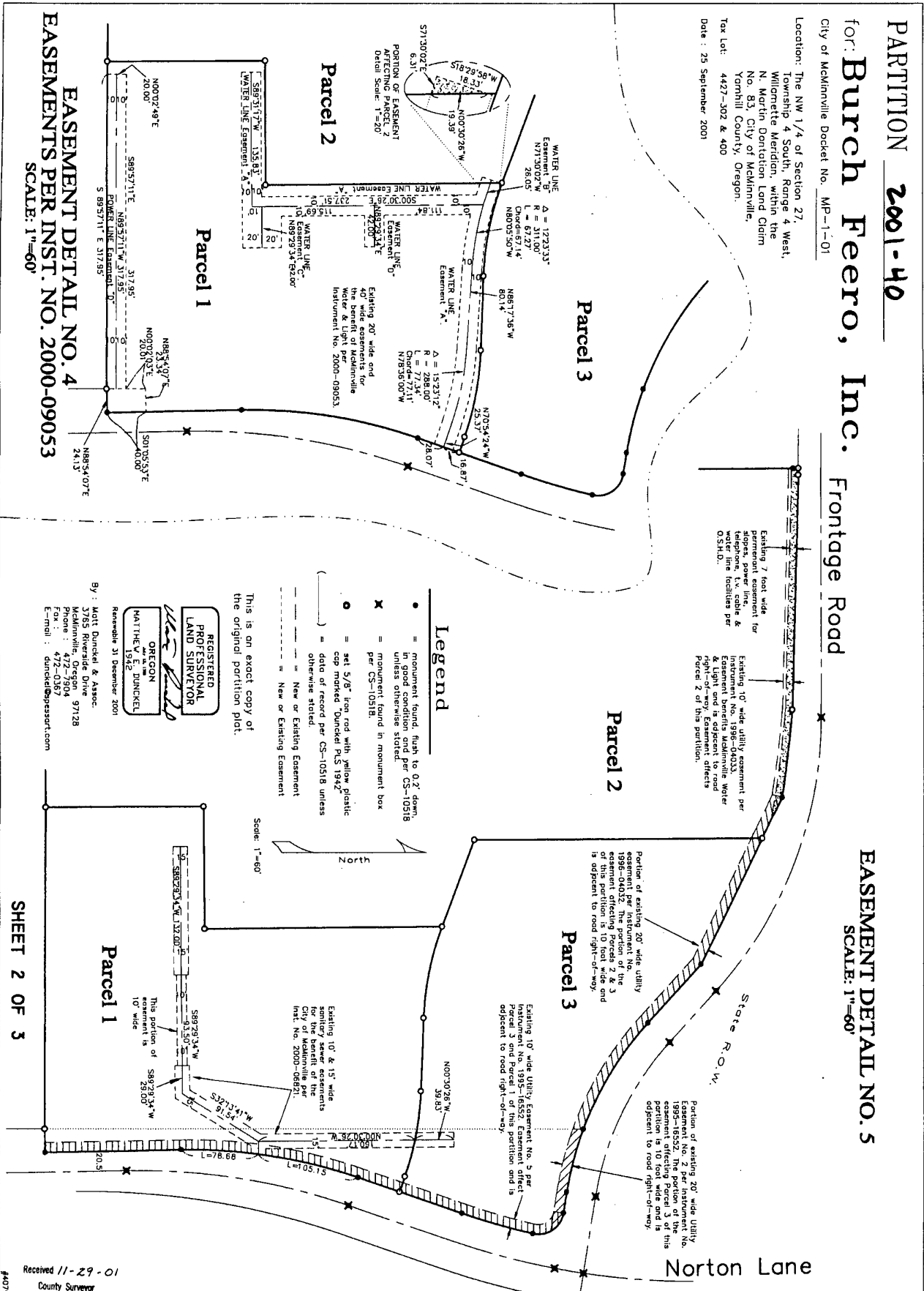
for: **Burch Feero, Inc.**
 City of McMinnville Docket No. MP-1-01

Location: The NW 1/4 of Section 27,
 Township 4 South, Range 4 West,
 Willamette Meridian, within the
 N. Martin Donation Land Claim
 No. 83, City of McMinnville,
 Yamhill County, Oregon.

Top Lot: 4427-302 & 400
 Date: 25 September 2001

Frontage Road

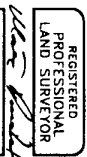
EASEMENT DETAIL NO. 5 SCALE: 1"=60'



Legend

- = monument found, flush to 0.2" down, in good condition and per CS-10518 unless otherwise stated.
- ✕ = monument found in monument box per CS-10518.
- = set 5/8" iron rod with yellow plastic cap marked "Dunkel PLS 1942" date of record per CS-10518 unless otherwise stated.
- = New or Existing Easement
- - - = New or Existing Easement

This is an exact copy of the original partition plot.



By: Matt Dunkel & Assoc.
 3755 Riverside Drive
 McMinnville, OR 97128
 Phone: 472-4904
 Fax: 472-0367
 E-mail: dunkel@essort.com

Revised 31 December 2001

Existing 10' wide utility Easement No. 5 per Instrument No. 1995-16552. Easement effect: Parcel 3 and Parcel 1 of this partition and is adjacent to road right-of-way.

Portion of existing 20' wide utility easement per Instrument No. 1995-16552. The portion of this partition is 10 foot wide and is adjacent to road right-of-way.

Portion of existing 20' wide utility Easement No. 2 per Instrument No. 1995-16552. The portion of the easement affecting Parcel 3 of this partition is 10 foot wide and is adjacent to road right-of-way.

Existing 10' & 15' wide sewer easements for the benefit of the City of McMinnville per Mat. No. 2000-0689.

This portion of 5892934*W easement is 10' wide.

PARTITION 2001-40

for: Burch Feero, Inc.

City of McMinnville Docket No. MP-1-01

Location: The NW 1/4 of Section 27,
Township 4 South, Range 4 West,
Willamette Meridian, within the
N. Martin Donation Land Claim
No. 83, City of McMinnville,
Yamhill County, Oregon.

Tax Lot: 4427-302 & 400

Date: 25 September 2001

APPROVALS:

Steve Burck
Yamhill County Surveyor
City of McMinnville Planning Director

Steve Burck
Yamhill County Tax Collector

OFFICIAL YAMHILL COUNTY RECORDS
PHILIP S. STEIN, COUNTY CLERK
200121025 3:18:21 PM 11/29/2001
\$55.00
Pre-Paper Cost: \$11.00
\$45.00 plus per \$11.00

Yamhill County Clerk
This is an exact copy of
the original partition plat.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Steve Burck

OREGON
MATTHEW E. DUNDELF
1992

By: Matt Dundel & Assoc.
3765 Riverside Drive
McMinnville, Oregon 97128
Phone: 472-7904
Fax: 472-7904
E-mail: dundel@passport.com

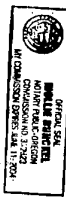
DECLARATION

KNOW ALL MEN BY THESE PRESENTS that we BURCH FEERO, INC., an Oregon Limited Liability Corporation, is the owner of the lands represented on the attached map and more particularly described in the Surveyors Certificate and have caused said lands to be partitioned into the parcels and easements as shown.

Steve Burck
STEVE BURCH
General Partner, BURCH FEERO, INC.

ACKNOWLEDGMENT

Notary Public *Mattie Dundel*

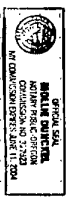


STATE OF OREGON)
COUNTY OF YAMHILL) ss.
On this day the 24th of Sept., 2001, did personally appear STEVE BURCH, in the capacity shown in the above Declaration, who being duly sworn, did say that he is the identified person named in the foregoing instrument and that he executed said instrument freely and voluntarily.

Steve Burck
KURT FEERO
General Partner, BURCH FEERO, INC.

ACKNOWLEDGMENT

Notary Public *Mattie Dundel*

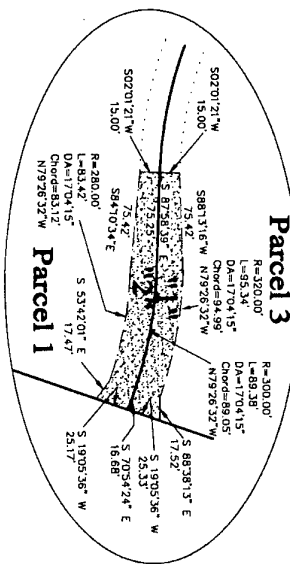


STATE OF OREGON)
COUNTY OF YAMHILL) ss.
On this day the 24th of Sept., 2001, did personally appear KURT FEERO in the capacity shown in the above Declaration, who being duly sworn, did say that he is the identified person named in the foregoing instrument and that he executed said instrument freely and voluntarily.

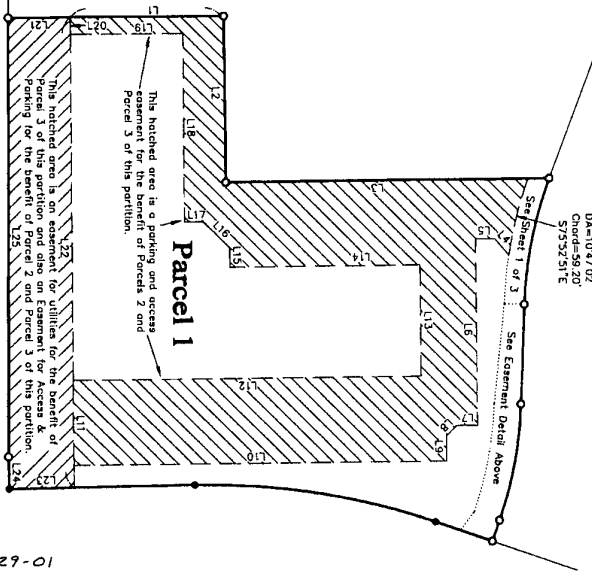
Notes

1) All parcels have legal access to the public roads.

| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | N00°16'11"W | 114.67 |
| L2 | N89°29'34"E | 125.37 |
| L3 | N00°30'26"W | 228.72 |
| L4 | S49°41'46"W | 16.09 |
| L5 | S00°30'20"E | 14.47 |
| L6 | N89°29'34"E | 140.50 |
| L7 | S00°30'26"E | 15.00 |
| L8 | S43°30'26"E | 10.61 |
| L9 | N89°29'34"E | 19.00 |
| L10 | S00°30'26"E | 279.53 |
| L11 | S89°43'23"W | 64.00 |
| L12 | N00°30'26"W | 260.77 |
| L13 | S89°29'34"W | 84.00 |
| L14 | S00°30'26"E | 142.50 |
| L15 | S89°43'50"W | 14.56 |
| L16 | S44°29'34"W | 27.37 |
| L17 | S00°30'31"W | 14.92 |
| L18 | S89°43'49"W | 141.92 |
| L19 | S00°30'31"E | 84.03 |
| L20 | S89°43'23"W | 13.00 |
| L21 | N00°16'11"W | 46.48 |
| L22 | N89°43'23"E | 354.38 |
| L23 | S01°03'53"E | 48.01 |
| L24 | S89°54'07"W | 24.13 |
| L25 | N89°57'11"W | 330.95 |



"1" = Access & Utility Easement for the benefit of Parcel 1 & 2 of this partition.
"2" = Access Easement for the benefit of Parcel 2 & 3 of this partition.
EASEMENT DETAIL #1 & #2
SCALE: 1"=60'



EASEMENTS DETAIL NO. 3
SCALE: 1"=60'

SHEET 3 OF 3

Received 11-29-01
County Surveyor

Norton Lane
Planned Development Amendment

LEGAL DESCRIPTION

Norton Lane

Legal Description

Parcels 1, 2, and 3, of Partition Plat 2007-12 recorded March 7, 2007 as Instrument No. 200705096, Deed and Mortgage Records, Yamhill County, State of Oregon.

Norton Lane
Planned Development Amendment

CURRENT PLANNED DEVELOPMENT OVERLAY
ORDINANCE NO. 4667
ORDINANCE NO. 4131
ORDINANCE NO. 4572

ORDINANCE NO. 4667

An ordinance amending the City of McMinnville Comprehensive Plan Map from an existing Industrial designation to a Commercial designation and rezoning certain property from a County EF-40 (Exclusive Farm Use - 40-acre minimum) zone to a City C-3 PD (General Commercial Planned Development) zone on a parcel of land approximately eleven acres in size.

RECITALS

The Planning Commission received an application (CPA 3-98 / ZC 6-98) from Burch/Feero, Inc., dated March 13, 1998, for a comprehensive plan map amendment from an industrial designation to a commercial designation and zone change from a County EF-40 (Exclusive Farm Use - 40-acre minimum) zone to a C-3 PD (General Commercial Planned Development) zone on a parcel of land approximately eleven acres in size and described as Tax Lot 400, Section 27, T. 4 S., R. 4 W., W.M.

A public hearing was held on April 23, 1998, at 7:30 p.m. before the McMinnville Planning Commission after due notice had been given in the local newspaper on April 18, 1998, 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 review criteria listed in Chapter 17.72.035 of 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 amendment and zone change are consistent with the Comprehensive Plan; and

The Planning Commission approved said plan map amendment and zone change and has recommended said change to Council; and

Subsequently, additional material was received from the Department of Land Conservation and Development, requiring a public hearing before the City Council. In accordance with City ordinances, the public hearing was scheduled for June 9, 1998 at 7:30 p.m. in the City Council Chambers and was continued to June 23, 1998. Notice of said hearing was given by written notice to affected property owners and to the general public by legal notice in the local newspaper; and

The McMinnville City Council conducted the scheduled hearing at the time and date specified above in accordance with the standards adopted in City of McMinnville Ordinance No. 3682. The testimony of the proponents and opponents was received and, in addition, the record generated by the McMinnville Planning Commission, supplemental staff reports, supplemental reports from other agencies, and additional exhibits were duly incorporated into the record and were considered by the Council; and

The City Council, being fully informed about said request, found that said change conformed to the review criteria listed in Chapter 17.72.035 of 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 amendment and zone change are consistent with the Comprehensive Plan; 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 Burch/Feero, Inc.

Section 2. That the Comprehensive Plan Map shall be amended from an industrial designation to a commercial designation for the property described in Exhibit "A" which is attached hereto and incorporated herein by this reference.

Section 3. That the property described in Exhibit "A" is hereby rezoned from a County EF-40 (Exclusive Farm Use - 40-acre Minimum) zone to a C-3 PD (General Commercial Planned Development) zone, subject to the following conditions:

1. 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 frontages. An arborvitae hedge or some similar type of planted visual screen shall be required along the property lines adjacent to residentially zoned lands. Street tree planting, as required by the City's tree ordinance, shall be provided as well.
2. Detailed plans showing building elevations, site layout, signage, landscaping, parking, and lighting must be submitted to and approved by the McMinnville Three Mile Lane Design Review Committee before actual development may take place. To the extent possible, the site and building design should be compatible with surrounding

development. 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. The applicant may appeal the decision of the Three Mile Lane Design Review Committee to the Planning Commission if notice of intent to appeal is filed in the Planning Department office within fifteen (15) days of the Committee's decision.

3. No building shall exceed the height of 35 feet.
4. That if outside lighting is to be provided, it must be directed down and away from residential areas and public streets.
5. That the subject site, for purposes of signage, shall be redesignated to be a zone 3 property on the Three Mile Plan Map as contained in City Ordinance No. 4572. The entire parcel shall be entitled to two "monument" signs - one serving the entrance to the office complex and one serving the commercial area at the northeast corner of the site. These signs shall conform to the standards as set forth in the City Ordinance No. 4572.
6. All business, storage, or displays shall be conducted wholly within an enclosed building; except for off-street parking and loading. No drive up food service or beverage facility or facilities shall be permitted on the subject site.
7. That the subject site, outside of that area identified for "future development" is limited to professional office use, medical office use, or other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. Uses other than professional office use or medical office use may not exceed fifteen (15) percent of the total floor area proposed to be constructed within the subject site.
8. That this zone change shall not take effect until and unless CPA 3-98 is approved by the City Council.
9. That the conceptual master plan for that portion of the applicant's property identified for "future development" shall in no way be binding on the City.
10. That if restrictive covenants are proposed for the development they must meet with the approval of the Planning Director.
11. That the Planning Director shall be granted authority to amend the submitted site plan as may be necessary to accommodate the

requirements of the Oregon Department of Transportation. All amendments shall be consistent with the City's development codes.

12. That a drainage and grading plan be submitted to the City Engineer for review and approval prior to the issuance of any development permits. At a minimum, the plan should include the finished grades of proposed public streets, and the nature and extent of street and utility construction. Where any cut or fill will exceed three feet in depth, a cross section shall also be submitted.
13. That utilities shall be extended to the property (or project) boundaries by the applicant, as may be required by the City Engineer or McMinnville Water and Light.
14. That any and all fill in areas of proposed construction of buildings shall be engineered and shall meet the approval of the Building Department.
15. That areas identified on the submitted site plan for future development shall be subject to the requirements of this zone change approval.
16. That final development plans as approved by the Three Mile Lane Design Review Committee shall be placed on file with the Planning Department and become a part of the zone and binding on the owner and developer.

The developer will be responsible for requesting permission of the Planning Commission for any major change of the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by him may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the commissioners.

17. That the applicant secure from the Oregon Department of Transportation (ODOT) a permit for access to Highway 18, and the south frontage road, pursuant to OAR 734-50 (Highway Approach Roads, Crossings, Access Control, and Weight Restrictions). Evidence of such permit shall be required prior to release of any permits for this project.
18. That improvements to the Highway 18 frontage, as required by ODOT and the City of McMinnville, be done at the applicant's expense and be finalized prior to occupancy.

19. That the subject site is subject to the provisions of the Three Mile Lane Planned Development Ordinance, as amended.
20. That the proposed off-street parking lot be amended by removing the four spaces adjacent to the frontage road nearest the area proposed for "future development" and in their place provide landscaping. In addition, the applicant shall agree to in the future close the proposed southern access to Norton Lane, if warranted by the development of the property to the south.
21. That the owner must grant to the Willamette Valley Medical Center and the City of McMinnville the right to cause all airspace above the surface of the subject site such noise, vibrations, fumes, dust, fuel particles, and all other effects as may be caused by the operation of aircraft landing at or taking off from or operating at or on the Medical Center property and the McMinnville Municipal Airport. The owner must fully waive any right or cause of action which he may now or in the future raise against the Willamette Valley Medical Center and the City of McMinnville due to such circumstances noted above.

Passed by the Council this 23rd day of June, 1998, by the following votes:

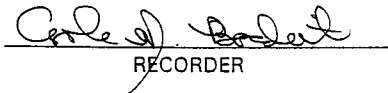
Ayes: Aleman, Hughes, Kirchner, Massey, Payne

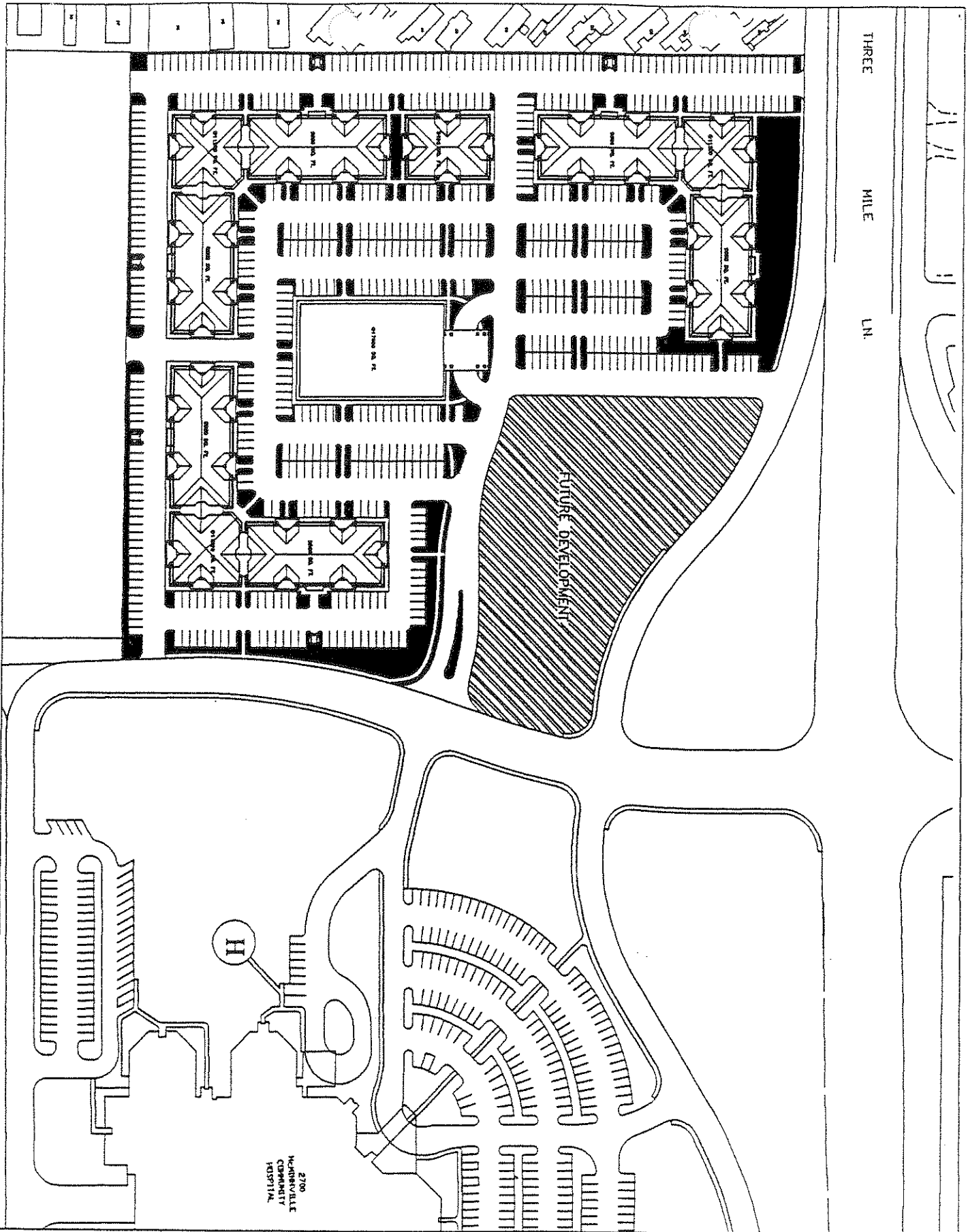
Nays:

Approved this 23rd day of June, 1998.


MAYOR

Attest:


RECORDER



THREE
MILE
LN.

Date: 3/9/98
Plot
 Scale: NTS
 Norton Lane PD Amendment

BURCH / FEERO, Inc.
 Burch/Feero Property Development
 Site Plan
 Preliminary Design

R. A. Feero Designs & Associates
 Rhonda Feero, Allied Member A.S.I.D.
 180 N.E. 7th Street
 McMinnville, OR 97128

R. A. FEERO
DESIGNS
 & ASSOCIATES

ORDINANCE NO. 4131

THREE MILE LANE

An Ordinance enacting conditions for development in an area hereinafter described, and commonly known as Three Mile Lane; now, therefore,

THE CITY OF McMinnville ORDAINS AS FOLLOWS:

Section 1. Statement of Purpose. The City of McMinnville finds that the development of lands on the north and south sides of Three Mile Lane (Oregon Highway 18) is acceptable if provisions are made to integrate the dual functions of the highway as a bypass around the City and a land service arterial for adjacent properties. The City also finds that development along Three Mile Lane is desirable if it is of good quality and design, if the living and working environments developed are compatible with each other, and if the living environment includes open spaces, parks, and features buffering of residential uses from the highway. The City recognized, during the comprehensive planning process, that to insure that these concerns are met, proper designations on the McMinnville Comprehensive Plan and Zoning Maps must be made, and, further, that a planned development overlay must be placed over the area establishing specific conditions for development.

Section 2. Planned Development Overlay. The planned development overlay which is created and implemented by this ordinance shall be placed over areas to the north and south of Oregon Highway 18 from the eastern city limits west to the vicinity of the Three Mile Lane Spur intersection with Highway 18. The affected area is further described by map in Exhibit "A". Areas within and without the city limits shall carry this designation. The policies and procedures set by this ordinance shall be applied to all land use decisions under the jurisdiction of the City of McMinnville. The overlay shall not impinge the legal jurisdiction of Yamhill County for areas outside the city limits.

Section 3. Notation on Zoning and Comprehensive Plan Maps. The perimeters of the areas affected by this ordinance shall be noted on the official McMinnville Comprehensive Plan Map of 1980 and the official McMinnville Zoning Map of 1980.

Section 4. Policies. The following policies shall apply to the property described on the map in Exhibit "A":

- (a) The goals and policies of the McMinnville Comprehensive Plan, Volume II, and applicable regulations and standards in Volume III, and other City codes shall be adhered to.
- (b) A one hundred twenty (120) foot setback from the centerline of Highway 18 shall be established both north and south of the highway.
- (c) Access requirements adopted hereafter in an access plan for this area shall be adhered to. Provisions of the plan shall include:

1. The minimization of entrances onto Three Mile Lane;
 2. The development of on-site circulation systems, connecting to adjoining properties;
 3. The provisions of acceleration-deceleration lanes and left-turn refuges when and where necessary and practicable.
 4. The provision of bikeways along frontage roads or on-site circulation systems. Bikeway connections accessing Three Mile Lane shall be provided so that the frontage road or on-site circulation system can serve as an alternative route for cyclists traveling along Three Mile Lane.
- (d) Landscaping and buffer strips along the highway frontage may be required including noise buffering methods, such as berms and/or plantings.
 - (e) Residentially designated areas covered by this ordinance shall be developed at R-1 zoning classification densities. Mixed housing-type residential developments shall be allowed and encouraged.
 - (f) Residential developments shall provide parkland under the provisions of Section 35 of Ordinance No. 3702, unless safe and convenient pedestrian access is provided to an existing park. If no land is required, money in lieu of land shall be required.

The following policies shall apply to specified properties north and south of Three Mile Lane, described on the map in Exhibit "B". The written descriptions, uses, and written policies included below are to apply to the interpretation of the map and be of at least equal weight and importance.

Municipal Airport (Area 1)

The airport shall be designated as industrial on the McMinnville Comprehensive Plan Map of 1980 to accommodate aviation related facilities in keeping with the Airport Master Plan, as amended. Facilities identified in the plan for upgrading and expanding the aviation aspects of the airport shall be exempted from review by the provisions of the planned development overlay. Any private or public aviation related industrial development that may in the future be contemplated shall be subject to the provisions of this ordinance. The adoption of an airport zoning ordinance in the future may be appropriate, and additional requirements of such a zone shall be applied in conjunction with the requirements of this ordinance.

West of Municipal Airport (Area 2)

This area shall be designated as industrial on the McMinnville Comprehensive Plan Map of 1980. The City shall encourage the location of aviation related industries or industries requiring extensive use of airport services, in this area. Zone changes to M-L (Limited Light Industrial), to M-1 (Light Industrial) and AH (Agricultural Holding) shall be allowed. Zone changes to M-2 (General Industrial) may be allowed upon findings that the intended use of the property shall be an aviation related industry, or an industry which requires extensive use of the airport services for its operation.

West of Municipal Airport to Mobile Home Park (Area 3)

This area shall be designated as industrial on the McMinnville Comprehensive Plan Map of 1980. The City shall allow zone changes to M-L (Limited Light Industrial) and AH (Agricultural Holding) designations.

East of Pacific Avenue - Industrial Area (Area 4)

This area shall be designated as industrial on the McMinnville Comprehensive Plan Map of 1980 to accommodate the existing industrial uses. Expansion of those uses may take place if compatibility with surrounding properties is insured.

Airport Rendezvous (Area 5)

This area shall be designated as industrial on the McMinnville Comprehensive Plan Map of 1980. The areas designated AH (Agricultural Holding) on the map shall remain so designated until completion of the update of the Airport Master Plan. The adoption of an airport zoning ordinance, recommended land uses, and development controls for identified noise contours may be appropriate upon completion of the Airport Master Plan; any additional requirements enacted by the City shall be applied in conjunction with the requirements of this ordinance. Redesignation of the properties may be allowed after completion of the Airport Master Plan update and adoption of appropriate Master Plan recommendations, provided that the requirements of this ordinance are met, and upon determination that the proposed use is compatible with surrounding properties.

Remainder of Planned Development Area

The remainder of the properties within the area covered by this ordinance shall be developed according to the designations on the McMinnville Comprehensive Plan Map. Site plan review as required in Chapter 17.51 of Ordinance No. 3380 shall include conditions to insure compatibility of allowed developments with proposed uses in surrounding areas.

Section 5. Procedures for Review.

- (a) Annexation to the City of lands within the area covered by this ordinance shall meet the requirements of the annexation ordinance.
- (b) Comprehensive Plan Map amendments shall be processed under procedures set out in Ordinance No. 4127.
- (c) Zone changes and land divisions submitted for approval shall be processed under the requirements and standards of Chapter 17.51 of Ordinance No. 3380 (Zoning Ordinance). If standards and requirements of Chapter 17.51 differ with those established elsewhere by the City, the more restrictive standards and requirements shall be adhered to.
- (d) Land division requests shall also be processed under the requirements of Ordinance No. 3702 (Land Division Ordinance).
- (e) Amendments to this ordinance shall be processed under procedures set out in Chapter 17.51 of Ordinance No. 3380 (Zoning Ordinance).

Passed by the City Council on April 7, 1981.



2000 0 2000 Feet

EXHIBIT A
Three Mile Lane
Planned Development Overlay

Ordinance No. 4131

CITY OF McMINNVILLE

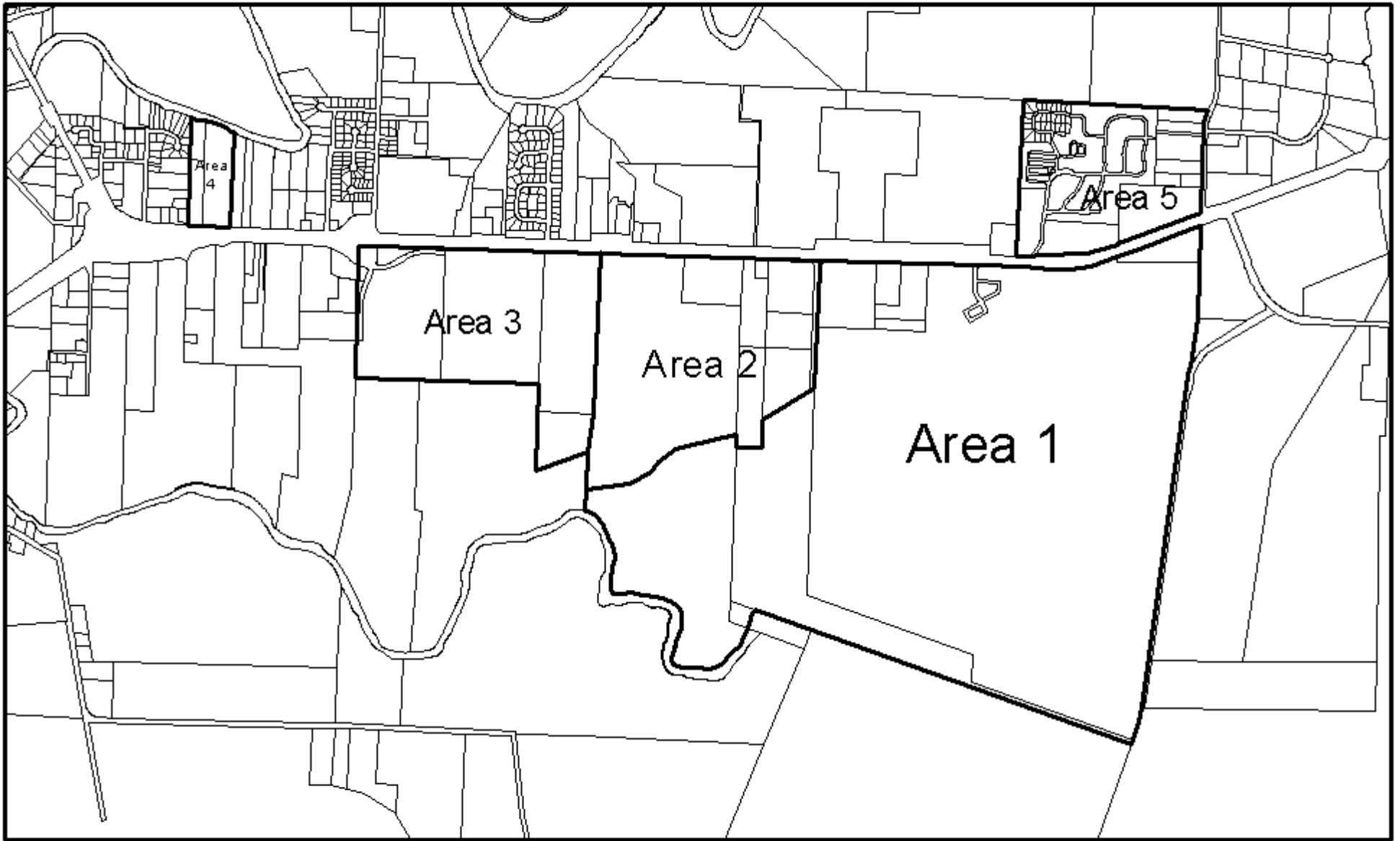


EXHIBIT B
Three Mile Lane
Planned Development Overlay

Ordinance No. 4131

CITY OF McMINNVILLE

ORDINANCE NO. 4572

An Ordinance amending Ordinance 4131 (Three Mile Lane Planned Development Overlay) by supplanting the terms and provisions of Sections 4 and 5 and by adding new sections, and amending Ordinance 4506 (Commercial Lands) by repealing subsections 10(h) and 10(i).

RECITALS

The City of McMinnville has found that certain terms and provisions of the Three Mile Lane Planned Development Overlay have become dated since the 1981 passage of the ordinance and are in need of replacement. The City Council believes it is also in the best interest of the citizens of McMinnville and of the community as a whole to regulate commercial signage along the Three Mile Lane corridor as it leads into McMinnville.

At the direction of the City Council, staff developed amendments to the Three Mile Lane Planned Development Overlay which included regulations governing the use of commercial signage. The McMinnville Planning Commission held a work session on September 8, 1994 and a public hearing on October 13, 1994 on the proposed amendments, after which they recommended that the amendments be approved; now, therefore,

THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

Section 1. The terms and provisions of Section 4 of Ordinance 4131 are hereby supplanted with the following terms and provisions:

Section 4. Policies. The following policies shall apply to the property described on the map in Exhibit "A":

- A. The goals and policies of the McMinnville Comprehensive Plan, Volume II, and applicable regulations and standards in Volume III, and other City codes shall be adhered to.
- B. A one hundred twenty (120) foot setback from the centerline of Highway 18 shall be established both north and south of the highway.
- C. Access requirements adopted hereafter in an access plan for this area shall be adhered to. Provisions of the plan shall include:
 - 1. The minimization of entrances onto Three Mile Lane;
 - 2. The development of on-site circulation systems, connecting to adjoining properties, including public frontage roads;
 - 3. The provisions of acceleration-deceleration lanes and left-turn refuges when and where necessary and practicable.
 - 4. The provision of bikeways along frontage roads or on-site circulation systems. Bikeway connections accessing Three Mile Lane shall be provided so that the frontage road or on-site circulation system can serve as an alternative route for cyclists traveling along Three Mile Lane.
- D. Landscaping and buffer strips along the highway frontage may be required including noise buffering methods, such as berms and/or plantings.

- E. Mixed housing-type residential developments shall be allowed and encouraged in those areas designated as residential.

Section 2. The terms and provisions of Section 5 of Ordinance 4131 are hereby supplanted with the following terms and provisions:

Section 5. Signs. The following regulations apply to those properties designated as either industrial or commercial on the McMinnville Comprehensive Plan Map and which are located within the area described in Exhibit "A." All signage must be approved by the Three Mile Lane Design Review Committee and may not exceed the maximums established in this section. The Three Mile Lane Design Review Committee may take into account color selection; sign material; relationship to site and building design; size, form, mass, height, and scale of sign; the sign's location and proximity to existing signs on adjacent parcels; and other sign design elements appropriate to ensuring that the proposed sign is compatible with the objectives of this ordinance. The Three Mile Lane Design Review Committee may require a proposed sign to be redesigned as necessary to make it consistent with the objectives of this ordinance including, but not limited to, restricting the size and height of the sign, its location, form, color, and material.

The Three Mile Lane Planned Development Overlay area is hereby divided into three "sign zones" which are depicted on Exhibit "B" which is attached hereto and is by this reference herein incorporated. Signage shall be regulated within the various sign zones as follows:

- A. Zone 1. The following regulations apply to commercially or industrially designated properties which fall within zone 1:
1. That only one free-standing sign shall be allowed per parcel as they exist at the time of the passage of this ordinance and as they are represented on Exhibit "B", subject to the following:
 - a) The maximum height of any free-standing sign shall be 15 feet.
 - b) The maximum square footage per sign face is 24 square feet and there shall be a maximum of two sign faces per free-standing sign.
 - c) A free-standing sign is allowed only on properties with frontage on the Highway 18 frontage road.
 2. In lieu of a free-standing sign as listed in subsection 1 above, one monument-type sign shall be allowed per parcel as they exist at the time of the passage of this ordinance and as they are represented on Exhibit "B", subject to the following:
 - a) Maximum square footage per sign face shall be 50 square feet, and there shall be a maximum of two sign faces per monument sign.

- b) Maximum sign height shall be six feet, and the top of the sign shall not be more than eight feet above the center line grade of the Three Mile Lane frontage road.
 - c) Monument signs shall be non-illuminated, indirectly illuminated, neon, or may have individually back-lit letters, providing that no plastic sign cabinets are allowed.
3. All other signs, with the exception of incidental directional signage, must be flush against the buildings and not protrude more than 12 inches from the building face, subject to the following:
- a) Total area of building signage may not exceed eight percent of the total area of the face of the building which is most closely parallel to Highway 18 or the frontage road and may not exceed four percent on the other sides.
 - b) The area of building signs shall be measured as the area around or enclosing each sign cabinet, or where sign cabinets are not used, the area shall be that within a single continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message.
4. If a parcel is divided after the date of the adoption of this ordinance, the sign allowances established in subsections 1 and 2 above will apply only to the original parcel or what remains of it and newly created parcels are limited to the sign allowances established in subsection 3 above except as provided in subsection (A) (5) below.
5. The Three Mile Lane Design Review Committee may allow the sharing of a single free-standing sign by an original parcel or what remains of it and parcels divided after the date of the adoption of this ordinance. The total sign size shall not exceed that allowed for the original parcel.
6. Portable signs and signs with flashing or moving parts are prohibited.
- B. Zone 2. The following regulations apply to commercially and industrially designated properties which fall within zone 2:
- 1. That only one free-standing sign shall be allowed per parcel as they exist at the time of the passage of this ordinance and as they are represented on Exhibit "B", subject to the following:
 - a) The maximum height of any free-standing sign shall be 30 feet, except as provided in subsection (B) (1) (c) below.

- b) The maximum square footage per sign face is 64 square feet, and there shall be a maximum of two sign faces per free-standing sign, except as provided in subsection (B)(1)(c) below.
 - c) If two or more properties share a single free-standing sign, said sign shall be a maximum of 35 feet in height, and each property sharing the sign shall be entitled to up to 64 square feet of sign face per side on a maximum of two sides. The shared free-standing sign would exhaust the allowance for free-standing signs listed in subsection (B)(1)(a) above for all parcels represented.
 - d) A free-standing sign is allowed only on properties with frontage on the Highway 18 frontage road.
2. In lieu of a free-standing sign as listed in subsection 1 above, one monument-type sign shall be allowed per parcel as they exist at the time of the passage of this ordinance and as they are represented on Exhibit "B", subject to the following:
- a) Maximum square footage per sign face shall be 50 square feet, and there shall be a maximum of two sign faces per monument sign.
 - b) Maximum sign height shall be six feet, and the top of the sign shall not be more than eight feet above the center line grade of the Three Mile Lane frontage road.
 - c) Monument signs shall be non-illuminated, indirectly illuminated, neon, or may have individually back-lit letters, providing that no plastic sign cabinets are allowed.
3. All other signs, with the exception of incidental directional signage, must be flush against the buildings and not protrude more than 12 inches from the building face, subject to the following:
- a) Total area of building signage may not exceed eight percent of the total area of the face of the building which is most closely parallel to Highway 18 or the frontage road and may not exceed four percent on the other sides.
 - b) The area of building signs shall be measured as the area around or enclosing each sign cabinet, or where sign cabinets are not used, the area shall be that within a single continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message.

4. If a parcel is divided after the date of the adoption of this ordinance, the sign allowances established in subsections 1 and 2 above will apply only to the original parcel or what remains of it and newly created parcels are limited to the sign allowances established in subsection 3 above except as provided in subsection (B) (5) below.
 5. The Three Mile Lane Design Review Committee may allow the sharing of a single free-standing sign by an original parcel or what remains of it and parcels divided after the date of the adoption of this ordinance. The total sign size shall not exceed that allowed for the original parcel.
 6. Portable signs and signs with flashing or moving parts are prohibited.
- C. Zone 3. The following regulations apply to commercially and industrially designated properties which fall within zone 3:
1. That free-standing signs are prohibited.
 2. That one monument-type sign shall be allowed per parcel, except that a second monument sign shall be allowed if the parcel has more than 600 feet of frontage on Highway 18 or on the Highway 18 frontage road, subject to the following:
 - a) Maximum square footage per sign face shall be 80 square feet and there shall be a maximum of two sign faces per monument sign.
 - b) Maximum sign height shall be eight feet, and the top of the sign shall not be more than ten feet above the center line grade of Highway 18 or the Highway 18 frontage road, whichever is applicable.
 - c) Monument signs shall be non-illuminated, indirectly illuminated, neon, or may have individually back-lit letters, providing that no plastic sign cabinets are allowed.
 3. All other signs, with the exception of incidental directional signage, must be flush against the buildings and not protrude more than 12 inches from the building face, subject to the following:
 - a) Total area of building signage may not exceed eight percent of the total area of the face of the building which is most closely parallel to Highway 18 or the frontage road and may not exceed four percent on the other sides.
 - b) The area of building signs shall be measured as the area around or enclosing each sign cabinet, or where sign cabinets are not used, the area shall be that within a single continuous perimeter composed of any

straight line geometric figure which encloses the extreme limits of the advertising message.

- c) Signage for the third building in the Tanger Factory Outlet Mall shall be consistant in terms of sizes and percent of coverage with that on buildings one and two.
- 4. Portable signs and signs with flashing or moving parts are prohibited.

Section 3. That the following section is hereby added to Ordinance 4131:

Section 6. Procedures for Review:

- A. No development or signage may take place within the Three Mile Lane Planned Development Overlay without such development or signage gaining the approval of the Three Mile Lane Design Review Committee.
- B. Zone changes submitted for approval shall be processed under the requirements and standards of Chapter 17.51 of McMinnville Ordinance 3380 (Zoning Ordinance).

Section 4. Subsections 10(h) and 10 (i) of Ordinance 4506 are hereby repealed in their entirety.

Section 5. That this ordinance shall be subject to the terms and conditions of Ordinance 3823 entitled "Initiative and Referendum" for a period of thirty days.

First Reading - Read and passed by the Council this 8th day of November 1994 by the following votes:

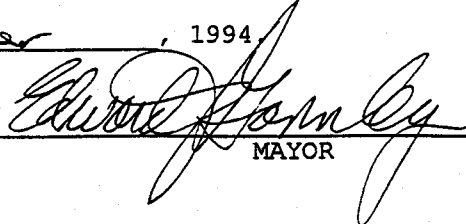
Ayes: Payne, Tomcho, Windle

Nays: Kirchner, Olson

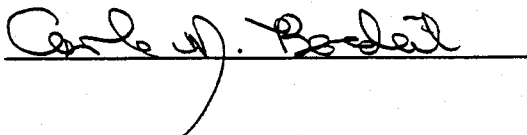
Second Reading - Read and passed by the Council this 22nd day of November 1994 by the following votes:

Ayes: Olson, Tomcho, Windle, Gormley

Nays: Kirchner, Massey, Payne

Approved this 22nd day of November, 1994.

MAYOR

Attest:



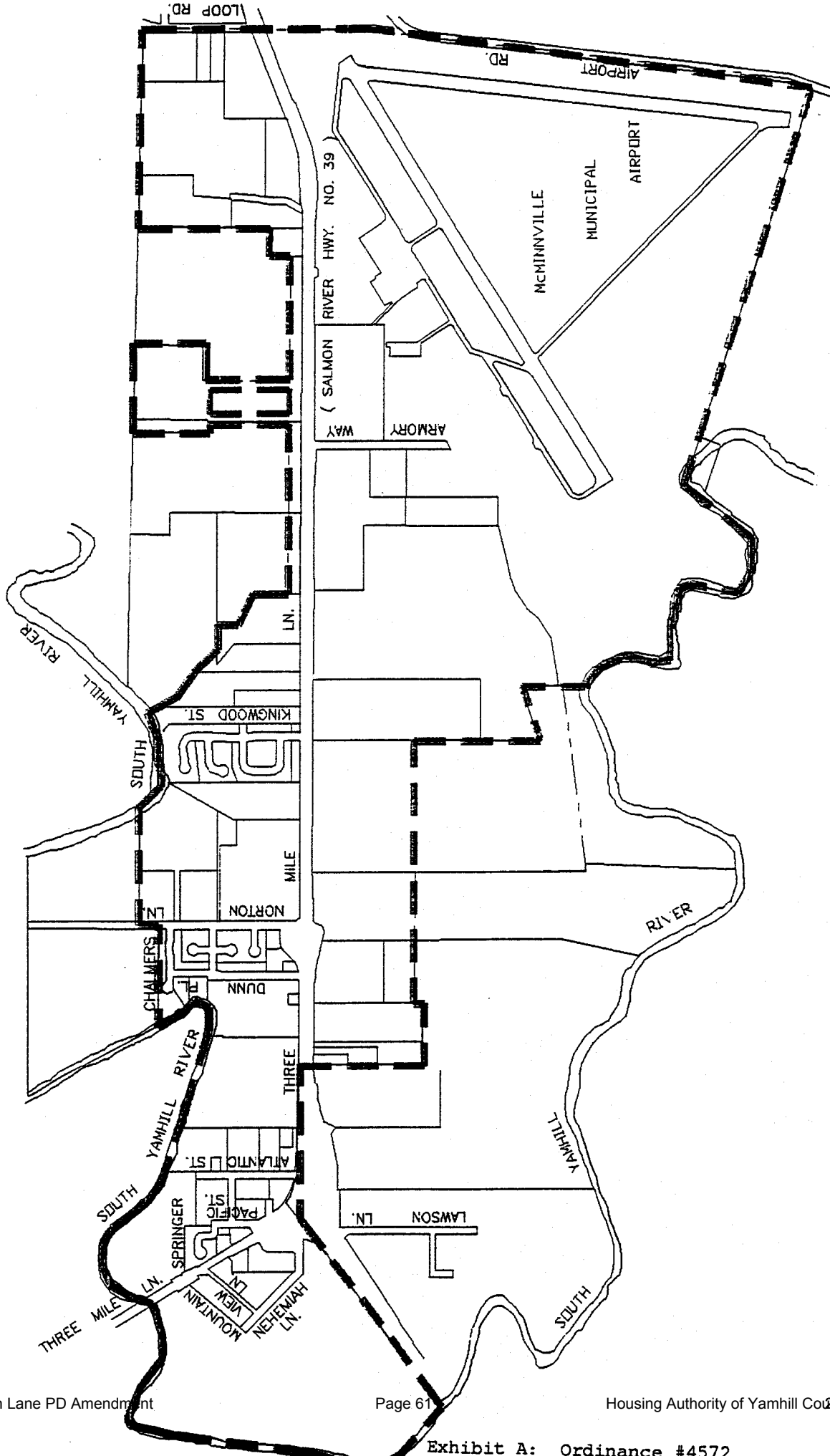
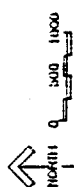


EXHIBIT "A"

Three Mile Lane
Planned Development Overlay
Ordinance No. 4131



URBAN GROWTH
BOUNDARY

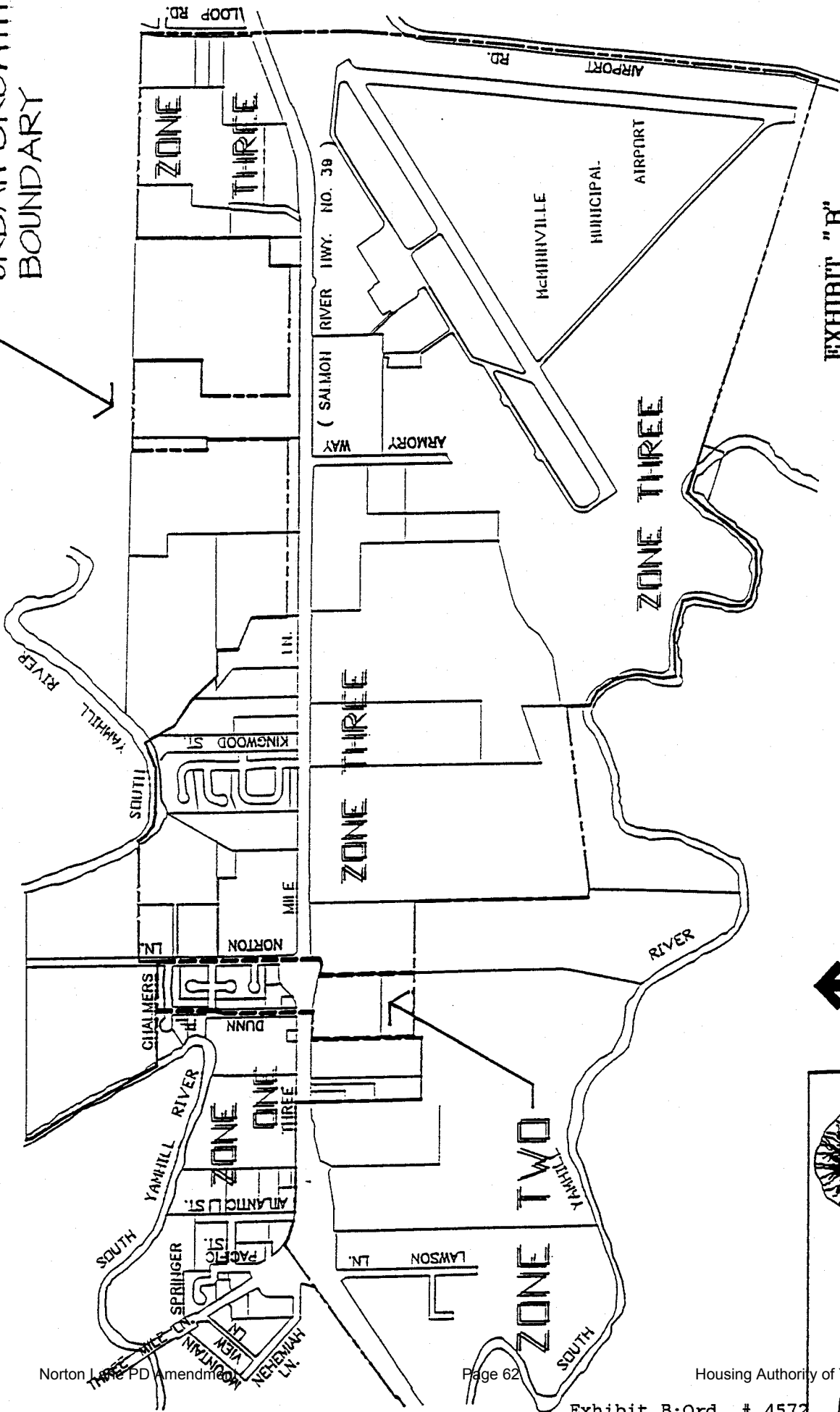
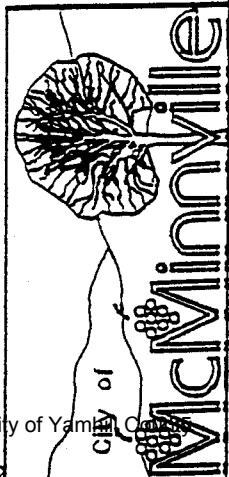
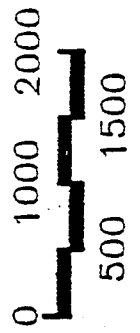


EXHIBIT "B"

Three Mile Lane
Planned Development Overlay
Ordinance No. 4131



Norton Lane
Planned Development Amendment

NEIGHBORHOOD MEETING REQUIREMENTS

May 19, 2020

RE: NOTICE OF NEIGHBORHOOD REVIEW MEETING
PLANNED DEVELOPMENT AMENDMENT (PDA) TO AMEND EXISTING CONDITIONS OF
APPROVAL IN PLANNED DEVELOPMENT OVERLAY ORDINANCE 4667

Dear Resident or Property Owner;

Structure Development Advisors is representing a developer of property located south of SE Stratus Avenue and west of SE Norton Lane, more specifically tax lots R4427 00400, R4427 00405, and R4427 00404, as show in the attached map. The developer is proposing an amendment to the current land use, under Ordinance 4667, to allow for a multifamily residential and to amend the master plan. The land is currently zoned C-3 PD General Commercial Planned Development.

Prior to applying to the City of McMinnville we would like to take the opportunity to discuss the proposal in more detail with you.

The purpose of this neighborhood meeting is to provide an informal forum for the applicant and surrounding property owners/residents to review the proposal and to identify issues so that such issues may be considered before the formal application is turned in to the City. This meeting gives you the opportunity to share with us any special information you know about the property involved. We will attempt to answer questions which may be relevant to meeting development standards consistent with City of McMinnville's Community Development Code.

Pursuant to Section 17.72.095 of the McMinnville Development Code, you are invited to attend a Neighborhood meeting on:

**Wednesday, June 10, 2020
at 6:00 pm**

Due to the health risks created by COVID-19 and to help slow its spread, Governor Brown has issued Executive Orders directing individuals to stay home. During this time, Public Meetings are to be held by telephone, video or electronic means. This meeting will be help via Zoom at:

<https://structurepdx.zoom.us/j/6124463297>

or

1- 253-215-8782 Meeting ID 612 446 3297

Please note this meeting will be an informational meeting to discuss the change in allowed use, but not specific development plans are proposed at this time. Depending upon the type of land use action required, you may receive a future official notice from the City for you to either participate with written comments and/or an opportunity to attend a public hearing.

I look forward to more specifically discussing the proposal with you. Please feel free to contact me at 503-318-5658 or email at mike@structurepdx.com if you have any questions.

Mike Andrews
Principal

**NOTICE OF NEIGHBORHOOD REVIEW MEETING
PLANNED DEVELOPMENT AMENDMENT (PDA) TO AMEND EXISTING CONDITIONS OF APPROVAL
IN PLANNED DEVELOPMENT OVERLAY ORDINANCE 4667**

Zoning Map and Aerial Photo

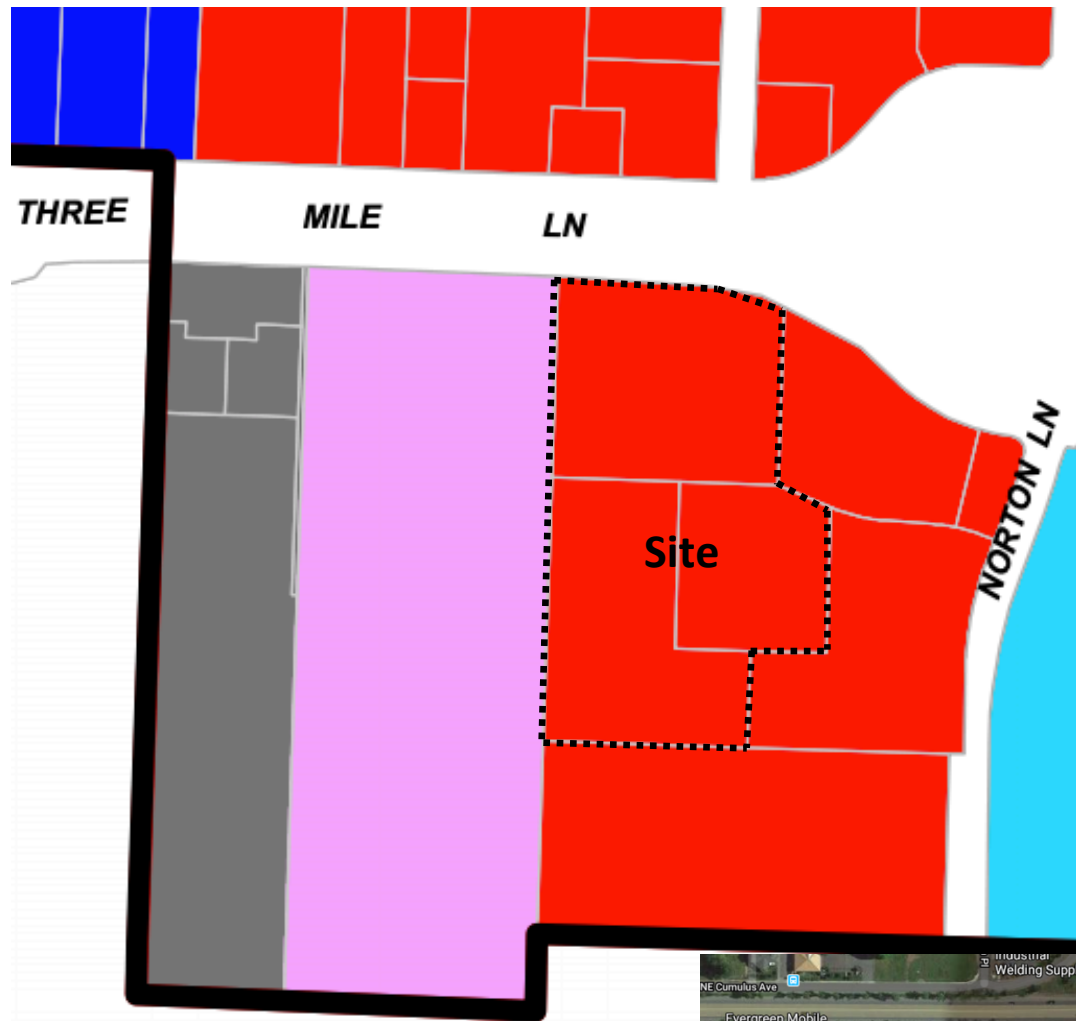


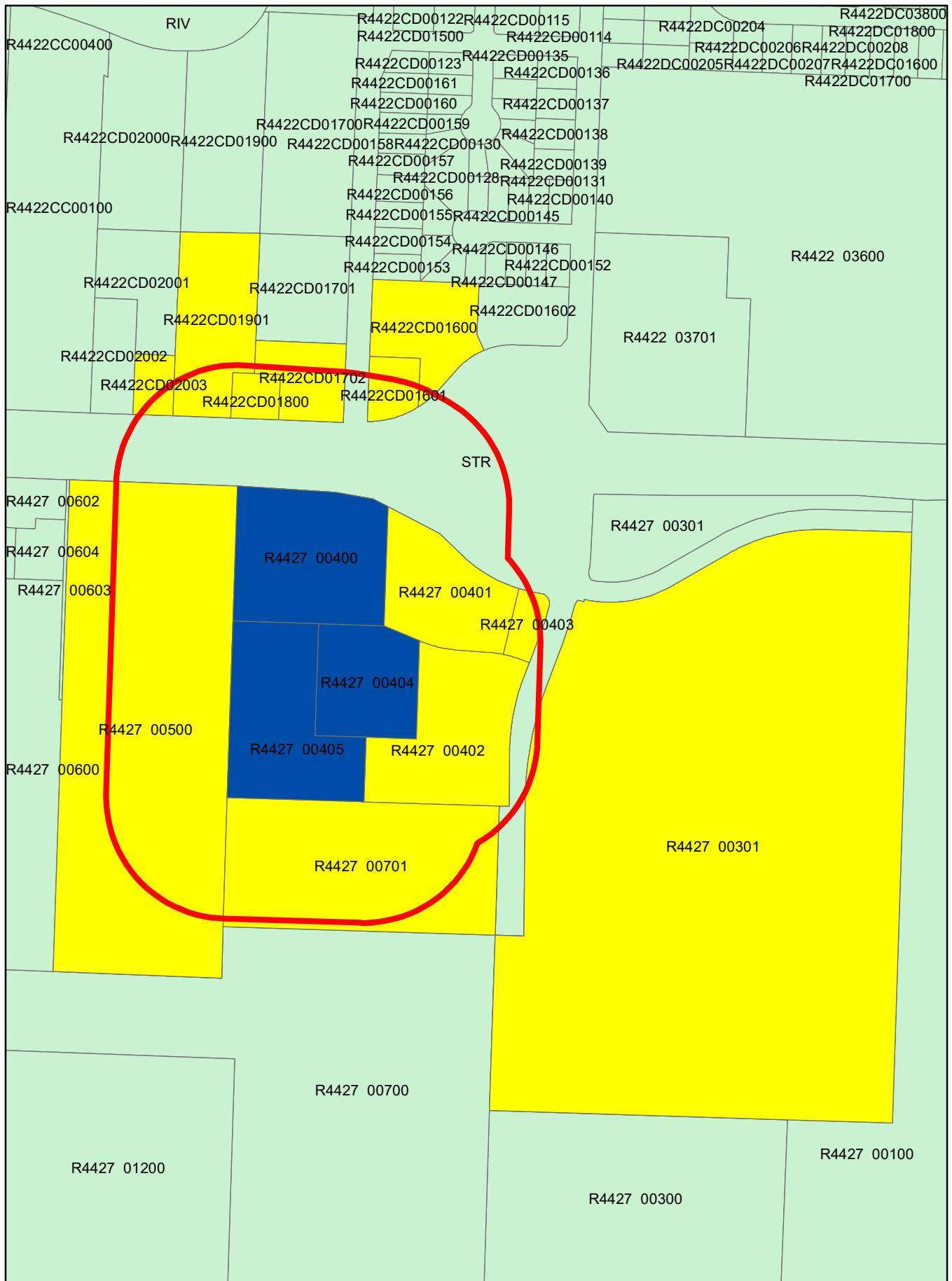
Figure 1 City of McMinnville Zoning



Figure 2 Google Maps

Norton Lane Public Meeting
Mailing List

| Tax Lot | SITUS | Owner | Add1 | Add2 | Add3 | Add4 | Zipcode |
|--------------|---------------------|-------------------------------------|-------------------------------------|--------------------------------|----------------|------|---------|
| R4427 00301 | 2700 SE STRATUS AVE | MPT OF MCMINNVILLE-CAPELLA LLC | MPT OF MCMINNVILLE-CAPELLA LLC | 1000 URBAN CENTER DR SUITE 501 | BIRMINGHAM AL | | 35242 |
| R4422CD01600 | 2535 NE CUMULUS AVE | EJJ PROPERTIES INC | EJJ PROPERTIES INC | 2535 NE CUMULUS AVE | MCMINNVILLE OR | | 97128 |
| R4427 00404 | n/a | BURCH FEERO | BURCH FEERO INC | 237 NE FORD ST STE 1 | MCMINNVILLE OR | | 97128 |
| R4427 00400 | 345 SE NORTON LN | BURCH FEERO INC | BURCH FEERO INC | 237 NE FORD ST STE 1 | MCMINNVILLE OR | | 97128 |
| R4422CD01901 | 2435 NE CUMULUS AVE | PMC INVESTMENTS LLC | PMC INVESTMENTS LLC | 2435 NE CUMULUS AVE STE A | MCMINNVILLE OR | | 97128 |
| R4427 00402 | 375 SE NORTON LN | BURCH-FEERO PROPERTY I INC | BURCH-FEERO PROPERTY I INC | 237 NE FORD ST STE 1 | MCMINNVILLE OR | | 97128 |
| R4427 00500 | 2400 SE STRATUS AVE | EVERGREEN MOBILE HOME PARK LLC | EVERGREEN MOBILE HOME PARK LLC | 836 SW CURRY ST #1300 | PORTLAND OR | | 97239 |
| R4422CD02003 | 2397 NE CUMULUS AVE | K SHORE HOLDINGS LLC | K SHORE HOLDINGS LLC | 9800 NE MEADOW LOOP RD | NEWBERG OR | | 97132 |
| R4427 00401 | 2520 SE STRATUS AVE | MAC HOTEL PROPERTIES LLC | MAC HOTEL PROPERTIES LLC | 2520 SE STRATUS AVE | MCMINNVILLE OR | | 97128 |
| R4427 00403 | 2580 SE STRATUS AVE | MAC DINING LLC | MAC DINING LLC | 2580 SE STRATUS AVE | MCMINNVILLE OR | | 97128 |
| R4422CD01601 | 2525 NE CUMULUS AVE | LOISELLE ANDRE | LOISELLE ANDRE | 15100 NW WILLIS RD | MCMINNVILLE OR | | 97128 |
| R4427 00405 | n/a | BURCH FEERO | BURCH FEERO INC | 237 NE FORD ST STE 1 | MCMINNVILLE OR | | 97128 |
| R4427 00701 | CNTY | MOYER PHYLLIS | MCMULLIN FAMILY RESIDUAL TRUST | 6738 E HUBBELL | SCOTTSDALE AZ | | 85257 |
| R4422CD01800 | 2445 NE CUMULUS AVE | HOUSING AUTHORITY OF YAMHILL COUNTY | HOUSING AUTHORITY OF YAMHILL COUNTY | 135 NE DUNN PLACE | MCMINNVILLE OR | | 97128 |
| R4422CD01702 | 2455 NE CUMULUS AVE | HOUSING AUTHORITY | HOUSING AUTHORITY OF YAMHILL COUNTY | 135 NE DUNN PLACE | MCMINNVILLE OR | | 97128 |







Norton Lane

Community Meeting

Agenda:

- 1) Introductions
- 2) Housing Authority of Yamhill County
- 3) Amendment Request
- 4) Q&A



Project Examples



Deskins Commons

Housing Authority of Yamhill County

Our Mission...

To provide the opportunity for decent, safe, and affordable housing to individuals and families in our community and opportunities to position themselves for success.

The Housing Authority was created in 1951, and is an independent local public agency under federal and state



Tice Park

Projects / Site owned:

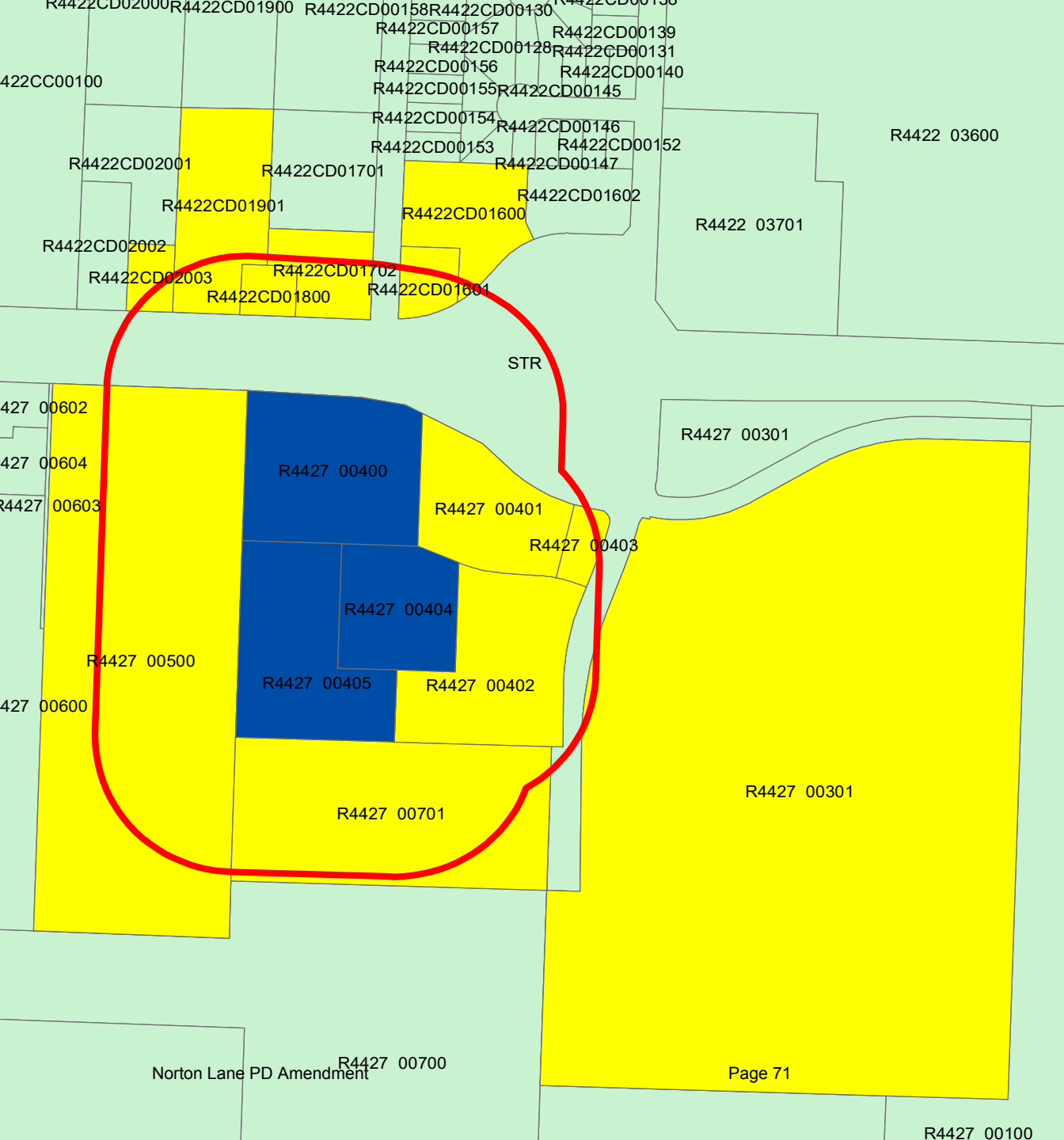
16 multifamily sites

Units owned:

660 units

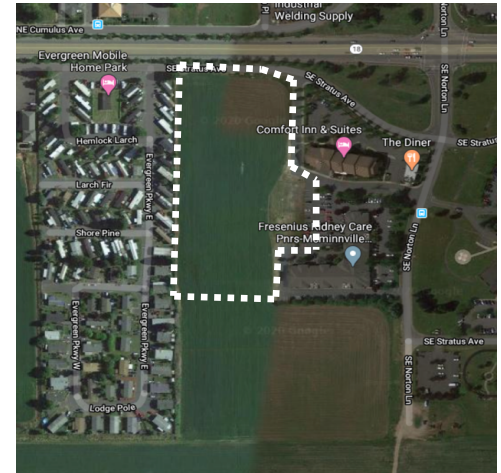


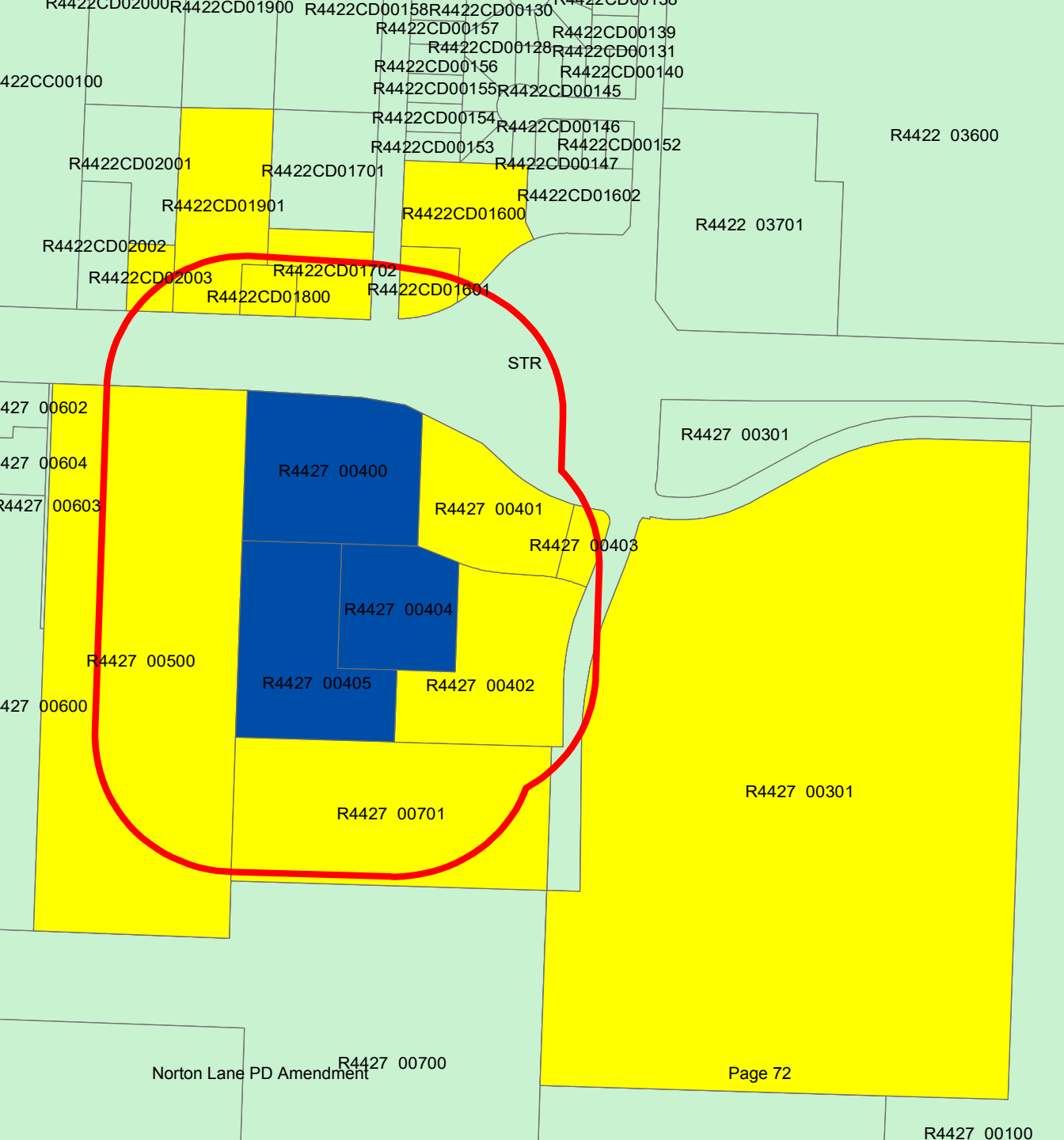
Heritage Place



Norton Lane: Amendment Request

Site Overview

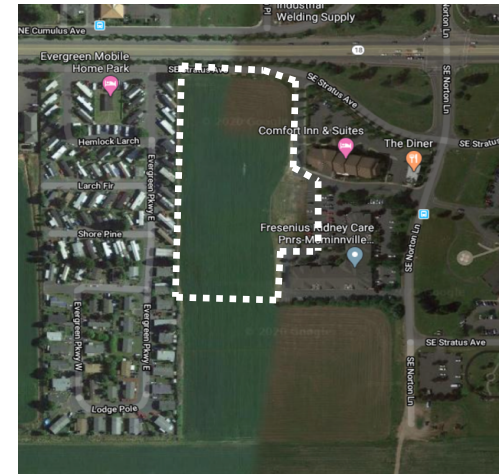


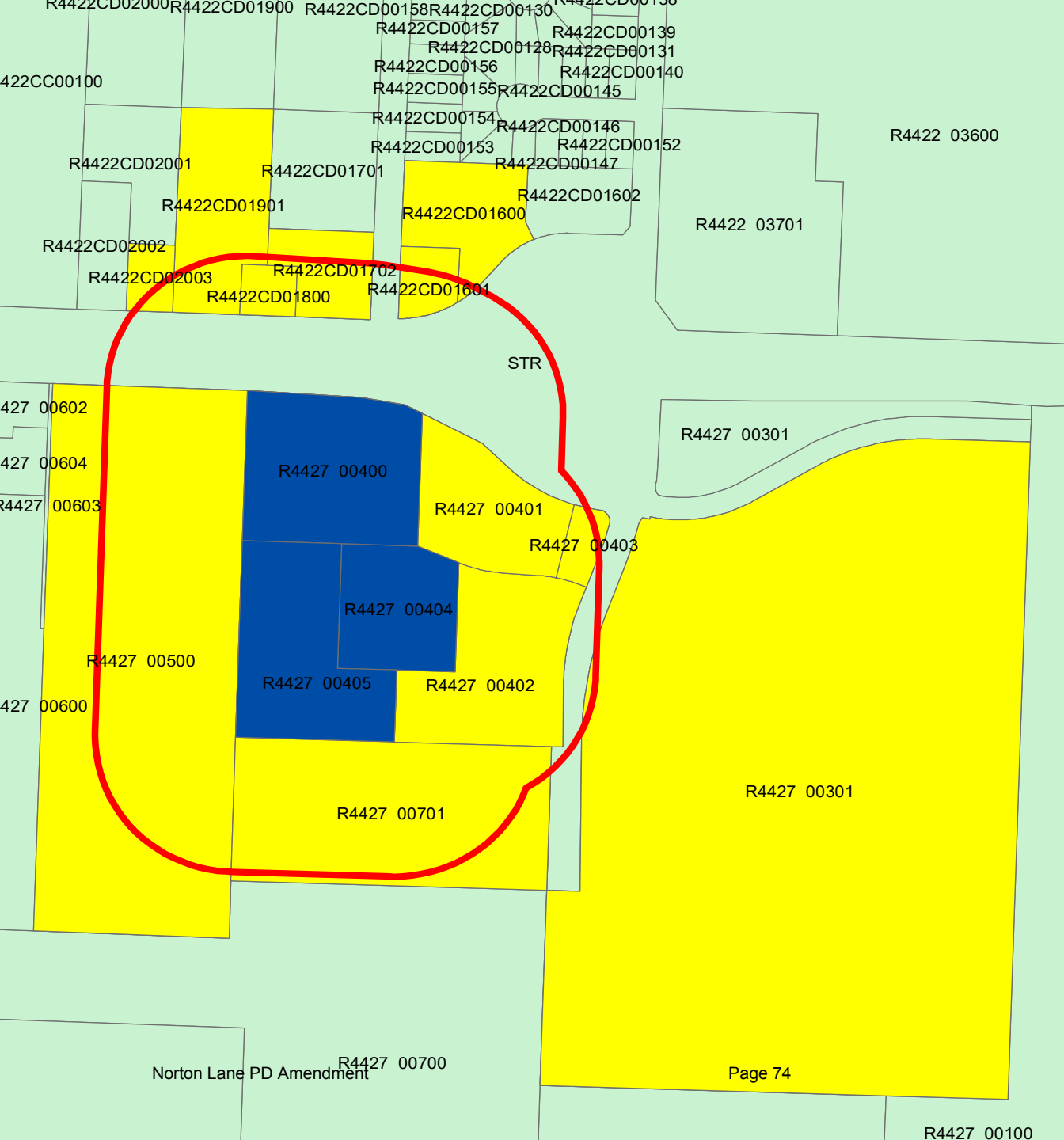


Norton Lane: Amendment Request

Summary of Amendment

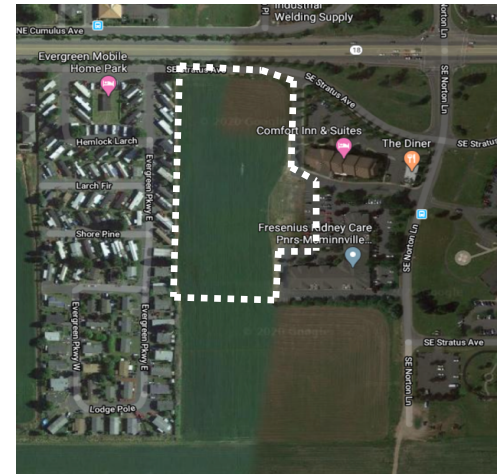
- Add multifamily housing as allowable use
- Conform process to current code language





Norton Lane: Amendment Request

Questions & Answers



Meeting Participants

| (X) | Name | Org | Email | Phone |
|-----|-----------------|-----------------------|--|--------------|
| X | Vickie Ybarguen | HAYC | Vickie@hayc.org | 503-883-4318 |
| X | Joyce Morrow | HAYC | joyce@hayc.org | 503-883-4318 |
| X | David Hummel | HAYC | david@hayc.org | 503-883-4334 |
| X | Fred Mickelson | HAYC | | |
| X | Mike Andrews | Structure | mike@structurepdx.org | 503-318-5658 |
| X | Kim Hasty | Structure | kim@structurepdx.com | 757-619-7561 |
| X | James Lee | Structure | James@structurepdx.com | 503-941-8774 |
| X | Dean Klaus | Public Participant | | |
| X | Dillon Kiger | Public Participant | | |
| X | Steve Burch | Public Participant | | |
| X | Stan Feero | Public Participant | | |
| X | Doug Burch | Public Participant | | |

Norton Lane
Planning Development Amendment
Public Meeting

The meeting was held via Zoom as described in the meeting notice and post on the site sign. The meeting was recorded using the Zoom platform. All participants were made aware of the recording before the recording began.

The meeting was called to order at 6PM. Below is a summary of the meeting presentation and comments from the public. The meeting was adjourned at 6:20pm

Presentation Summary

- HAYC introduced themselves, reviewed their mission and previous developments
- A review of the site in the current state and the potential project was provided (PowerPoint)
- Explanation of the items being asked to the Planning Department includes removal of the current master plan and adding a new master plan; request to change the height limits

Questions and Public Comment

- What will the requested change in height limit be? The request will be to meet the city's limit of 60 feet
- How many "doors" will there be? Although a design has not been finalized, the approximate number of units will be 200
- Participant feels that this is a tremendous opportunity for the community and the project is an ideal location in proximity to services. A small grocery/community store would be nice to have.

Norton Lane
Planned Development Amendment

ATTACHMENTS



First American

First American Title Insurance Company

825 NE Evans Street
McMinnville, OR 97128
Phn - (503)376-7363
Fax - (866)800-7294

Order No.: 1031-3400828
February 21, 2020

FOR QUESTIONS REGARDING YOUR CLOSING, PLEASE CONTACT:

MICHELLE GREGOR, Escrow Officer/Closer
Phone: (503)472-4627 - Fax: (866)800-7294 - Email:MGregor@firstam.com
First American Title Insurance Company
775 NE Evans Street, McMinnville, OR 97128

FOR ALL QUESTIONS REGARDING THIS PRELIMINARY REPORT, PLEASE CONTACT:

Clayton Carter, Title Officer
Phone: (503)376-7363 - Fax: (866)800-7294 - Email: ctcarter@firstam.com

Preliminary Title Report

County Tax Roll Situs Address: 235 NE Norton Lane C, McMinnville, OR 97128

| | | |
|-------------------------------------|---------------------------|---------------------|
| 2006 ALTA Owners Standard Coverage | Liability \$ 2,371,501.00 | Premium \$ 4,158.00 |
| 2006 ALTA Owners Extended Coverage | Liability \$ | Premium \$ |
| 2006 ALTA Lenders Standard Coverage | Liability \$ | Premium \$ |
| 2006 ALTA Lenders Extended Coverage | Liability \$ | Premium \$ |
| Endorsement 9.10, 22 | | Premium \$ |
| Govt Service Charge | | Cost \$ 60.00 |
| Other | | Cost \$ |

We are prepared to issue Title Insurance Policy or Policies of First American Title Insurance Company, a Nebraska Corporation in the form and amount shown above, insuring title to the following described land:

Parcels 1, 2, and 3, of Partition Plat [2007-12](#) recorded March 7, 2007 as Instrument No. 200705096, Deed and Mortgage Records, Yamhill County, State of Oregon.

and as of February 13, 2020 at 8:00 a.m., title to the fee simple estate is vested in:

Burch Feero, Inc., an Oregon corporation

Subject to the exceptions, exclusions, and stipulations which are ordinarily part of such Policy form and the following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

The exceptions to coverage 1-5 inclusive as set forth above will remain on any subsequently issued Standard Coverage Title Insurance Policy.

In order to remove these exceptions to coverage in the issuance of an Extended Coverage Policy the following items are required to be furnished to the Company; additional exceptions to coverage may be added upon review of such information:

- A. Survey or alternative acceptable to the company
 - B. Affidavit regarding possession
 - C. Proof that there is no new construction or remodeling of any improvement located on the premises. In the event of new construction or remodeling the following is required:
 - i. Satisfactory evidence that no construction liens will be filed; or
 - ii. Adequate security to protect against actual or potential construction liens;
 - iii. Payment of additional premiums as required by the Industry Rate Filing approved by the Insurance Division of the State of Oregon
 6. Water rights, claims to water or title to water, whether or not such rights are a matter of public record.
 7. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
 8. City liens, if any, of the City of McMinnville.
- Note: There are no liens as of February 17, 2020. All outstanding utility and user fees are not liens and therefore are excluded from coverage.
9. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
 10. Limited access provisions contained in Deed to the State of Oregon, by and through its State Highway Commission recorded September 02, 1963, Yamhill County Circuit Court Case 23303 , which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.

11. Limited access provisions contained in Deed to the State of Oregon, by and through its Department of Transportation filed July 24, 1980, Yamhill County Circuit Court Case CV89-119 Deed of Records, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.

Second Amended Stipulated Final Judgement record March 25, 1991, Film [Volume 253, Page 139](#), Deed and Mortgage Records.

12. Limited access provisions contained in Deed to the State of Oregon, by and through its Department of Transportation filed September 06, 1990, Yamhill County Circuit Court Case CV89-137 Deed of Records, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.

13. Easement, including terms and provisions contained therein:
 Recording Information: March 18, 1996, Instrument No. [199604032](#), Deed and Mortgage Records
 In Favor of: City of McMinnville, a municipal corporation of the State of Oregon acting by and through its Water & Light Commission
 For: Utility

14. Easement, including terms and provisions contained therein:
 Recording Information: March 18, 1996, Instrument No. [199604033](#), Deed and Mortgage Records
 In Favor of: City of McMinnville, a municipal corporation of the State of Oregon acting by and through its Water & Light Commission
 For: Utility

15. Easement, including terms and provisions contained therein:
 Recording Information: August 25, 1998, Instrument No. [199816670](#), Deed and Mortgage Records
 In Favor of: Burch Feero, Inc.
 For: Drainage way

16. Easement, including terms and provisions contained therein:
 Recording Information: June 30, 2000, Instrument No. [200009053](#), Deed and Mortgage Records
 In Favor of: City of McMinnville, a Municipal Corporation of the State of Oregon, acting by and through its Water & Light Commission
 For: Right-of-way

17. Easement as shown on the recorded plat/partition [2001-40](#)
 For: 50 foot wide access & utilities

18. Easement as shown on the recorded plat/partition [2001-40](#)
 For: 20 foot extinguishable storm drain

19. Easement as shown on the recorded plat/partition [2001-40](#)
 For: 20 foot storm drain

20. Notes as they appear on the recorded Partition Plat [2001-40](#).
21. Restrictive Covenant to Waive Remonstrance, pertaining to abutting frontage road including the terms and provisions thereof
Recorded: June 28, 2006, Instrument No. [200614364](#), Deed and Mortgage Records
22. Easement as shown on the recorded plat/partition [2007-12](#)
For: Parking, access & utilities
23. Notes as they appear on the recorded Partition Plat [2007-12](#).
24. Declaration of Condition Covenants and Restrictions (Common Driveway and Access Maintenance and Shared Parking Easement), including terms and provisions thereof.
Recorded: February 22, 2018, Instrument No. [201802572](#), Deed and Mortgage Records
25. Any conveyance or encumbrance by Burch Feero, Inc. should be executed pursuant to their Operating Agreement , a copy of which should be submitted to this office for inspection.
26. Unrecorded leases or periodic tenancies, if any.

- END OF EXCEPTIONS -

NOTE: According to the public record, the following deed(s) affecting the property herein described have been recorded within 24 months of the effective date of this report: NONE

NOTE: Taxes for the year 2019-2020 PAID IN FULL

| | |
|---------------|-------------|
| Tax Amount: | \$38.75 |
| Map No.: | R4427 00400 |
| Property ID: | 172431 |
| Tax Code No.: | 40.0 |

(Affects Parcel 1)

NOTE: Taxes for the year 2019-2020 PAID IN FULL

| | |
|---------------|-------------|
| Tax Amount: | \$1,187.94 |
| Map No.: | R4427 00404 |
| Property ID: | 537598 |
| Tax Code No.: | 40.0 |

(Affects Parcel 3)

NOTE: Taxes for the year 2019-2020 PAID IN FULL

| | |
|---------------|-------------|
| Tax Amount: | \$36.12 |
| Map No.: | R4427 00405 |
| Property ID: | 537601 |
| Tax Code No.: | 40.0 |

(Affects Parcel 2)

NOTE: This Preliminary Title Report does not include a search for Financing Statements filed in the Office of the Secretary of State, or in a county other than the county wherein the premises are situated, and no liability is assumed if a Financing Statement is filed in the Office of the County Clerk covering Crops and

Fixtures on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system or by recorded lot and block.

NOTE: We find no outstanding voluntary liens of record affecting subject property. An inquiry should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any security interest in the subject property.

Situs Address as disclosed on Yamhill County Tax Roll:

235 NE Norton Lane C, McMinnville, OR 97128

**THANK YOU FOR CHOOSING FIRST AMERICAN TITLE!
WE KNOW YOU HAVE A CHOICE!**

| RECORDING INFORMATION | |
|------------------------------|---|
| Filing Address: | Yamhill County 777 Commercial Street SE, Suite 100 Salem, OR 97301 |
| Recording Fees: | \$ 81.00 for the first page \$ 5.00 for each additional page |

- cc: Housing Authority Of Yamhill County
- cc: Burch Feero Inc
- cc: Jennifer Feero, Willamette West Realtors
708 NE Baker Street, McMinnville, OR 97128
- cc: Steve Roesch, NextHome Realty Connection
12923 NW Cornell Road, Suite 101, Portland, OR 97229



First American Title Insurance Company

SCHEDULE OF EXCLUSIONS FROM COVERAGE

ALTA LOAN POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

ALTA OWNER'S POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

SCHEDULE OF STANDARD EXCEPTIONS

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien" or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST

TI 149 Rev. 7-22-08



Privacy Notice

Effective: January 1, 2020

Notice Last Updated: January 1, 2020

This Privacy Notice describes how First American Financial Corporation and its subsidiaries and affiliates (together referred to as "First American," "we," "us," or "our") collect, use, store, and share your information. This Privacy Notice applies to information we receive from you offline only, as well as from third parties. For more information about our privacy practices, please visit <https://www.firstam.com/privacy-policy/index.html>. The practices described in this Privacy Notice are subject to applicable laws in the places in which we operate.

What Type Of Information Do We Collect About You? We collect both **personal** and **non-personal information** about and from you. **Personal information** is non-public information that can be used to directly or indirectly identify or contact you. **Non-personal information** is any other type of information.

How Do We Collect Your Information? We collect your **personal** and **non-personal information**: (1) directly from you; (2) automatically when you interact with us; and (3) from third parties, including business parties and affiliates.

How Do We Use Your Information? We may use your personal information in a variety of ways, including but not limited to providing the services you have requested, fulfilling your transactions, comply with relevant laws and our policies, and handling a claim. We may use your **non-personal information** for any purpose.

How Do We Share Your Personal Information? We do not sell your **personal information** to nonaffiliated third parties. We will only share your **personal information**, including to subsidiaries, affiliates, and to unaffiliated third parties: (1) with your consent; (2) in a business transfer; (3) to service providers; and (4) for legal process and protection. If you have any questions about how First American shares your **personal information**, you may contact us at dataprivacy@firstam.com or toll free at 1-866-718-0097.

How Do We Secure Your Personal Information? The security of your **personal information** is important to us. That is why we take commercially reasonable steps to make sure your **personal information** is protected. We use our best efforts to maintain commercially reasonable technical, organizational, and physical safeguards, consistent with applicable law, to protect your **personal information**.

How Long Do We Keep Your Personal Information? We keep your **personal information** for as long as necessary in accordance with the purpose for which it was collected, our business needs, and our legal and regulatory obligations.

Your Choices We provide you the ability to exercise certain controls and choices regarding our collection, use, storage, and sharing of your **personal information**. In accordance with applicable law, your controls and choices. You can learn more about your choices, and exercise these controls and choices, by sending an email to dataprivacy@firstam.com or toll free at 1-866-718-0097.

International Jurisdictions: Our Products are hosted and offered in the United States of America (US), and are subject to US federal, state, and local law. If you are accessing the Products from another country, please be advised that you may be transferring your **personal information** to us in the US, and you consent to that transfer and use of your **personal information** in accordance with this Privacy Notice. You also agree to abide by the applicable laws of applicable US federal, state, and local laws concerning your use of the Products, and your agreements with us.

We may change this Privacy Notice from time to time. Any and all changes to this Privacy Notice will be reflected on this page, and where appropriate provided in person or by another electronic method. **YOUR CONTINUED USE, ACCESS, OR INTERACTION WITH OUR PRODUCTS OR YOUR CONTINUED COMMUNICATIONS WITH US AFTER THIS NOTICE HAS BEEN PROVIDED TO YOU WILL REPRESENT THAT YOU HAVE READ AND UNDERSTOOD THIS PRIVACY NOTICE.**

Contact Us dataprivacy@firstam.com or toll free at 1-866-718-0097.



For California Residents

If you are a California resident, you may have certain rights under California law, including but not limited to the California Consumer Privacy Act of 2018 (“CCPA”). All phrases used in this section shall have the same meaning as those phrases are used under California law, including the CCPA.

Right to Know. You have a right to request that we disclose the following information to you: (1) the categories of **personal information** we have collected about or from you; (2) the categories of sources from which the **personal information** was collected; (3) the business or commercial purpose for such collection and/or disclosure of your personal information; (4) the categories of third parties with whom we have shared your **personal information**; and (5) the specific pieces of your **personal information** we have collected. To submit a verified request for this information, go to our online privacy policy at www.firstam.com/privacy-policy to submit your request or call toll-free at 1-866-718-0097. You may also designate an authorized agent to submit a request on your behalf by going to our online privacy policy at www.firstam.com/privacy-policy to submit your request or by calling toll-free at 1-866-718-0097 and submitting written proof of such authorization to dataprivacy@firstam.com.

Right of Deletion. You also have a right to request that we delete the **personal information** we have collected from you. This right is subject to certain exceptions available under the CCPA and other applicable law. To submit a verified request for deletion, go to our online privacy policy at www.firstam.com/privacy-policy to submit your request or call toll-free at 1-866-718-0097. You may also designate an authorized agent to submit a request on your behalf by going to our online privacy policy at www.firstam.com/privacy-policy to submit your request or by calling toll-free at 1-866-718-0097 and submitting written proof of such authorization to dataprivacy@firstam.com.

Verification Process. For either a request to know or delete, we will verify your identity before responding to your request. To verify your identity, we will generally match the identifying information provided in your request with the information we have on file about you. Depending on the sensitivity of the personal information requested, we may also utilize more stringent verification methods to verify your identity, including but not limited to requesting additional information from you and/or requiring you to sign a declaration under penalty of perjury.

Right to Opt-Out. We do not sell your personal information to third parties, and do not plan to do so in the future.

Right of Non-Discrimination. You have a right to exercise your rights under California law, including under the CCPA, without suffering discrimination. Accordingly, First American will not discriminate against you in any way if you choose to exercise your rights under the CCPA.

Collection Notice. The following is a list of the categories of personal information we may have collected about California residents in the twelve months preceding the date this Privacy Notice was last updated, including the business or commercial purpose for said collection, the categories of sources from which we may have collected the personal information, and the categories of third parties with whom we may have shared the personal information:

| | |
|---|---|
| Categories of Personal Information Collected | The categories of personal information we have collected include, but may not be limited to: real name; signature; alias; SSN; physical characteristics or description, including protected characteristics under federal or state law; address; telephone number; passport number; driver’s license number; state identification card number; IP address; policy number; file number; employment history; bank account number; credit card number; debit card number; financial account numbers; commercial information; internet or other electronic network activity; geolocation data; audio and visual information; professional or employment information; and inferences drawn from the above categories to create a profile about a consumer. |
| Categories of Sources | Categories of sources from which we’ve collected personal information include, but may not be limited to: the consumer directly; public records; governmental entities; non-affiliated third parties; social media networks; affiliated third parties |
| Business Purpose for Collection | The business purposes for which we’ve collected personal information include, but may not be limited to: completing a transaction for our Products; verifying eligibility for employment; facilitating employment; performing services on behalf of affiliated and non-affiliated third parties; debugging to identify and repair errors that impair existing intended functionality on our Websites, Applications, or Products; protecting against malicious, deceptive, fraudulent, or illegal activity |

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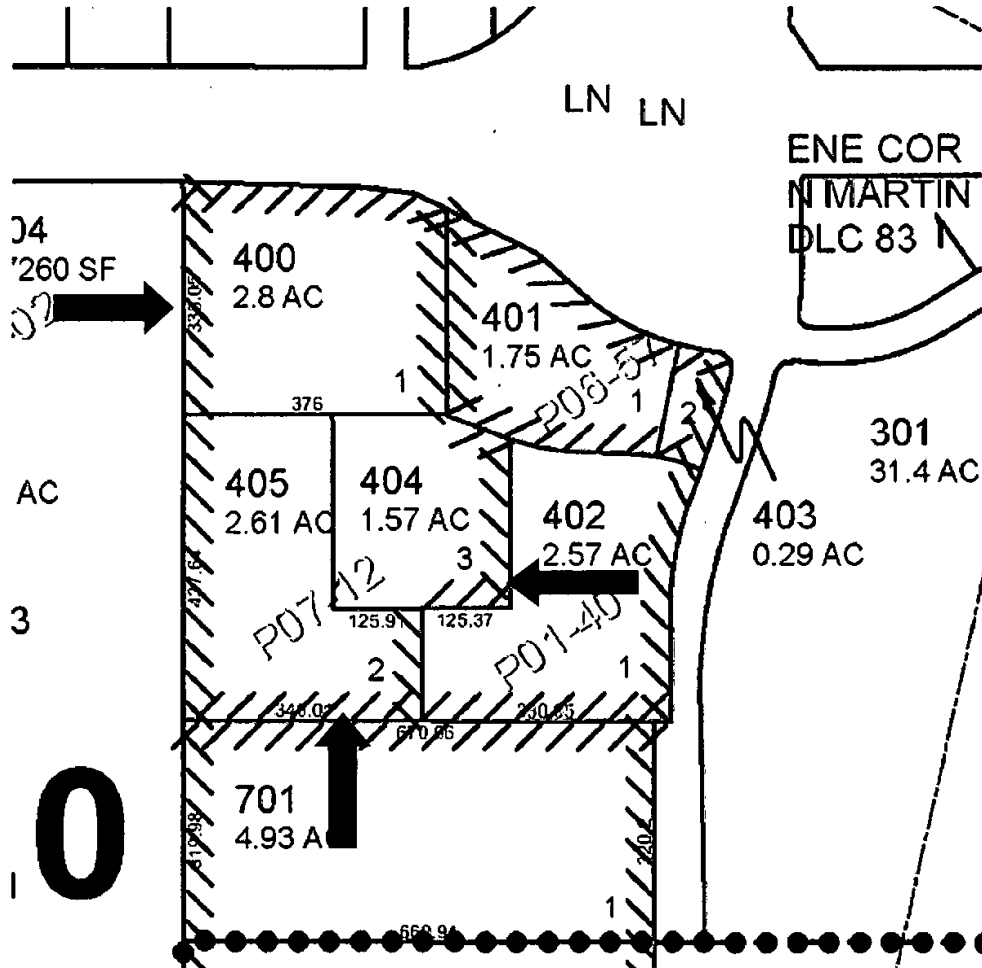
| | |
|---|---|
| Categories of Third Parties Shared | The categories of third parties with whom we've shared personal information include, but may not be limited to: advertising networks; internet service providers; data analytics providers; service providers; government entities; operating systems and platforms; social media networks; non-affiliated third parties; affiliated third parties |
|---|---|

Categories of Personal Information We Have Sold In The Past Year. We have not sold any personal information of California residents to any third party in the twelve months preceding the date this Privacy Notice was last updated.

Categories of Personal Information Disclosed For A Business Purpose In The Past Year. The following is a list of the categories of **personal information** of California residents we may have disclosed for a business purpose in the 12 months preceding the date this Privacy Notice was last updated: The categories of personal information we have collected include, but may not be limited to: real name; signature; alias; SSN; physical characteristics or description, including protected characteristics under federal or state law; address; telephone number; passport number; driver's license number; state identification card number; IP address; policy number; file number; employment history; bank account number; credit card number; debit card number; financial account numbers; commercial information; internet or other electronic network activity; geolocation data; audio and visual information; professional or employment information; and inferences drawn from the above categories to create a profile about a consumer.

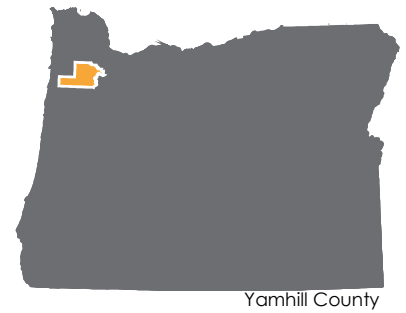


This map is furnished for illustration and to assist in property location. The company assumes no liability for any variation in dimensions by location ascertainable by actual survey



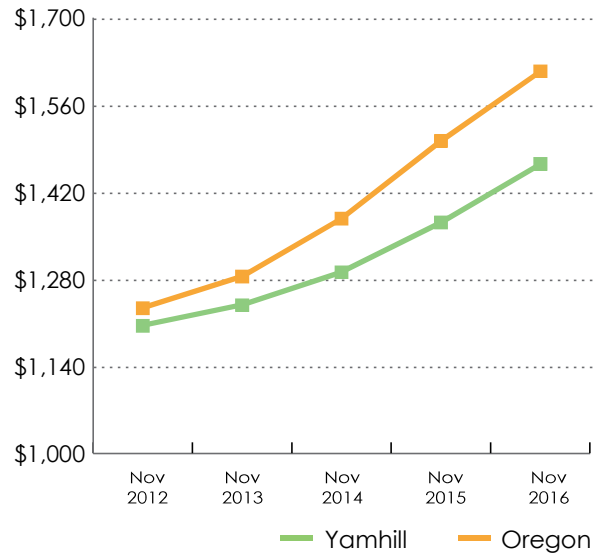
YAMHILL COUNTY

DEMOGRAPHIC & HOUSING PROFILES



| Population | Yamhill | Oregon | United States |
|---------------------|---------|-----------|---------------|
| Total (2015 est.) | 102,659 | 4,028,977 | 312,418,820 |
| # Change since 2010 | 3,466 | 197,903 | 12,673,282 |
| % Change since 2010 | 3.5% | 5.2% | 4.1% |

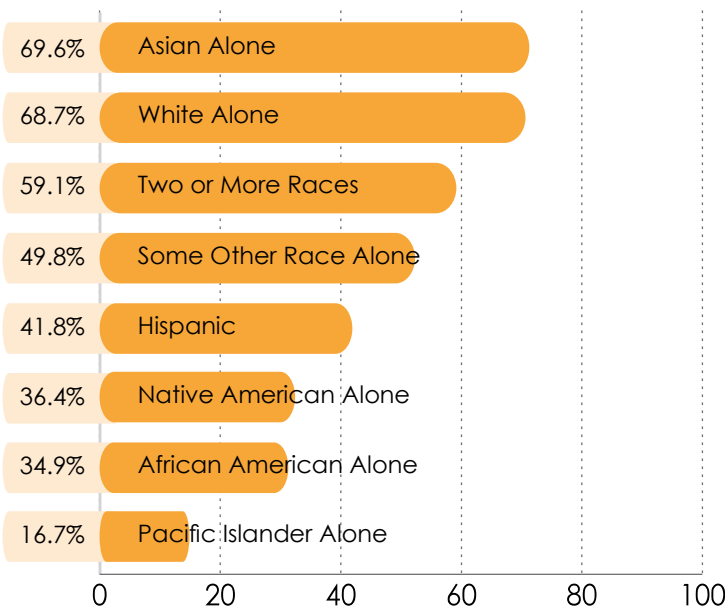
Median Rents, 2012-2016



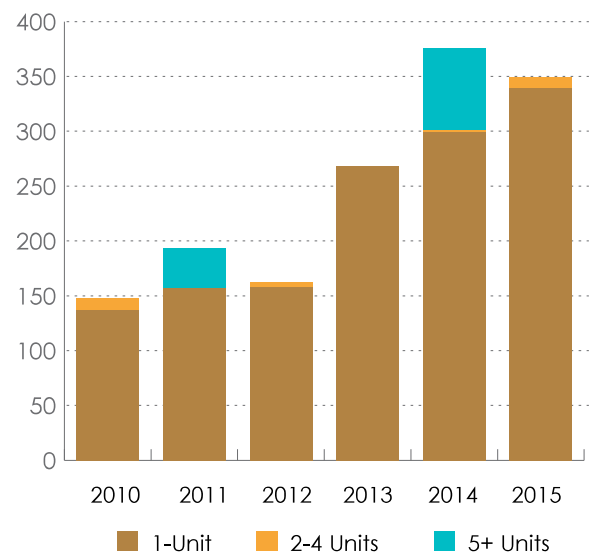
Vacancy Rates, 2011-2015



Homeownership Rates by Race/Ethnicity, 2011-2015



Building Permits Issued in County



YAMHILL COUNTY

Employment and Industry Growth

| Jobs by Industry | 2015 | % Change Since 2009 | 2015 Average Wage |
|--------------------------|---------------|---------------------|-------------------|
| Natural Resources | 2,052 | -3.7% | \$30,506 |
| Construction | 2,564 | -22.3% | \$43,412 |
| Manufacturing | 7,531 | 9.9% | \$49,585 |
| Wholesale Trade ** | 1,490 | 6.0% | \$36,720 |
| Retail Trade** | 4,573 | -6.0% | \$36,720 |
| Transportation ** | 1,461 | -30.3% | \$36,720 |
| Information | 597 | -34.9% | \$45,771 |
| Finance | 2,403 | 3.1% | \$50,134 |
| Professional, Scientific | 3,820 | 34.2% | \$41,515 |
| Education, Healthcare | 9,499 | -1.2% | \$41,461 |
| Leisure, Hospitality | 4,088 | 14.7% | \$17,903 |
| Public Administration | 2,158 | 17.2% | \$20,545 |
| Other Services | 1,878 | -19.8% | Not Available |
| Total | 44,114 | 0.0% | |

** Combined average wage shown per BLS.

\$ 11.68

Yamhill County's mean renter wage

\$23.88

The hourly wage needed to afford a 2-bedroom apartment at HUD's Fair Market Rent.



Ninety-three hours per week at minimum wage is needed to afford a 2-bedroom apartment.

Median Home Sales by Region, 2015

| Oregon Region* | Sales Price |
|--|---------------|
| Yamhill County | \$221,866 |
| Central | \$276,545 |
| Eastern | \$143,468 |
| Gorge | \$238,045 |
| North Coast | \$221,895 |
| Portland Metropolitan Statistical Area | \$315,632 |
| South Central | Not Available |
| Southwestern | \$212,159 |
| Willamette Valley | \$217,611 |

*Regions are defined on the back cover.

1 out of 4

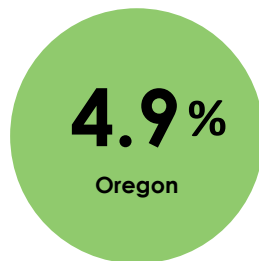
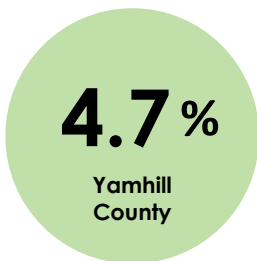


of all renters are paying more than 50% of their income in rent

3 out of 4



renters with extremely low incomes are paying more than 50% of their income in rent



Unemployment Rates, 2016

YAMHILL COUNTY

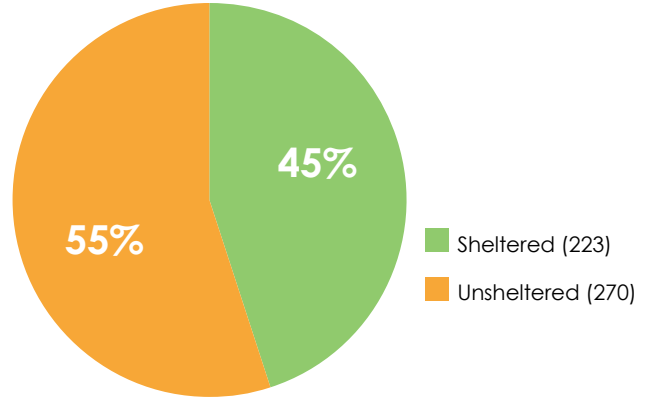
Shortage of Affordable Units, 2010-2014

| Renter Affordability | < 30% MFI | < 50% MFI | < 80% MFI |
|-------------------------|-----------|-----------|-----------|
| Renter Households | 2,905 | 5,180 | 7,515 |
| Affordable Units | 1,260 | 4,840 | 9,780 |
| Surplus / (Deficit) | (1,645) | (340) | 2,265 |
| Affordable & Available* | 770 | 3,010 | 6,875 |
| Surplus / (Deficit) | (2,135) | (2,170) | (640) |

*Number of affordable units either vacant or occupied by person(s) in income group.

| Owner Affordability | ... for MFI | .. for 80% MFI | .. for 50% MFI |
|-----------------------|-------------|----------------|----------------|
| Max Affordable Value | \$237,890 | \$190,312 | \$118,945 |
| % of Stock Affordable | 53.7% | 40.2% | 17.6% |

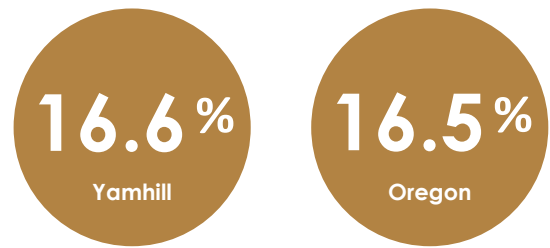
Point-in-Time Homelessness, 2017 Yamhill County: Total 493



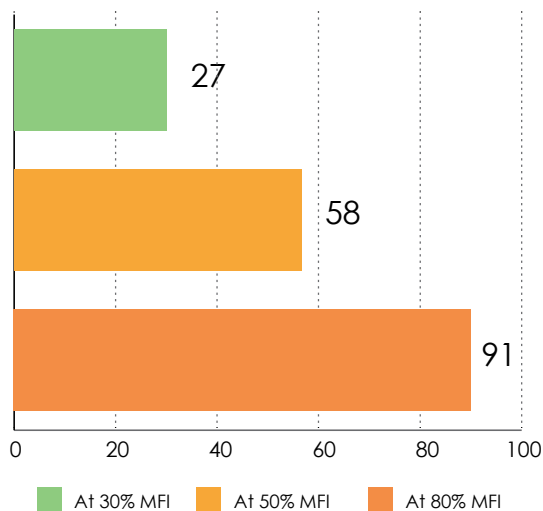
\$60,909

Yamhill County's
Median Family Income (MFI)

Poverty Rates, 2011-2015



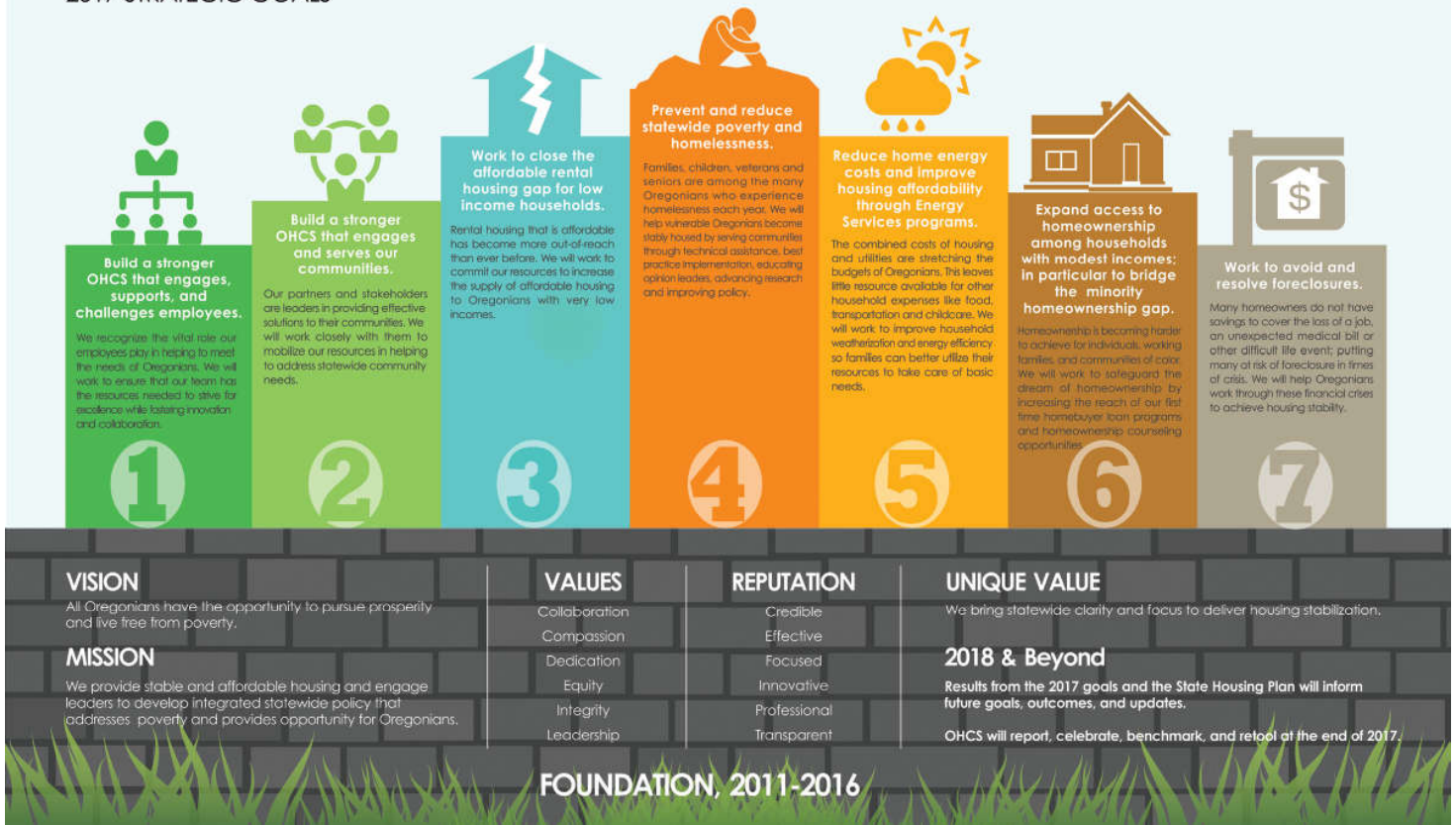
Affordable and Available Rental Homes per 100 Renter Households, 2015



Self-Sufficiency Standard for Select Counties and Family Types, 2014

| | One Adult | One Adult One Preschooler | Two Adults One Preschooler One School-Age |
|------------|-----------|------------------------------|---|
| Clackamas | \$24,469 | \$47,211 | \$65,490 |
| Deschutes | \$20,631 | \$40,088 | \$49,572 |
| Jackson | \$19,728 | \$37,497 | \$47,587 |
| Klamath | \$19,264 | \$27,477 | \$41,817 |
| Lane | \$19,892 | \$43,125 | \$60,005 |
| Marion | \$19,642 | \$31,149 | \$43,779 |
| Multnomah | \$19,993 | \$47,037 | \$65,027 |
| Washington | \$24,353 | \$47,571 | \$65,800 |
| Yamhill | \$22,635 | \$39,305 | \$49,635 |

OREGON HOUSING AND COMMUNITY SERVICES
2017 STRATEGIC GOALS



Data Sources

Page 1:

Population Estimates: U.S. Census Bureau, Annual Population Estimates, 2010 and 2015
 Homeownership Rates by Race/Ethnicity: U.S. Census Bureau, 2011-2015 American Community Survey Estimates
 Median Rents: Zillow Rent Index, 2010-2016
 Vacancy Rates: U.S. Census Bureau, 2011-2015 American Community Survey Estimates
 Building Permits: U.S. Census Bureau, Building Permit Survey, 2010-2015

Page 2:

Employment and Industry Growth: 2011-2015 American Community Survey Estimates and Oregon Employment Department, Employment and Wages by Industry
 Median Home Sales by Region: RMLS Data from Local Administrators, 2015
 Unemployment Rate: Oregon Employment Department, Unemployment Rates, 2016 Not Seasonally Adjusted
 Oregon's Renter Wage, Housing Wage, and Hours Needed to Work at Minimum Wage: National Low Income Housing Coalition, Out of Reach 2016
 Rent Burden Infographics: 2011-2015 American Community Survey Estimates

Regions:

Central: Crook, Deschutes, Jefferson
 Eastern: Baker, Gilliam, Grant, Harney, Malheur, Morrow, Umatilla, Union, Wallowa, Wheeler
 Gorge: Hood River, Sherman, Wasco
 North Coast: Clatsop, Columbia, Tillamook
 Portland Metropolitan Statistical Area: Clackamas, Multnomah, Washington
 South Central: Klamath, Lake
 Southwestern: Coos, Curry, Douglas, Jackson, Josephine
 Willamette Valley: Benton, Lane, Lincoln, Linn, Marion, Polk, Yamhill

Page 3:

Shortage of Affordable Units: HUD, 2010-2014 Comprehensive Housing Affordability Strategy Data
 Oregon's Median Family Income: 2011-2015 American Community Survey Estimates
 Affordable and Available Rental Homes per 100 Renter Households: HUD, 2010-2014 Comprehensive Housing Affordability Strategy Data
 Point-in-Time Homeless Count: 2017 Point-in-Time Count estimates from HUD Continuums of Care
 Poverty Rate: 2016 American Community Survey Estimates
 Self-Sufficiency Standard for Select Counties and Family Types: The Center for Women's Welfare,
 The Self-Sufficiency Standard for Oregon, 2014



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 (503) 986-2000

Printed October 2017

For more information, contact:

Shoshanah Oppenheim
 Planning and Policy Manager
Shoshanah.Oppenheim@oregon.gov
 (503) 400-2787



Facebook.com/OregonHCS
 Twitter.com/OregonHCS
 #oregonstatewidehousingplan

DATE: January 25, 2019
TO: BLI, HNA, and HS Project Advisory Committee
CC: Heather Richards and Tom Schauer, City of McMinnville
FROM: Bob Parker and Sadie DiNatale, ECONorthwest
SUBJECT: KEY THEMES FROM FOCUS GROUP 1

The City of McMinnville is developing a Housing Needs Analysis, Buildable Land Inventory, and Housing Strategy (the Project). To inform the Project and the Project Advisory Committee, the City and ECONorthwest hosted the first of two focus groups. The purpose of the focus group was to have a targeted discussion with realtors, developers, and housing providers to learn about what they see as opportunities and constraints associated with housing development in McMinnville for the next 5, 10, 20 and 50 years.

This memorandum distills key themes from the Focus Group that occurred on January 22, 2019.

Attendees

The focus group included realtors, developers, and housing providers. Participants were: Mary Stern (Habitat for Humanity), Massey Casper and Yanira Vera (Housing Authority), Alan Ruden and Brian Ruden (housing developers), Kathryn Jernstedt (Friends of Yamhill County), Robert Banagay (TTR, Executive Workforce), and Jen Feero.

Also present at the focus group were Heather Richards (Planning Director for the City of McMinnville), Tom Schauer (Senior Planner for the City of McMinnville), and Bob Parker and Sadie DiNatale (consultants from ECONorthwest).

Focus Group Themes

The focus group consisted of a series of questions posed to participants. The City and ECONorthwest asked six questions (see Appendix A), and other probing questions came up naturally. Themes coming out of the discussion were:

Housing products are becoming more expensive to produce.

Barely out of the recession (building activity didn't pick up until the past 3-5 years), participants explained there is a lot of pent up demand for housing. Price points for new construction, on the more affordable side, are between \$300,000 and \$350,000. Subsidized housing built for homeowners between about 40% and 60% of AMI are climbing in value as well. A specific example provided was a 1,300 square foot home in the Aspire complex (appraised originally at \$217,000, up to \$295,000 at the second appraisal). Another participant explained that five years ago, the average cost of a home in Yamhill County was about \$189,000 and today the average home is more like \$400,000.

When asked what is driving up the market value of housing products, participants explained there are just not enough products on the market for either ownership or rent. Some commented it is basic supply and demand intensified by new households migrating into the area with higher incomes. The cost of land, raw materials, and labor are all more expensive today than last year. For example, the recent spike in lumber adds about \$100,000 to hard costs for multifamily construction alone.

As a result of increased costs and competition, McMinnville is experiencing a decrease in first-time homebuyers due to limited options and competition from wealthier households. Prospective homebuyers are disappointed to find their options limited to mobile homes on their own land.

Land availability is the biggest barrier to developing housing in McMinnville.

Participants agree McMinnville must address land supply. The previous UGB process in the early 2000s brought in less than half the land needed, and the impacts are increasingly apparent. Participants also recognize the worth of developing compactly before taking large tracks of high-value farmland. Expanding the Urban Growth Boundary appears to be necessary based on the previous work but must be done thoughtfully. In the interim, developers are finding opportunities for infill development, but infill is more costly than larger greenfield developments. A participant explained this development pattern cannot always close the affordability gap, particularly in McMinnville's downtown.

Representatives from Yamhill County Housing Authority indicated that land availability restricts attempts to develop affordable housing complexes of 50-units or more – a requirement to receive Low Income Housing Tax Credit (LIHTC) funding. The State of Oregon previously identified McMinnville as an excellent candidate to receive LIHTC funding, but past attempts to find suitable land for this venture have failed.

If more land were available, developers would be more likely to build a broader range of housing products including “missing middle” housing. Participants indicated they felt demand exists for bungalows with accessory dwelling units above the garage, duplexes, tri- and four-plexes, and townhomes. Some participants commented on concerns that larger developers or national developers would acquire any newly available land to build “cookie cutter subdivisions” but as it stands now, there is no land to pursue. Planned Developments were viewed positively as they present fewer unknowns, less neighborhood resistance, and are more flexible and innovative. That said, Planned Developments still require land supply.

Neighborhood resistance is a challenge in McMinnville.

Stereotypes persist in McMinnville for both owner-occupied and renter-occupied affordable housing. Participants explained that the pre-development process for multifamily developments almost always comes with neighborhood resistance. Developers can expect packed public hearings “even for human scale development.” Stereotypes make it difficult to

sell single-family homes across from multifamily, affordable housing projects at financially feasible price points.

Addressing perceptions through education and public engagement is necessary to ensure that residents understand that affordable housing today is not built at the same standards as they were historically. Many residents resisting these projects may be unaware that they would be eligible to live there. Participants agree that residents must be engaged so compromises can be sought early on in the pre-development process.

Lower-income residents are especially burdened in McMinnville.

Because of heightened competition for housing, households inquiring about rental units are often unable to find suitable affordable housing. Participants indicated it is not uncommon for renters to get ultimatums - take the unit now or miss the opportunity. Attempts to engage landlords in the housing conversation are less than successful. "Economics doesn't lie," one participant says, and no measures exist to reduce landlords inflated rents.

One participant offered the solution of rent control. Rents are so high that housing subsidy programs (such as HUD's Section 8 Housing Choice Voucher Program) are going underused. The use rate for vouchers is about 58% (about 1,425 unused vouchers). Households literally cannot find housing that is affordable enough even with the housing subsidy. This has a long-term effect as HUD bases voucher funding on prior year utilization rates.

Households who cannot find suitable housing have limited choices. "Homelessness, RV living, or couch surfing" are among the options that households are faced. Some housing insecure households belong to religious congregations. These households are lucky to stay at the homes of congregation members, but not everyone has such a community. These matters, and concerns about gentrification and displacement of existing residents, are worsening. Participants are also worried employers, looking to locate in the area, will pass up the community because there is nowhere for their employees to live.

Participants agreed that the community must acknowledge the actual needs of home buyers and renters. Right now, need does not synch up with actual inventory.

McMinnville is moving in the right direction.

Participants were grateful for the City's Planning Department. The Department's approach is proactive, and changes previously made have provided relief. No participant had examples of any land use impediment to solve. Of course, there is always room to provide more flexibility in the zoning code to improve the use of space. Participants also recognize the support from City Council. Council appears to want to create "something good" for McMinnville.

Throughout the focus group, participants identified locations for residential development/infill/rehabilitation. Areas include: Urban Renewal District, downtown, along Northeast Gateway, around Alpine, and at the Yamhill Hotel (above Serendipity).



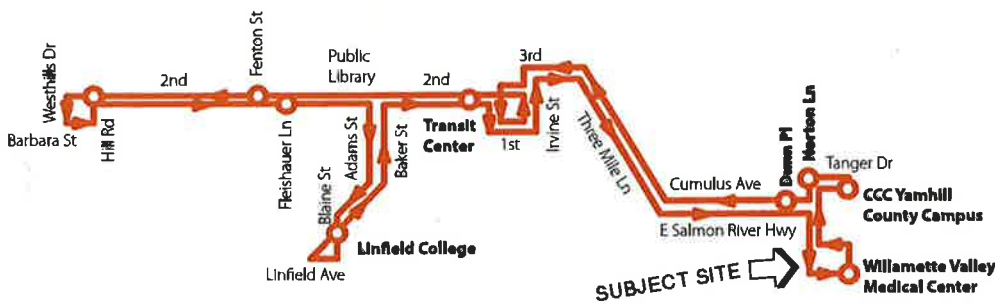
Yamhill County Transit Area

Routes 2&3

McMinnville

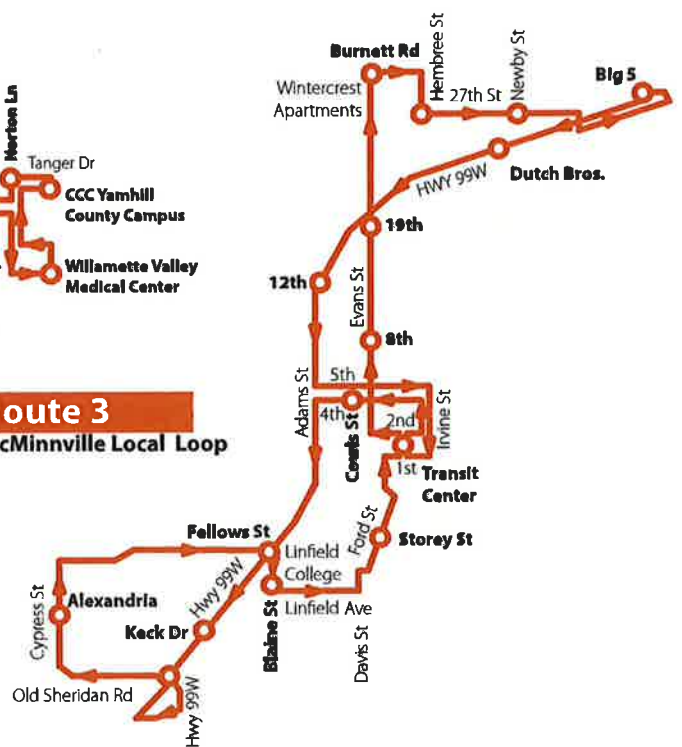
Route 2

McMinnville East-West Express



Route 3

McMinnville Local Loop



Routes 2 & 3 **McMinnville**

| Route 2 McMinnville East-West Express | | | | | | | | | | |
|---------------------------------------|--|--------------------|-----------------------------------|-------------------|----------------------------|----------------|-----------------|--------------------|--|----------------------------|
| McMinnville Transit Center | SE Norton Ln (Willamette Valley Medical) | NE Tanger Dr (CCC) | NE Tanger Dr & NE Norton Ln (DHS) | Cumulus & Dunn Pl | McMinnville Transit Center | W 2nd & Fenton | W 2nd & Hill Rd | W 2nd & Fleishauer | Founder Way & SW Blaine St (Linnfield College) | McMinnville Transit Center |
| 7:00 | 7:05 | 7:15 | 7:17 | 7:20 | 7:30 | 7:35 | 7:40 | 7:45 | 7:50 | 7:55 |
| 8:00 | 8:05 | 8:15 | 8:17 | 8:20 | 8:30 | 8:35 | 8:40 | 8:45 | 8:50 | 8:55 |
| 9:00 | 9:05 | 9:15 | 9:17 | 9:20 | 9:30 | 9:35 | 9:40 | 9:45 | 9:50 | 9:55 |
| 10:00 | 10:05 | 10:15 | 10:17 | 10:20 | 10:30 | 10:35 | 10:40 | 10:45 | 10:50 | 10:55 |
| 11:00 | 11:05 | 11:15 | 11:17 | 11:20 | 11:30 | 11:35 | 11:40 | 11:45 | 11:50 | 11:55 |
| 12:00 | 12:05 | 12:15 | 12:17 | 12:20 | 12:30 | 12:35 | 12:40 | 12:45 | 12:50 | 12:55 |
| 1:00 | 1:05 | 1:15 | 1:17 | 1:20 | 1:30 | 1:35 | 1:40 | 1:45 | 1:50 | 1:55 |
| 2:00 | 2:05 | 2:15 | 2:17 | 2:20 | 2:30 | 2:35 | 2:40 | 2:45 | 2:50 | 2:55 |
| 3:00 | 3:05 | 3:15 | 3:17 | 3:20 | 3:30 | 3:35 | 3:40 | 3:45 | 3:50 | 3:55 |
| 4:00 | 4:05 | 4:15 | 4:17 | 4:20 | 4:30 | 4:35 | 4:40 | 4:45 | 4:50 | 4:55 |
| 5:00 | 5:05 | 5:15 | 5:17 | 5:20 | 5:30 | 5:35 | 5:40 | 5:45 | 5:50 | 5:55 |

Weekday Service Only

PM times in **bold**

Yamhill County Transit Area (YCTA) operates eleven routes; including (4) local fixed routes in McMinnville and Newberg and (7) commuter, express Mon-Fri to Salem, Grand Ronde, Hillsboro, and Tigard. Saturday routes to Grand Ronde and Tigard. Customers can connect to TriMet at Hillsboro MAX station and Tigard Transit Center and to Cherriots at Glen Creek Transit Center and the Coastal Connector at Spirit Mountain. YCTA also offers paratransit service in Newberg and McMinnville and general public dial-a-ride on a limited basis.

Bus Stops - Flag Stops

Flag Stops are allowed on the McMinnville and Newberg local fixed routes. Customers may flag down a YCTA bus along these routes. Please check the website and google maps for the preferred safe flag stop locations. NO flag stops on Commuter Routes. Please check the website and google maps for the preferred safe bus stop locations. YCTA is working on installing bus stop signs and shelters along commuter routes.

| Route 3 McMinnville Local Loop | | | | | | | | | | | | | | | | | |
|--------------------------------|----------------------|-----------------------|-----------------------|----------------------|--------------------------|-----------------------|--------------------------|-------------------|----------------------------|------------------|----------------------|----------------------------|--------------------|---------------------------|----------------------------|------------------|----------------------------|
| McMinnville Transit Center | NE Evans & NE 8th St | NE Evans & NE 10th St | NE Evans & NE 12th St | Hemlock St & 27th St | NE 27th St & NE Newby St | Hwy 99W @ BIC'S Store | Hwy 99W @ Dutch business | Hwy 99W & 12th St | McMinnville Transit Center | 4th & Cowie @CMI | Hwy 99W @ Fellows St | Hwy 99W & Keck Dr (B-Hard) | Beathland & Hwy 18 | SW Cypress & SW Alcantara | Founder Way & SW Blaine St | Food St & Storey | McMinnville Transit Center |
| 8:00 | 8:01 | 8:03 | 8:06 | 8:07 | 8:08 | 8:14 | 8:16 | 8:21 | 8:30 | 8:32 | 8:34 | 8:36 | 8:40 | 8:45 | 8:49 | 8:52 | 8:55 |
| 9:00 | 9:01 | 9:03 | 9:06 | 9:07 | 9:08 | 9:14 | 9:16 | 9:21 | 9:30 | 9:32 | 9:34 | 9:36 | 9:40 | 9:45 | 9:49 | 9:52 | 9:55 |
| 10:00 | 10:01 | 10:03 | 10:06 | 10:07 | 10:08 | 10:14 | 10:16 | 10:21 | 10:30 | 10:32 | 10:34 | 10:36 | 10:40 | 10:45 | 10:49 | 10:52 | 10:55 |
| 11:00 | 11:01 | 11:03 | 11:06 | 11:07 | 11:08 | 11:14 | 11:16 | 11:21 | 11:30 | 11:32 | 11:34 | 11:36 | 11:40 | 11:45 | 11:49 | 11:52 | 11:55 |
| 12:00 | 12:01 | 12:03 | 12:06 | 12:07 | 12:08 | 12:14 | 12:16 | 12:21 | 12:30 | 12:32 | 12:34 | 12:36 | 12:40 | 12:45 | 12:49 | 12:52 | 12:55 |
| 1:00 | 1:01 | 1:03 | 1:06 | 1:07 | 1:08 | 1:14 | 1:16 | 1:21 | 1:30 | 1:32 | 1:34 | 1:36 | 1:40 | 1:45 | 1:49 | 1:52 | 1:55 |
| 2:00 | 2:01 | 2:03 | 2:06 | 2:07 | 2:08 | 2:14 | 2:16 | 2:21 | 2:30 | 2:32 | 2:34 | 2:36 | 2:40 | 2:45 | 2:49 | 2:52 | 2:55 |
| 3:00 | 3:01 | 3:03 | 3:06 | 3:07 | 3:08 | 3:14 | 3:16 | 3:21 | 3:30 | 3:32 | 3:34 | 3:36 | 3:40 | 3:45 | 3:49 | 3:52 | 3:55 |
| 4:00 | 4:01 | 4:03 | 4:06 | 4:07 | 4:08 | 4:14 | 4:16 | 4:21 | 4:30 | 4:32 | 4:34 | 4:36 | 4:40 | 4:45 | 4:49 | 4:52 | 4:55 |
| 5:00 | 5:01 | 5:03 | 5:06 | 5:07 | 5:08 | 5:14 | 5:16 | 5:21 | 5:30 | 5:32 | 5:34 | 5:36 | 5:40 | 5:45 | 5:49 | 5:52 | 5:55 |

Weekday Service Only

PM times in **bold**

Fare Information

Local & Commuter Routes
 Single one-way fare \$1.25
 Single day pass \$2.50
 Unlimited monthly pass \$35.00
 10 day pass book \$18.00

General Public Dial-A-Ride
 Single one-way fare \$1.75
 Unlimited monthly pass \$40.00
 Paratransit Single one-way fare \$2.50
 Children under 6 ride free

Passes Available at the following McMinnville locations
 Any YCTA driver (exact change only)
 Board of Commissioners Office 434 NE Evans Street (check or exact change)
 Transit Center (First Transit office) 800 NE 2nd Street (cash or check only)



YCTA
 Route and Schedule Information
 First Transit
 800 NE 2nd Street
 McMinnville, OR 97128
 503-474-4900 | 503-538-7433 (Newberg)
 www.yctatransitarea.org
 Oregon Relay Service 1-800-735-2900

Technical Memorandum

To: Kim McAvoy
KWDS, LLC

From: Daniel Stumpf, EI
William Farley, PE

Date: December 18, 2018

Subject: Norton Lane Planned Development Overlay Amendment
Trip Generation & Transportation Planning Rule Analysis



**LANCASTER
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Introduction

This memorandum reports the findings of a trip generation analysis conducted for an amendment to the Planned Development (PD) overlay on a property located west of SE Norton Lane and south of SE Stratus Avenue in McMinnville, Oregon. The study reviews the morning peak hour, evening peak hour, and average daily trip generation potentials of the site under both the existing overlay and the proposed amended overlay and addresses the Transportation Planning Rule (TPR) to ensure that the transportation system is capable of supporting any changes in traffic intensity resulting from the proposed amendment.

Location & Project Description

The project site, zoned as *General Commercial Zone (C-3)*, is located west of SE Norton Lane and south of SE Stratus Avenue in McMinnville, Oregon. The site includes a single tax lot, lot 701, which encompasses an approximate total of 4.93 acres. The site is currently vacant; however, upon amending the PD overlay, is planned for development as a 110 to 115-unit apartment facility.

The PD overlay on the site restricts development to professional and medical offices as well as a variety of senior housing, inclusive of condominiums, apartments, and assisted living facilities. The proposed amendment to the overlay will allow for the development of residential apartments.

The original overlay permitted the construction of office commercial uses, or other compatible uses, which was then expanded upon to include the allowable development of senior housing. The intent for imposing the overlay was to restrict the development of strip commercial uses, as was historically constructed within the area.

Figure 1 presents an aerial image of the nearby vicinity with the project site outlined in yellow.

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Figure 1: Aerial Photo of Site Vicinity (Image from Google Earth)

Trip Generation

The subject site is currently restricted to development of either professional/medical office or senior housing by a zoning overlay. An amendment to the PD overlay is proposed to include development of general apartment uses. To determine the impacts of the proposed PD amendment, trip generation between existing and proposed conditions were compared.

To estimate the number of trips that could be generated by the site, a variety of land uses provided within the *Trip Generation Manual*¹ were referenced and compared to one another. Table 1 presents trip generation rates for applicable land uses that are available within the trip generation manual.

¹ Institute of Transportation Engineers (ITE), *Trip Generation Manual*, 10th Edition, 2017.



Table 1: Land Use Trip Generation Comparison

| ITE Code | | Variable | Morning Peak Hour Rate | Evening Peak Hour Rate | Weekday Rate |
|---------------------|--|------------------------------|------------------------|------------------------|--------------|
| Proposed Conditions | Multifamily Housing (Low-Rise or 1 to 2 Floors) | 220 trips/dwelling unit | 0.46 | 0.56 | 7.32 |
| | Multifamily Housing (Mid-Rise or 3 to 10 Floors) | 221 trips/dwelling unit | 0.36 | 0.44 | 5.44 |
| | Multifamily Housing (High-Rise or 10+ Floors) | 222 trips/dwelling unit | 0.31 | 0.36 | 4.45 |
| Existing Conditions | Senior Adult Housing - Detached | 251 trips/dwelling unit | 0.24 | 0.30 | 4.27 |
| | Senior Adult Housing - Attached | 252 trips/dwelling unit | 0.20 | 0.26 | 3.70 |
| | Congregate Care Facility | 253 trips/dwelling unit | 0.07 | 0.18 | 2.02 |
| | Assisted Living | 254 trips/bed | 0.19 | 0.26 | 2.60 |
| | Continuing Care Retirement Community | 255 trips/unit | 0.14 | 0.16 | 2.40 |
| | Medical-Dental Office Building | 720 trip/1,000 sq.ft. | 2.78 | 3.46 | 34.80 |

BOLDED text indicates highest trip generating land use of each variable type (note trips/bed and trips/unit were treated as trips/dwelling unit).

Based on Table 1, the highest reported trip generating land use on a per dwelling unit basis was land use code 220, *Multifamily Housing (Low-Rise)*, while the highest trip generating land use on a per 1,000 square foot basis was land use code 720, *Medical-Dental Office Building*. Since land use code 220 projects higher trip generation than any other residential land use, regardless of looking at existing or proposed conditions, land use code 220 may be considered the highest trip generating land use under the proposed conditions. However, since it's unknown whether land use code 720 under existing conditions could generate more or less trips than land use code 220, additional analyses comparing the two is necessary.

Existing Conditions

To determine trip generation under existing conditions, utilizing data from land use code 720, a reasonable site developable area needs to be determined. The following assumptions were considered:

- It is assumed that a reasonable maximum total building footprint would cover approximately 30 percent of developable area. The remaining developable area is considered as space necessary to accommodate parking, street right-of-way improvements, public space, etc.
- Per City of McMinnville's Title 17 Zoning Code for a *Planned Development Overlay*, the maximum building height shall not exceed 35 feet. Upon assessing the building heights of other surrounding land uses, it is assumed that a reasonably sized medical office building may include two floors.

Given the site encompasses approximately 4.93 acres, after applying the aforementioned assumptions the site could include the development of a 128,900 square foot medical office building.

Proposed Conditions

To determine trip generation under proposed conditions, it is assumed that the proposed development following the amendment to the PD overlay may be considered the reasonable "worst-case" development scenario. Therefore, for the purposes of this analysis a 115-unit apartment facility was considered.

Analysis Summary

The trip generation calculations show that under existing conditions, the subject site could reasonably be developed to generate up to 280 morning peak hour trips, 438 evening peak hour trips, and 4,864 average weekday trips. Following the amendment to the PD overlay, the site could be developed with apartment uses that generate up to 53 morning peak hour trips, 64 evening peak hour trips, and 842 average weekday trips. Accordingly, if developed with residential apartments instead of medical offices, the net change in trip generation potential of the site after the proposed PD amendment is projected to be 227 less trips during the morning peak hour, 374 less trips during the evening peak hour, and 4,022 less average weekday trips.

The trip generation estimates are summarized in Table 1, Detailed trip generation calculations are included as an attachment to this memorandum.



Table 2: Trip Generation Summary – Proposed Zone Change

| | ITE Code | Size | Morning Peak Hour | | | Evening Peak Hour | | | Weekday |
|--------------------------------------|----------|----------------|-------------------|------------|-------------|-------------------|-------------|-------------|---------------|
| | | | Enter | Exit | Total | Enter | Exit | Total | Total |
| Existing Conditions | | | | | | | | | |
| Medical Office Building | 720 | 128,900 sq.ft. | 218 | 62 | 280 | 123 | 315 | 438 | 4,864 |
| Proposed Conditions | | | | | | | | | |
| Multifamily Housing | 220 | 115 units | 12 | 41 | 53 | 40 | 24 | 64 | 842 |
| Net Change in Trip Generation | | | -206 | -21 | -227 | -83 | -291 | -374 | -4,022 |

Based on the above analysis, following the amendment to the PD overlay, the development of a general 115-unit apartment facility will not generate more trips than the 128,900 square foot medical office building that can be constructed under existing conditions. It should be noted that a medical office could still potentially be developed within the site following approval of the PD overlay amendment, whereby the net change in site trip generation potential is zero.

Transportation Planning Rule

The Transportation Planning Rule (TPR) is in place to ensure that the transportation system is capable of supporting possible increases in traffic intensity that could result from changes to adopted plans and land use regulations. The applicable elements of the TPR are each quoted in italics below, with responses following.

660-012-0060

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted*

December 18, 2018
Page 6 of 6

TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
- (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

In the case of this analysis, subsections (a) and (b) are not triggered since the proposed PD overlay amendment will not impact or alter the functional classification of any existing or planned facility and the proposal does not include a change to any functional classification standards.

With regard to subsection (c), the proposed PD overlay amendment is not projected to increase the morning peak hour, evening peak hour, or average daily trip generation potential of the site. Accordingly, the proposed PD amendment will have no significant impact on the operation of area streets and intersections since it cannot result in an increase in the peak hour or daily trip generation potential of the site. Therefore, subsection (c) will not be triggered.

Conclusions

The proposed amendment to the Planned Development overlay will not degrade the performance of any existing or planned transportation facility. Accordingly, the TPR is satisfied and no mitigation is necessary or recommended in conjunction with the proposed zone change.

If you have any questions regarding this technical memorandum, please don't hesitate to contact us.

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TRIP GENERATION CALCULATIONS Existing Conditions

Land Use: Medical-Dental Office Building
Land Use Code: 720
Setting/Location General Urban/Suburban
Variable: 1,000 Sq Ft Gross Floor Area
Variable Quantity: 128.9

AM PEAK HOUR

Trip Equation: $\ln(T) = 0.89\ln(X) + 1.31$

| | Enter | Exit | Total |
|--------------------------|------------|-----------|------------|
| Directional Distribution | 78% | 22% | |
| Trip Ends | 218 | 62 | 280 |

PM PEAK HOUR

Trip Equation: $T = 3.39(X) + 2.02$

| | Enter | Exit | Total |
|--------------------------|------------|------------|------------|
| Directional Distribution | 28% | 72% | |
| Trip Ends | 123 | 315 | 438 |

WEEKDAY

Trip Equation: $T = 38.42(X) - 87.62$

| | Enter | Exit | Total |
|--------------------------|--------------|--------------|--------------|
| Directional Distribution | 50% | 50% | |
| Trip Ends | 2,432 | 2,432 | 4,864 |

SATURDAY

Trip Rate: 8.57

| | Enter | Exit | Total |
|--------------------------|------------|------------|--------------|
| Directional Distribution | 50% | 50% | |
| Trip Ends | 552 | 552 | 1,104 |

Source: TRIP GENERATION, Tenth Edition

TRIP GENERATION CALCULATIONS Proposed Conditions

Land Use: Multifamily Housing (Low-Rise)
Land Use Code: 220
Setting/Location: General Urban/Suburban
Variable: Dwelling Units
Variable Value: 115

AM PEAK HOUR

Trip Rate: 0.46

| | Enter | Exit | Total |
|--------------------------|-------|------|-------|
| Directional Distribution | 23% | 77% | |
| Trip Ends | 12 | 41 | 53 |

PM PEAK HOUR

Trip Rate: 0.56

| | Enter | Exit | Total |
|--------------------------|-------|------|-------|
| Directional Distribution | 63% | 37% | |
| Trip Ends | 40 | 24 | 64 |

WEEKDAY

Trip Rate: 7.32

| | Enter | Exit | Total |
|--------------------------|-------|------|-------|
| Directional Distribution | 50% | 50% | |
| Trip Ends | 421 | 421 | 842 |

SATURDAY

Trip Rate: 8.14

| | Enter | Exit | Total |
|--------------------------|-------|------|-------|
| Directional Distribution | 50% | 50% | |
| Trip Ends | 468 | 468 | 936 |

Source: TRIP GENERATION, Tenth Edition



Norton Lane
Planned Development Amendment
Supplemental Submission
June 19, 2020

OWNERS: Burch Feero, Inc

APPLICANT: Housing Authority of Yamhill County

APPLICANT REPRESENTATIVE: Structure Development Advisors, LLC



June 19, 2020

Chuck Darnell, Senior Planner
Planning Department
City of McMinnville
231 NE Fifth Street
McMinnville, OR 97128

Re: 235 SE Norton Lane
R442700409
Planned Development Amendment – Supplemental Submission

Dear Ms. Richards;

Thank you for your June 17, 2020 letter regarding the 235 NE Norton Lane – Land Use Application Completeness Review. We appreciate your quick and clear response to our application.

Please find a Supplemental Submission to our Planned Development Amendment application.

Best regards,



Michael Andrews
Principal

Cc: Joyce Morrow, HAYC
Vickie Ybarguen, HAYC
Heather Richards, City of McMinnville
Steve Burch, Burch Feero, Inc.
Doug Burch, Burch Feero, Inc.

**Norton Lane
Planned Development Amendment**

Supplemental Information and Findings

Supplemental Submission – June 19, 2020

Completeness Items:

The following information is provided in response reasons the application was determined incomplete.

I. CONSISTENCY WITH COMPREHENSIVE PLAN VOLUME II OBJECTIVES

Policy 75.00 *Common open space in residential planned developments shall be designed to directly benefit the future residents of the developments. When the open space is not dedicated to or accepted by the City, a mechanism such as a homeowners association, assessment district, or escrow fund will be required to maintain the common area.*

Policy 76.00 *Parks, recreations facilities, and community centers within planned developments shall be located in areas readily accessible to all occupants.*

RESPONSE: Open space is a critical element to a successful multifamily family project on the Subject Site.

There is currently no open space adjacent or conveniently located to the Subject Site. As a planned development, open space will be provided within the Subject Site that benefits residents of the site. The applicants proposes a condition will ensure that the residents have access to an area equivalent to 10 percent of the gross size of the Subject site. The proposed condition further allows the Applicant to design the open space to meet the varied needs of residents of the site.

Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units. A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programing of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

Policy 187.50

The McMinnville Great Neighborhood Principles are provided below. Each Great Neighborhood Principle is identified by number below (numbers 1 – 13), and is followed by more specific direction on how to achieve each individual principle

1. *Natural Feature Preservation. Great Neighborhoods are sensitive to the natural conditions and features of the land.*
 - a. *Neighborhoods shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas, and landmark trees.*

RESPONSE: There are no significant natural features associated with the Subject Site. Approval of this request will not adversely impact sensitive natural features or conditions.

2. *Scenic Views. Great Neighborhoods preserve scenic views in areas that everyone can access.*
 - a. *Public and private open spaces and streets shall be located and oriented to capture and preserve scenic views, including, but not limited to, views of significant natural features, landscapes, vistas, skylines, and other important features.*

RESPONSE: Surrounding Uses adjacent to the Subject Site do not offer scenic views of natural features, landscapes or vistas. The larger vicinity within which the Subject Site is located do not offer scenic views of natural features, landscape or vistas. Granting the requested changes will not adversely impact a future design's ability to oriented open space or buildings.

No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance.

3. *Parks and Open Spaces. Great Neighborhoods have open and recreational spaces to walk, play, gather, and commune as a neighborhood.*

- a. *Parks, trails, and open spaces shall be provided at a size and scale that is variable based on the size of the proposed development and the number of dwelling units.*
- b. *Central parks and plazas shall be used to create public gathering spaces where appropriate.*
- c. *Neighborhood and community parks shall be developed in appropriate locations consistent with the policies in the Parks Master Plan.*

RESPONSE: Open space is a critical element to a successful multifamily family project on the Subject Site.

There is currently no open space adjacent or conveniently located to the Subject Site. As a planned development, open space will be provided within the Subject Site that benefits residents of the site. The applicants proposes a condition will ensure that the residents have access to an area equivalent to 10 percent of the gross size of the Subject site. The proposed condition further allows the Applicant to design the open space to meet the varied needs of residents of the site.

Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units. A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programing of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

4. *Pedestrian Friendly. Great Neighborhoods are pedestrian friendly for people of all ages and abilities.*
 - a. *Neighborhoods shall include a pedestrian network that provides for a safe and enjoyable pedestrian experience, and that encourages walking for a variety of reasons including, but not limited to, health, transportation, recreation, and social interaction.*
 - b. *Pedestrian connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces, and shall also be provided between streets*

that are disconnected (such as cul-de-sacs or blocks with lengths greater than 400 feet).

RESPONSE: The Three Mile Lane Preferred Alternative identifies land uses and trail systems. Adjacent to the Subject Site on SE Stratus is an existing trail network. Within 75 feet of the site along SE Norton Lane is an existing trail network. Bisecting the site, running east west is an existing trail network.

No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

5. *Bike Friendly. Great Neighborhoods are bike friendly for people of all ages and abilities.*
 - a. *Neighborhoods shall include a bike network that provides for a safe and enjoyable biking experience, and that encourages an increased use of bikes by people of all abilities for a variety of reasons, including, but not limited to, health, transportation, and recreation.*
 - b. *Bike connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces.*

RESPONSE: The Three Mile Lane Preferred Alternative identifies land uses and trail systems. Adjacent to the Subject Site on SE Stratus is an existing trail network. Within 75 feet of the site along SE Norton Lane is an existing trail network. Bisecting the site, running east west is an existing trail network.

No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

6. *Connected Streets. Great Neighborhoods have interconnected streets that provide safe travel route options, increased connectivity between places and destinations, and easy pedestrian and bike use.*

- a. *Streets shall be designed to function and connect with the surrounding built environment and the existing and future street network, and shall incorporate human scale elements including, but not limited to, Complete Streets features as defined in the Comprehensive Plan, grid street networks, neighborhood traffic management techniques, traffic calming, and safety enhancements.*
- b. *Streets shall be designed to encourage more bicycle, pedestrian and transit mobility with a goal of less reliance on vehicular mobility.*

RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

- 7. *Accessibility. Great Neighborhoods are designed to be accessible and allow for ease of use for people of all ages and abilities.*
 - a. *To the best extent possible all features within a neighborhood shall be designed to be accessible and feature elements and principles of Universal Design.*
 - b. *Design practices should strive for best practices and not minimum practices.*

RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

- 8. *Human Scale Design. Great Neighborhoods have buildings and spaces that are designed to be comfortable at a human scale and that foster human interaction within the built environment.*
 - a. *The size, form, and proportionality of development is designed to function and be balanced with the existing built environment.*
 - b. *Buildings include design elements that promote inclusion and interaction with the right-of-way and public spaces, including, but not limited to, building orientation towards the street or a public space and placement of vehicle-oriented uses in less prominent locations.*
 - c. *Public spaces include design elements that promote comfortability and ease of use at a human scale, including, but not limited to, street trees, landscaping, lighted*

public areas, and principles of Crime Prevention through Environmental Design (CPTED).

RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date. Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

9. *Mix of Activities. Great Neighborhoods provide easy and convenient access to many of the destinations, activities, and local services that residents use on a daily basis.*
- a. *Neighborhood destinations including, but not limited to, neighborhood-serving commercial uses, schools, parks, and other community services, shall be provided in locations that are easily accessible to surrounding residential uses.*
 - b. *Neighborhood-serving commercial uses are integrated into the built environment at a scale that is appropriate with the surrounding area.*
 - c. *Neighborhoods are designed such that owning a vehicle can be optional.*

RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date.

Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

10. *Urban-Rural Interface. Great Neighborhoods complement adjacent rural areas and transition between urban and rural uses.*
- a. *Buffers or transitions in the scale of uses, buildings, or lots shall be provided on urban lands adjacent to rural lands to ensure compatibility.*

RESPONSE: Surrounding Uses buffer the Subject Site from adjacent rural land. The Subject Site is located within the Three Mile Lane Planned Development Overlay. The buffering nature of the surrounding uses and the context of the Three Mile Lane Planned Development make Multi-Family uses complement and transitional uses with nearby rural areas.

11. *Housing for Diverse Incomes and Generations. Great Neighborhoods provide housing opportunities for people and families with a wide range of incomes, and for people and families in all stages of life.*

- a. *A range of housing forms and types shall be provided and integrated into neighborhoods to provide for housing choice at different income levels and for different generations.*

RESPONSE: Yamhill County is experience is shortage of affordable housing. This fact is documented in the Oregon Housing and Community Service State Housing Plan. Several studies have concluded barriers to the development of housing contribute to the shortage of supply. Housing starts falling short of household creation is a consequence leading to the shortage of housing.

The application is a Housing Authority organized under state law. Their purpose is to develop affordable housing. The applicant intends to develop a Multi-Family housing community consistent with their purpose and state law defining the powers of housing authorities.

As a result, the applicant's development of the subject site will provide Multi-family housing that is not prevalent in the City of McMinnville. Therefore, the creation of affordable housing by the Applicant will contribute to housing opportunities for a greater range of incomes in the City.

12. *Housing Variety. Great Neighborhoods have a variety of building forms and architectural variety to avoid monoculture design.*

- a. *Neighborhoods shall have several different housing types.*
b. *Similar housing types, when immediately adjacent to one another, shall provide variety in building form and design.*

RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date.

Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

13. *Unique and Integrated Design Elements. Great Neighborhoods have unique features, designs, and focal points to create neighborhood character and identity. Neighborhoods shall be encouraged to have:*

- a. *Environmentally friendly construction techniques, green infrastructure systems, and energy efficiency incorporated into the built environment.*
- b. *Opportunities for public art provided in private and public spaces.*
- c. *Neighborhood elements and features including, but not limited to, signs, benches, park shelters, street lights, bike racks, banners, landscaping, paved surfaces, and fences, with a consistent and integrated design that are unique to and define the neighborhood. (Ord 5066 §2, April 9, 2019)*

RESPONSE: No specific site development plan is proposed at this time. Applicant intends to submit an application at a later date. Future development plan will be subject to design review and development criteria contained in the approved Planned Development overlay ordinance. Connectivity with trails and internal circulation will be proposed and reviewed at a later date.

Approval of the requested Amendments does not limit choice. Allowing for Multi-Family as a use will allow for residents to reside on the Subject Site.

Not Necessarily Required for Completeness.

The following information is provided at the suggestion of the City and is not required in order to deem the application complete but could improve the application.

II. MCMINNVILLE ZONING ORDINANCE

CHAPTER 17.74 REVIEW CRITERIA

17.74.070 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;

RESPONSE: The prior master plan called for the development of an office park with one or two story buildings. For this master plan, 35 feet was feasible. A residential project may include buildings that are three floors or greater. In an R-4 zone, a building shall not exceed sixty feet in height (17.21.050). This amendment restores the base zone requirements. Additionally, the project is subject to design review which will allow for consideration of design criteria prior to issuing a permit. This change is consistent with the height limited on the property to the south with the

same zone. The Comfort Inn Suites, Medical Center and Chemketa Community College are nearby buildings that each exceed 35 feet.

Policy 71.13

The following factors should serve as criteria in determining areas appropriate for high- density residential development:

8. Areas adjacent to either private or public permanent open space.

RESPONSE: Open space is a critical element to a successful multifamily family project on the Subject Site. Due to the size of the Subject Site, the Applicant proposes the ability to have multiple areas contributing to the open space requirement. This will allow for parents or guardians to more easily maintain verbal and visual contact with kids from or near their units. A single open space will undoubtedly be far from some units. A closer proximity will benefit family with kids.

Additionally, multiple open spaces allow for a variety of programming of the space. For example, one space could be set up with play equipment for younger kids and another set up with just benches for adults without kids to enjoy.

In a Multi-Family housing setting, the notion of a front yard is functionally different than distinct private and public space. Allowing overlap between the front yard setback and the open space fosters the notion communal space while maintaining the full front yard setback.

There is currently no open space adjacent or conveniently located to the Subject Site. As a planned development, open space will be provided within the Subject Site that benefits residents of the site. The applicants proposed condition will ensure that the residents have access to an area equivalent to 10 percent of the gross size of the Subject site. The proposed condition further allows the Applicant to design the open space to meet the varied needs of residents of the site.



City of McMinnville
Finance Department
230 NE Second Street
McMinnville, OR 97128
(503) 434-2350

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: August 11, 2020
TO: Mayor and City Councilors
FROM: Jennifer Cuellar, Finance Director
SUBJECT: Consider amending civil penalty requirement language in Campaign Finance Ordinance 5092 passed in April 2020

STRATEGIC PRIORITIES & GOALS:



CIVIC LEADERSHIP

Encourage a variety of leadership development opportunities to foster a culture of civic pride and involvement



ENGAGEMENT & INCLUSION

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

Report in Brief:

Ordinance 5092 establishes detailed rules regarding finance disclosure on campaign communications. Its current language requires minimum financial penalties. An amendment to set a maximum financial sanction only – see section 2.10.50(B) of the ordinance - will allow the Finance Director, on behalf of the City, the ability to issue warnings for inadvertent or unintentional findings of campaign finance disclosure violations.

Discussion:

The Finance Director plays a key role in the implementation of Ordinance 5092. In the process of developing user guidance and drafting administrative rules for enforcement of Ordinance 5092, the requirement to assess minimum financial penalties in the event that any complaint results in a finding of a violation of the ordinance has become clear to me.

As I developed the educational and administrative materials for the ordinance, I used the City of Portland's public documents as a guide; in its FAQs I saw that the Auditor's Office does have the discretion to issue warnings.

Further, I believe eliminating a required minimum civil penalty will address a potential unintended consequence of having a disproportionate impact on candidates with less financial means and which could conflict with the City's strategic priorities of Civic Leadership and Engagement and Inclusion.

Fiscal Impact:

To date, conservatively \$5,000 in staff time and legal fees have been spent on developing the ordinance and its implementation. Additional hours will be required to finalize the administrative processes and complete the public facing web presence for public education and submission of complaints. An unknown amount of time may be needed to address complaints within the strict deadlines described by the ordinance.

Amending the language will eliminate the required economic sanction on inadvertent violations by campaigns.

Recommendation: Staff recommends amending the civil fine language.

Documents:

1. Ordinance No. 5096: An Ordinance Amending Ordinance No. 5092
2. McMinnville Timely Disclosures Summary Flyer
3. McMinnville Campaign Finance FAQ - DRAFT

ORDINANCE NO. 5096

An Ordinance Amending Ordinance No. 5092, Relating to the City of McMinnville’s New Requirements and Regulations Relating to Campaign Finance Declaring an Emergency.

RECITALS:

Whereas, the City of McMinnville adopted campaign finance legislation for candidate elections on April 14th of 2020; and

Whereas, the City is currently in an Election Cycle, and Expenditures and Independent Expenditures are ongoing; and

Whereas, the City desires to ensure that implementation and enforcement of the McMinnville Code on all Expenditures and Independent Expenditures during the Election Cycle are consistent; and

Whereas, the City of McMinnville wishes to amend Ordinance 5092 to remove required minimum civil penalty.

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

1. A new Chapter 2.10 of Title 2 of the McMinnville Municipal Code is hereby adopted to read as set forth on Exhibit A attached hereto and incorporated herein. Ordinance 5092, Chapter 2.10 of Title 2 of the McMinnville Municipal Code is amended to read as set forth on Exhibit A attached hereto and incorporated herein.
2. The City Council for City of McMinnville adopts the above-stated recitals and findings as if fully set forth herein. The City Council further finds that it is necessary for the preservation of public health, safety, and welfare that an emergency be declared, and this Ordinance shall be in full force and effect on the date of passage

Passed by the Council this 11th day of August, 2020, by the following votes:

Ayes: _____

Nays: _____

Abstain: _____

MAYOR

Attest:

Approved as to form:

City Recorder

City Attorney

EXHIBIT A TO ORDINANCE 5096

“Chapter 2.10

CAMPAIGN FINANCE AND DISCLOSURE REQUIREMENTS

2.10.10 Contributions in City of McMinnville Candidate Elections.

A. Individuals shall have the right to make Contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

2.10.20 Expenditures in City of McMinnville Candidate Elections.

A. An Entity shall register with the Oregon Secretary of State as a Political Committee under Oregon law within 3 business days of making aggregate Independent Expenditures exceeding \$750 in any Election Cycle to support or oppose one or more Candidates in any City of McMinnville Candidate Election.

2.10.30 Timely Disclosure of Large Contributions and Expenditures.

A. Each Communication to voters related to a City of McMinnville Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:

1. The names of any Political Committees and other Entities that have paid to provide or present
2. For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:

a. The name of the Individual or Entity providing the Contribution.
b. The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).

3. For each of the largest five Dominant Independent Spenders paying to provide or present it:
a. The name of the Individual or Entity providing the Independent Expenditure.
b. The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the NAICS.

B. If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit organization, the prominent disclosure shall include its top three funders during the current Election Cycle.

C. The disclosure shall be current to within 10 business days of the printing of printed material or within 5 business days of the transmitting of a video or audio communication.

2.10.040 Coordination with Public Funding of Campaigns.

A Candidate participating in a government system of public funding of campaigns may receive any amount that such system allows a participating candidate to receive.

2.10.50 Implementation and Enforcement.

- A. The provisions of this Chapter shall take effect on May 1, 2020.
- B. Each violation of any provision in this Chapter shall be punishable by imposition of a civil fine which is not more than 20 times the amount of the unlawful Expenditure or Independent Expenditure at issue.
- C. Any person may file a written complaint of a violation of any provision in this Chapter with the City Finance Director.
- D. The City Finance Director, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.
- E. Upon receipt or issuance of a complaint, the City Finance Director:
 - 1. Shall examine the complaint to determine whether a violation has occurred and shall make any investigation necessary.
 - 2. Within 2 business days of receiving or issuing a complaint, shall issue a notification, including a copy of the complaint, to every person who is the object of the complaint.
 - 3. Shall accept written materials supporting or opposing the complaint for a period of 10 business days following any such notification.
 - 4. Shall render a decision on the complaint within 10 business days of the close of the material submission period.
- F. If the complaint is received or issued within 30 calendar days of the date of the election involving the object of the complaint, then all time periods stated in Subsections 2.10.050 E.3. and 2.10.050 E.4. shall be reduced by one-half.
- G. The City Finance Director may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with the provisions of this Chapter.
- H. Upon finding a violation of the requirement for timely disclosure set forth in Section 2.10.30, the City Finance Director shall determine the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication at issue and shall immediately issue a statement to all interested parties and news organizations containing all of the information about the involved donor(s) required by Section 2.10.030.

I. The complainant or any person who is the object of the complaint may, within 30 calendar days of the issuance of the decision, appeal that order to the appropriate Circuit Court as an agency order in other than a contested case.

J. The decision in the matter shall be deemed final, following completion of any judicial review. Such decision shall be enforced by the City of McMinnville. If the decision is not enforced within 30 calendar days of the decision becoming final, the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the City of McMinnville, and for any appropriate equitable relief.

2.10.060 Adjustments.

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

2.10.070 Severability.

For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

2.10.080 Definitions.

Unless otherwise indicated by the text or context of this Chapter 10.4, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2018. Terms found therein or defined below are capitalized in this Chapter.

A. "Candidate" has the meaning set forth at ORS 260.005(1).

B. "Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term "principal campaign committee."

C. "City of McMinnville Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of the City of McMinnville.

D. "Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper

stickers, Small Signs, or a distribution of 500 or fewer substantially similar pieces of literature within any 10 business-day period.

E. "Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include:

- 1.** Funds provided by government systems of public funding of campaigns; or
- 2.** Providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.

F. "Dominant Contributor" means any Individual or Entity which contributes more than \$1,000 during an Election Cycle to a Candidate Committee or Political Committee.

G. "Dominant Independent Spender" means any Individual or Entity which expends more than \$1,000 during an Election Cycle to support or oppose a particular Candidate.

H. "Election Cycle" means:

1. Generally, the period between an election at which a Candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.

2. For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.

3. For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.

I. "Entity" means any corporation, partnership, limited liability company, proprietorship, Candidate Committee, Political Committee, or other form of organization which creates an entity which is legally separate from an Individual.

J. "Expenditure" has the meaning set forth at ORS 260.005(8) and ORS 260.007, as of January 1, 2018, except that:

1. It does not include a Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing an election.

2. The exception in ORS 260.007(7) does not apply.

K. "General Election Period" means the period beginning the day after the biennial primary election and ending the day of the biennial general election.

L. "Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Chapter expresses a limitation or prohibition, "Individual" means any human being.

M. "Membership Organization" means a nonprofit organization, not formed or operated for the purpose of conducting or promoting commercial enterprise, which has Individual members who have taken action to join the organization and have made a payment of money or volunteer time to maintain membership in the organization.

1. It cannot have commercial enterprises as members.

2. It can transfer to one and only one Small Donor Committee not more than 40 percent of the amount paid to the organization by each Individual member, with a limit of \$100 transferred per Individual member per calendar year.

3. It shall within 30 calendar days of any such transfer notify each paying member of the amount transferred, expressed in dollars or as a percentage of the member's amount paid to the organization. Such notice may be provided by regular mail or electronic mail to each affected member or by posting the information on the organization's main website. If the amount transferred is the same for each member or category of members (in dollars or in percentage of amount paid), the posting may state that amount or percentage without identifying individual members.

N. "Primary Election Period" means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.

O. "Prominently Disclose" means that the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, with:

1. any printed disclosure appearing in a type of contrasting color and in the same or larger font size as used for the majority of text in the printed material;

2. any video disclosure remaining reading on the regular screen (not closed captioning) for not less than 4 seconds;

3. any Finance Directory disclosure spoken at a maximum rate of 5 words per second;

4. any website or email message in type of a contrasting color in the same or larger font size as used for the majority of text in the message;


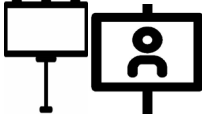

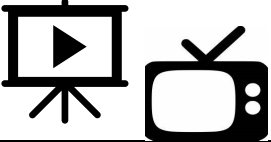

5. any billboard or sign other than a Small Sign: in type of a contrasting color and not smaller than 10 percent of the height of the billboard or sign.

P. "Small Donor Committee" means a Political Committee which has never accepted any Contributions except from Individuals in amounts limited to \$100 per Individual contributor per calendar year.

Q. "Small Sign" means a sign smaller than 6 square feet."

Guidance on Disclosure Requirements in City of McMinnville Candidate Campaigns

[\(See Ordinance 5092 for complete requirements\)](#)

| Type of Communication | How to Prominently Disclose |
|---|--|
| Printed  | Disclosure must be: contrasting color text, at least same size as communication; current to within 10 business days of printed material. |
| Billboard or Large Signs*  | Disclosure must be: contrasting color, at least 10% the height of the billboard or sign; current to within 10 business days of printed material |
| Website, Email Messages  | Disclosure must be: contrasting color text, at least same size as communication; current to within 10 business days of printed material. |
| Videos: TV/Website  | Disclosure must be: contrasting color text, same or larger font size as in communication; current to within 5 business days of transmission. |
| Phone, Radio, Streaming Audio  | Disclosure must be: spoken at maximum of 5 words per second; current to within 5 business days of transmission. |

Exempt from disclosure: signs smaller than six sq. ft., buttons, bumper stickers, or a distribution of 500 or fewer substantially similar pieces of literature within any 10 business-day period

Required for all disclosure types

- 1) Name of Political Committee and any other entities paying to provide communication
- 2) For each of the top 5 contributors in 1) above that contribute more than \$1,000 to a candidate committee or political committee in the elections cycle:
 - a) Name of contributing individual or entity
 - b) Types of businesses from which contributor has obtained majority of income over last 5 years ([using NAICS system](#))
- 3) For each of the top 5 Independent Spenders in 1) above that spend more than \$1,000 to support or oppose a particular Candidate in the elections cycle:
 - a) Name of individual or entity providing the expenditure
 - b) Types of businesses from which individual or entity has obtained majority of income over last 5 years (using [NAICS system](#))
- 4) If Political Committees are identified in 2) or 3) above*, must include top 3 funders during current elections cycle

**Unless if political committees are small donor committees*



Frequently Asked Questions: Campaign Finance in City Elections **DRAFT**

On April 14, 2020 the City of McMinnville passed Ordinance No. 5092 relating to the election of City of McMinnville candidates (Mayor and City Councilors) by requiring campaign finance disclosures.

General Questions

Are there contribution limits under McMinnville's ordinance?

No, donor contribution amounts or are not limited, nor is the frequency of campaign contributions.

What kinds of campaigns are subject to McMinnville's campaign finance disclosure ordinance?

Candidates running for mayor or city council. Ballot measures, whether qualified by initiative, referendum, or Council-referral, are not subject to disclosure requirements.

What state campaign registration requirement is in McMinnville's ordinance?

If an entity in support of or in opposition to a candidate spends a total of \$750 independent expenditures in any election cycle, it must register as a Political Committee under Oregon law with the Oregon Secretary of State within three business days.

When does the ordinance go into effect?

The ordinance takes effect within 30 days of passage on April 14, 2020. As a practical matter, the November 3, 2020 election cycle is the first subject to the local campaign finance regulations.

Do I have to make disclosures on election materials?

Yes. For more details see questions regarding Campaign Communication Disclosure.

Are candidates required to file campaign financial information with the City?

No. The ordinance is for public campaign contribution disclosures on candidate materials and does not create a campaign finance filing requirement at the local level.

I saw an advertisement for the governor's election, but the candidate did not disclose the sources that funded the campaign. Will the City investigate?

No. The ordinance governs City elections races only. Candidates running for mayor or city council in McMinnville are subject to the regulations of Ordinance 5092. Other elections, such as gubernatorial races, congressional races, presidential races and ballot measures are not subject to the disclosure requirements.

I saw an advertisement from a candidate for mayor, but the ad did not list any campaign funders. How should I report this potential violation?

If you believe a candidate is not complying with the campaign disclosure requirements established in Ordinance 5092, fill out the [complaint form\(LINK\)](#) on the City website with information such as subject of complaint, evidence of the violation, and any evidence you may have. If the inquiry is a valid complaint, the Finance Director will launch an investigation according to the regulations requirements and follow-up for more information if necessary.

Can people submit complaints anonymously?

Complete anonymity is not possible. However, if you want your information to be confidential, please indicate so in your complaint. The Finance Director will keep information confidential to the greatest extent of the law. However, some provisions of Oregon public records may require disclosure of complainant information in some cases.

How is this different than other campaign finance regulations that currently exist?

Candidates for City elections must adhere to both state and City campaign finance regulations. Oregon's Secretary of State is responsible for enforcing statewide campaign regulations, which are primarily disclosure based in ORESTAR.

To view state campaign and election laws, search the public database of campaign finance disclosures statewide, and to view campaign manuals for state laws, please see the links below.

Searchable campaign finance transaction database:

<https://secure.sos.state.or.us/orestar/gotoPublicTransactionSearch.do>

State Election Laws: <https://sos.oregon.gov/elections/Pages/laws-rules.aspx>

State Campaign Manuals: <https://sos.oregon.gov/elections/Pages/manuals-tutorials.aspx>

The campaign disclosure regulations are additional campaign regulations that only apply to candidates running for City offices.

Who oversees and enforces these regulations?

The City's Finance Director oversees and enforces these regulations. The Finance Director responds to and makes public complaints and decisions regarding alleged violations.

Questions Regarding Required Campaign Communication Disclosures

I'm running for office, what exactly do I need to disclose on my campaign communications?

The Finance Director has created guidance on these requirements, [here](#).

For all City of McMinnville candidate campaign communications, with some limited exceptions, the following must be disclosed:

- The political committee, candidate committee, or entity (business, organization, corporation, etc.) that paid to provide or present the voter communication should be listed as specifically required, depending on the type of communication.
- For each of the five Dominant Contributors providing the largest amounts of funding to each of the above:
 - a. The name of the Individual or Entity providing the Contribution.
 - b. The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).

Note that if any of the entities in a. above are political committees or non-profit organizations, their top 3 funders during the elections cycle must be disclosed (other than a Small Donor Committee).

Which type of items are considered exempt from requiring these disclosures?

The following items are exempt from campaign disclosure regulations:

- Bumper stickers
- Campaign signs smaller than 6 square feet
- Small items worn by individuals, such as buttons or stickers
- Fliers or other pieces of literature distributed to fewer than 500 people within a 10 business day period

I have campaign social media accounts. Do I need to list my funding sources on every individual post?

Funding sources should be listed in a static, easily available biography or profile section of social media accounts used for campaign communications. Disclosures are not required in the text portion of every communication, such as in every text-based Tweet. However, if you publish a professionally-produced communication (such as a video advertisement, audio, or photo) via social media you should list the funding sources for that professionally-produced communication as otherwise required.

I want to make a radio advertisement for my campaign and all my contributors gave me less than \$1,000. Do I need to include the contributors who funded my campaign?

Ordinance 5092 requires candidates to list all political committees and entities that have paid to fund a candidate's campaign communication. Even if no contributor expended \$1,000 or more for the communication, you must still list any political committee or entity that has contributed funds used to create or promote the communication. For example, "Paid for by the Committee to elect Angela Gonzalez" may be required regardless of Dominant Contributors providing over \$1,000 in candidate elections.

My political committee funded a campaign communication with general pooled funds received from various sources. What is the disclosure requirement on these types of communications?

In a situation where there is no particular tie to a funder and a campaign communication, the political committee should list its top Dominant Contributors as outlined in the regulations as follows:

1. Political committees or other entities paying to provide or present the communication (this is the overarching committee(s) or entity(ies) that are funding the communication)
2. Each of the above's top 5 Dominant Contributors – name and income background.

I am wondering if my campaign communication will comply with the city's disclosure regulations. Will your office review my ad before it's distributed?

The Finance Director can provide general information and interpretation of requirements and will not review campaign communications materials for compliance. For specific legal advice or formal opinions, all candidates and campaigns are individually responsible for compliance and should seek outside legal advice.

How often should I update my required disclosure information? What about on my campaign’s website and social media accounts?

Campaign communication disclosures must be kept up to date as required depending on the type of communication and the format. It is recommended that disclosures be dated to ensure timely disclosure. Printed material has a 10 business day disclosure requirement and video or audit communication has a 5 day disclosure requirement.

What are penalties for campaigns found to be in violation of these requirements?

Each violation of any provision shall be punishable by imposition of a civil fine not less than 2 nor more than 20 times the amount of the unlawful expenditure or independent expenditure.

In determining the amount due as a civil penalty, the Finance Director will consider the following factors:

- The overall budget and resources available to the campaign or entity;
- The number of previous violations within the same election cycle;
- Whether the violation was repeated and continuous, or isolated and temporary (the Finance Director may choose to treat repeated, similar actions occurring during the same election cycle, which would otherwise be considered distinct violations, as aggravating circumstances under a single violation);
- Whether the violation appears to be willful;
- The campaign or entity’s level of cooperation during the investigation, including providing relevant and timely information as requested;
- The amount of penalties, if any, previously imposed under similar circumstances;
- The size of the intended audience and the costs associated with producing and/or managing the communication; and
- Any other applicable factors the Finance Director deems relevant.

I am not affiliated with a campaign. However, I want to produce communication pieces supporting my preferred candidate and opposing other candidates. Do I need to comply with the regulations in Ordinance 5092?

Yes. The ordinance says “Each Communication to voters related to a City of McMinnville Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication.” For Independent Expenditures providing a campaign communication in City candidate elections:

For each of the largest five Dominant Independent Spenders paying to provide or present it, the communication must disclose:

- a. The name of the Individual or Entity providing the Independent Expenditure.
- b. The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the NAICS.

Any person or entity expending funds to produce communication related to a City of McMinnville candidate election must comply with the regulations set forth in Ordinance 5092.

I do not pay to use my social media accounts. Why do I need to disclose sources on these forms of communication?

The ordinance states that “Each Communication to voters related to a City of McMinnville Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication.” While you may not always directly pay social media companies to use their platforms, campaigns can still expend funds to maintain their social media accounts, such as paying campaign staff to maintain their accounts.

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