



City Council Meeting Agenda

Tuesday, January 10, 2023

6:00 p.m. – Work Session Meeting

7:00 p.m. – City Council Regular Meeting

EXECUTIVE SESSION – to immediately follow the Regular City Council Meeting (CLOSED TO THE PUBLIC)

REVISED 01/09/2023

Welcome! The public is strongly encouraged to participate remotely but there is seating at Civic Hall for those who are not able to participate remotely. However, if you are not feeling well, please stay home and take care of yourself.

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. on Monday, January 9th** to claudia.cisneros@mcminnvilleoregon.gov*
- *If appearing via telephone only please sign up prior by **12 p.m. on Monday, January 9th** 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 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 will need to provide your First and Last name, Address, and contact information (email or phone) to the City.***

You can live broadcast the City Council Meeting on cable channels Xfinity 11 and 331, Frontier 29 or webstream here:

mcm11.org/live

CITY COUNCIL WORK SESSION & REGULAR MEETING:

You may join online via Zoom Meeting:

<https://mcminnvilleoregon.zoom.us/j/88244587566?pwd=MHdhU3pqQld2VjdUbGxUOVQwaXhDdz09>

Zoom ID: 882 4458 7566

Zoom Password: 790322

Or you can call in and listen via zoom: 1-253- 215- 8782

ID: 882 4458 75664

6:00 PM – WORK SESSION MEETING – VIA ZOOM AND SEATING AT CIVIC HALL

1. CALL TO ORDER
2. PUBLIC WORKS ADMINISTRATION SPACE NEEDS ANALYSIS
3. ADJOURNMENT OF WORK SESSION

7:00 PM – REGULAR COUNCIL MEETING – VIA ZOOM AND SEATING AT CIVIC HALL

1. CALL TO ORDER & ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. OATH OF OFFICE –Councilor Sal Peralta, Councilor Zack Geary, and Councilor Jessica Payne.

4. ELECTION OF COUNCIL PRESIDENT

5. INVITATION TO COMMUNITY MEMBERS 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.

6. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
- b. Department Head Reports

7. CONSENT AGENDA

- a. Consider the request from Scenic Woods LLC. dba: Scariano for Winery Primary Location, OLCC Liquor License located at 707 NE 5th Street.
- b. Consider **Resolution No. 2023-01**: A Resolution Ratifying Billing Services Agreement with McMinnville Water and Light.
- c. Consider **Resolution No. 2023-02**: A Resolution establishing a role for the Affordable Housing Committee in conducting outreach and making recommendations to City Council for use of Affordable Housing Construction Excise Tax (AHCET) Funds.
- d. Consider the request from Jose’s Taquiera for Limited on-premises, OLCC Liquor License located at 1259 SW Booth Bend Rd. **(Added on 01.09.2023)**

8. RESOLUTION **REMOVED FROM AGENDA ON 01.09.2023**

- a. Consider **Resolution No. 2023-03**: A Resolution deciding on the appeal of the Planning Commission’s denial of a short-term rental permit for 790 NW 21st Street.

REMOVED

7. ADJOURNMENT OF REGULAR MEETING

EXECUTIVE SESSION- IMMEDIATELY FOLLOW THE CITY COUNCIL REGULAR MEETING - VIA ZOOM AND SEATING AT CIVIC HALL (NOT OPEN TO THE PUBLIC) (Added on 01.09.2023)

1. CALL TO ORDER

2. **Executive Session pursuant to ORS 192.660(2)(h)**: To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed..

3. ADJOURNMENT OF EXECUTIVE SESSION



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

STAFF REPORT

DATE: December 29, 2022
TO: Jeff Towery, City Manager
FROM: Anne Pagano, Public Works Director
SUBJECT: **Public Works Operations and Wastewater Administration Building Analysis, Project 2022-1**

Background:

In January 2022, the City of McMinnville issued a Request for Proposals (RFP) for consulting services to evaluate facility needs for Public Works Operations and the Water Reclamation Facility (WRF) Administration Building. Jacobs Engineering was selected for this project and the City Council authorized a professional services agreement on May 10, 2022.

Facility condition assessments were completed for the Public Works Operation site by Barrentine Bates Lee Architects in May 1994. The firm of EMG completed a condition assessment of the structures at each work site in 2018. This report builds on those assessments. The current project has three primary goals:

- 1) WRF Administration Building: Determine what is required to bring the existing building up to code to meet seismic requirements and address the needs of housing wastewater staff for the next 20 years. (The adopted *2009 Wastewater Services Financial Plan* calls for the addition/upgrade of the WRF Administration Building),
- 2) Public Works Operations, including Parks and Streets maintenance staff: Determine space and facility needs for the next 20 years, and
- 3) Former WWTP: Identify decommissioning alternatives, potential environmental issues and budgetary cost estimates for addressing the former WWTP site, the current WRF and the Public Works Operations facilities.

Jacobs Engineering Group from Corvallis was selected and signed a professional services contract for completion of the work following Council approval on May 10, 2022 (Resolution 2022-30). Jacobs is using a phased delivery approach based on site visits, staff interviews and interactive virtual workshops with the City's project team. Key project phases include:

- Site and Facility Analyses,
- Space Planning and Programming,

- Alternatives Development, and
- Recommendations and Reporting.

Jacobs expects to deliver a final report detailing recommended alternatives and planning level cost estimates in May 2023.

Discussion:

Since beginning work on the project, Jacobs has facilitated six virtual workshops. Work completed to date includes site analyses related to land use planning and regulation, facility analyses based on site visits and previous condition studies, and space planning and programming that included staff interviews and an analysis of workflow and function. One workshop discussed the decommissioning of the former WWTP. The Jacobs team is now focused on developing alternatives.

The site planning work established property boundary conditions, natural features and site constraints that could affect development or redevelopment of the sites. The current Operations site off Riverside Drive is constrained on three sides by natural features and BPA electrical infrastructure. The WRF site has more open space but is outside the urban growth boundary and City limits on land zoned for exclusive farm use, making additional development more complicated.

The space planning work includes consideration of staffing, work functions, interdependencies, facility needs and space programming. The goal of the process was to identify facility needs based on current and anticipated future staffing levels and job functions. The findings indicate that the current WRF Administration Building is too small to accommodate office, shop, and shared employee spaces (lockers, showers, lunchroom), control room and IT spaces. Similarly Public Works Operations facilities are too small for shared spaces, secure storage, conferencing/training, and maintenance shop.

Jacobs also completed an assessment of existing facilities to determine whether future use, repair or replacement is recommended. This work included reviewing record drawings and previously completed condition reports, completing site visits and walk-throughs, and hearing from staff about the facility conditions relative to their work functions.

Results for the Public Works Operations campus indicate that staff facilities are inadequate. The campus water system needs to be replaced, the campus needs backup power, better site security, and the operations office building needs to be replaced due to active roof and wall leaks, dry rot throughout the structure and failing HVAC equipment. Other buildings need various levels of repair and alterations to meet current and future needs.

The similar assessment for the WRF Administration Building found that the building is structurally sound but would need seismic upgrades to meet current code. Additionally, the HVAC and water systems need to be updated, a new secure operator room and secure IT/server space are needed, additional records, equipment and parts storage is needed, and staff facilities are inadequate. The laboratory is generally in good condition.

Evaluation of the former WWTP off Riverside Drive found that the site presents a hazard and a liability in its current condition, but that demolition will be complicated and costly. Active overhead and underground utilities crisscross the site and due to the age of the structures it is likely that lead-based paints, asbestos and other hazardous building materials are present. While the site could be redeveloped, the current structures cannot be repurposed and would need to be removed for redevelopment to occur. Site security and safety are concerns, and

additional plans to address site security will be included in the alternative development portion of the work.

At staff's request, Jacobs also briefly evaluated co-locating Public Works Operations at the nearby McMinnville Water & Light property. However, the space needs for a new Operations campus are roughly 4 acres and currently undeveloped land on the Water & Light parcel is roughly 3 acres. While consolidation of operations by Water & Light to create additional space for Public Works is possible, it was felt that both organizations would be constrained on a combined site and differences in scope and scale of the work made shared facility spaces unworkable.

Jacobs kicked off the alternative development portion of the project in November with a workshop to identify preliminary concepts for further development. Four concepts were presented and discussed:

- Co-locate WRF Administration staff and Public Works staff at the current Operations site using new and renovated facilities,
- Co-locate WRF and Operations staff at the WRF site using new and renovated facilities,
- Renovate the existing WRF Administration Building and add new buildings as needed for WRF functions, and
- Replace and/or renovate facilities at the Public Works Operations site as needed for Public Works Operations functions.

The Jacobs and City team evaluated these concepts based on seven criteria that represent the City's values and priorities. These criteria were:

- footprint flexibility
- access and circulation
- location centrality
- land use and permitting
- phasing
- flexibility of end use, and
- cost advantages.

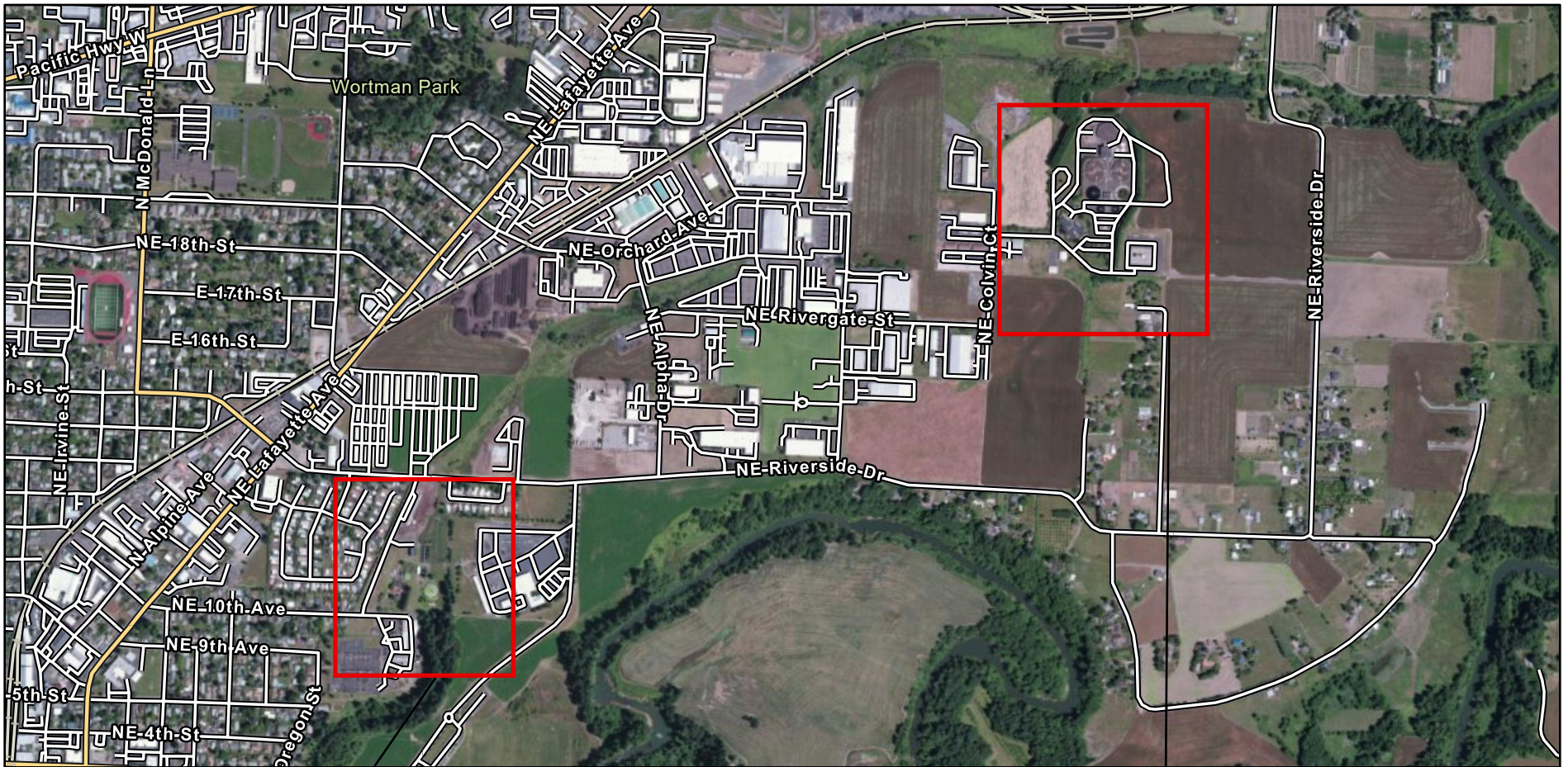
Jacobs and City staff independently scored the concepts, then met to compare and finalize the results. The team decided to eliminate co-locating WRF and Public Works at the current Public Works Operations site from further consideration. The existing Public Works Operations site is too constrained for both Operations and WRF staff functions, and wastewater staff need to be closer to the WRF. The remaining three concepts will be developed into preliminary alternatives in a future workshop, then further evaluated and ranked.

Next Steps:

Preliminary and final alternatives that address the facility needs of both Public Works Operations and Wastewater Services staff will be developed and evaluated. Draft and final reports documenting the final alternatives, with cost estimates, and presenting a recommended alternative from Jacobs will be prepared for the city in the spring of 2023.

Attachments:

Aerial figure identifying the WRF and Public Works Operations properties.



- Dog Park
- Former WWTP
- MW&L Headquarters
- Public Works Operations



WRF
Administration
Building



Public Works Operations and Wastewater Administration Building Analysis

City of McMinnville

January 10, 2023

JACOBS

Tonight's Agenda

1. Project Background
2. Project Objectives
3. Process and Workflow
4. Site Planning Overview
5. Space Planning Results
6. Existing Facilities Analysis
7. Wastewater Decommissioning
8. Alternative Development
9. Next Steps and Discussion



Project Background

- This is a “planning and evaluation project.”
- The purpose is to evaluate the City’s facility and space needs for present and future operations.
- The project focuses on the Public Works Operations campus, the Wastewater Administration building, and the old WWTP site.
- It builds on previous work:

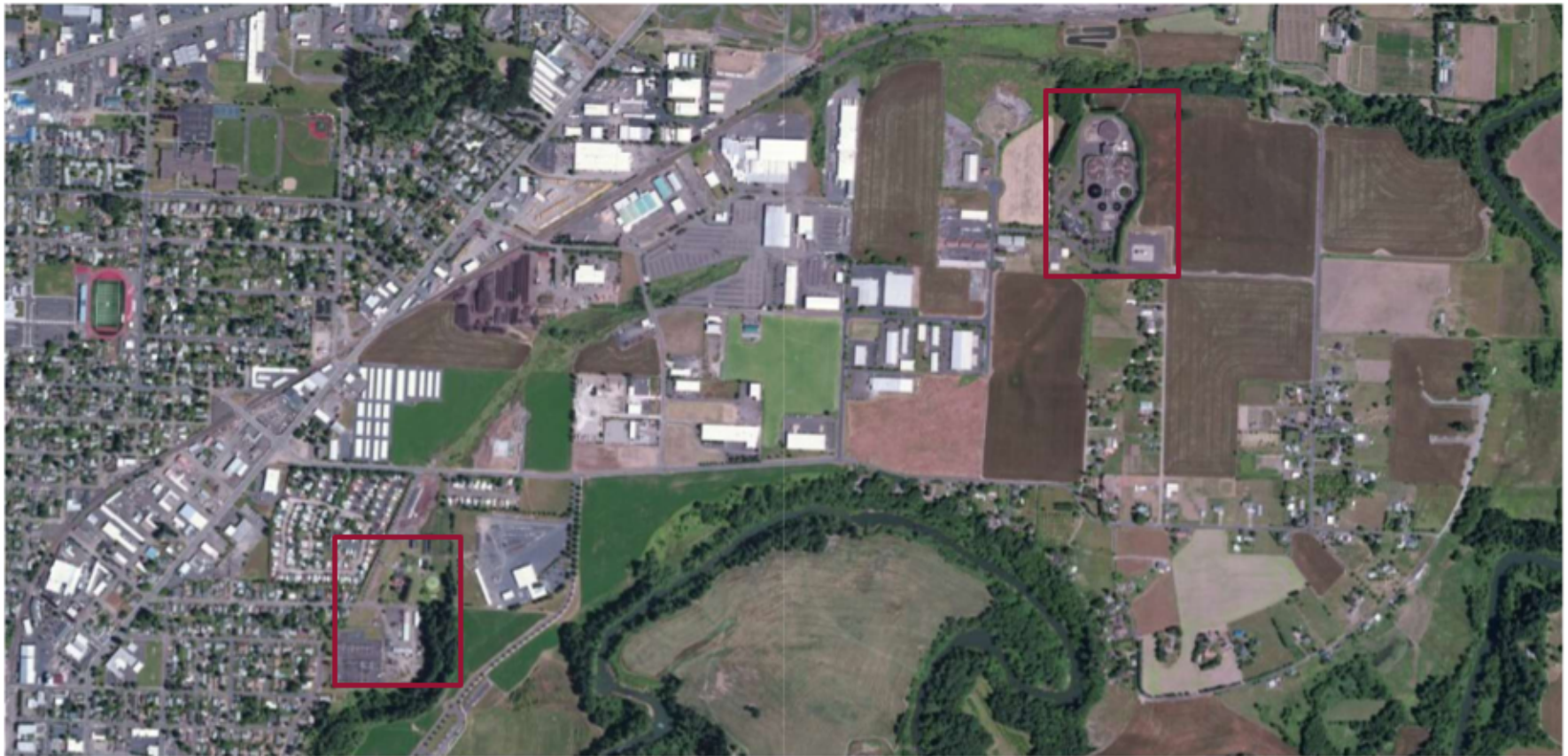
2018 Facility Condition Assessment of both Public Works Operations and WRF buildings done by EMG from Owings Mills, MD.



Public Works Operations and Wastewater Administration Building Analysis

JACOBS

Project Background



Public Works Operations and Wastewater Administration Building Analysis

JACOBS

Project Objectives

1. Determine what is required to bring the WRF Administration Building up to code to meet current seismic requirements and to address the needs of housing the wastewater staff for the next 20 years.
2. Determine the space and facility needs for Public Works (PW) Operations staff for the next 20 years and develop a recommendation for addressing those needs.
3. Evaluate requirements and cost for demolition of the old wastewater treatment plant (WWTP) adjacent to PW Operations facilities.
4. Evaluate the feasibility and comparative benefits of combining sites versus maintaining separate sites and facilities.

Public Works Operations and Wastewater Administration Building Analysis

JACOBS

Project Process and Workflow

- Schedule: 11 months from start to finish
- Stepwise process: discovery, site analysis, space planning, facility evaluation, alternative development and evaluation
- Workshop-based to maximize participation and minimize paper.
- Outcomes:
 - ✓ Identify alternatives that meet the City's objectives
 - ✓ Provide planning level cost estimates
 - ✓ Identify a preferred alternative
 - ✓ Develop a recommended approach to implementation.

Public Works Operations and Wastewater Administration Building Analysis

JACOBS

Site Planning Results

The Water Reclamation Facility (WRF) site is outside the city boundary and UGB on city-owned property in Yamhill County.

The operations site is constrained on two sides by wetland and floodway and on the west by electric substations. To the north is the former WWTP site and the Riverside Dog Park.

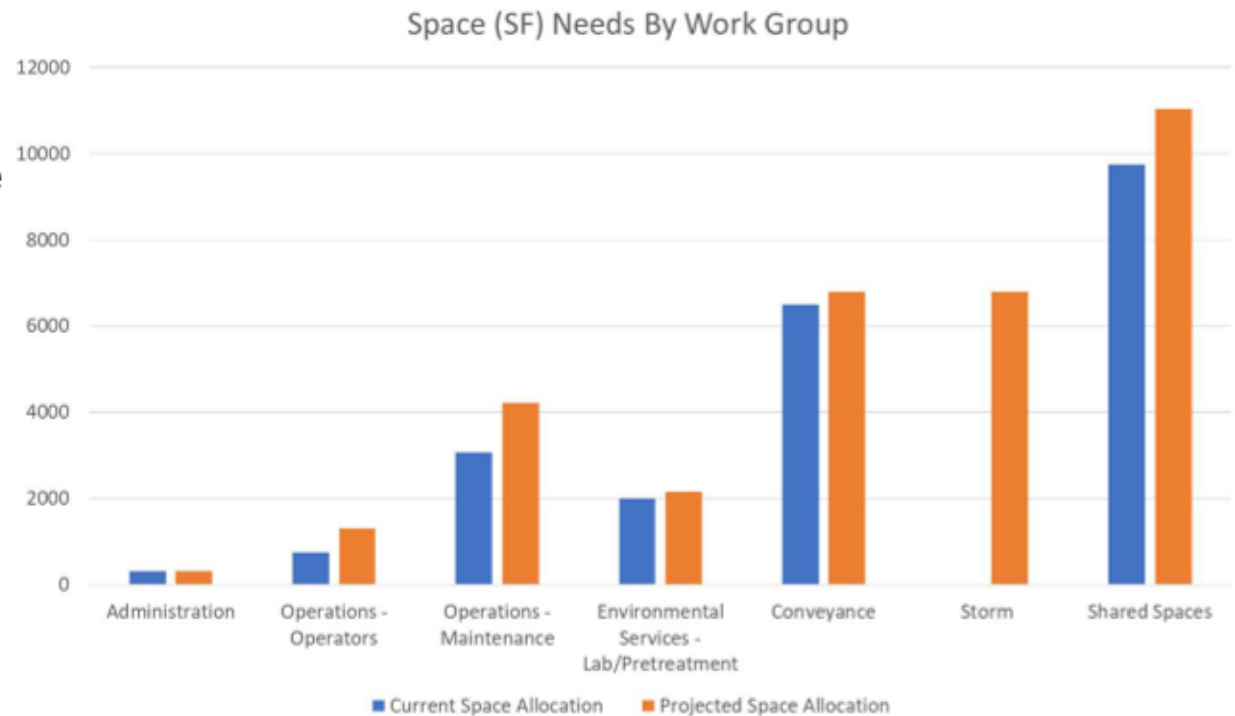
Available Water & Light Property is too small to accommodate PW Operations.



Space Planning Results at the WRF

Additional space needs are primarily for:

- Secure operator room
- Maintenance Shop space
- Shared staff spaces (lockers, showers, mud room, dry room)
- Space for new workgroup



*Current Space Allocation refers to the present condition.

Space Planning Results at PW Operations

Current facility is too small for most of the functions.

Additional space needs are:

- Maintenance Shop
- Secure storage for vehicles, equipment and materials
- Shared staff spaces (lockers, showers, mud room, dry room)
- Group spaces (conference rooms, hoteling space)



*Current Space Allocation refers to the present condition.

Existing Facilities: WRF Admin Building

- Building is structurally sound but will likely need seismic reinforcement.
- Building design allows for renovation and repurposing of spaces.
- HVAC and water systems need to be updated.
- Need dedicated secure operator space.
- Staff facilities (wet/dry/lockers) are inadequate.
- Meeting/training spaces are inadequate.
- Laboratory is generally in good condition.
- Need storage in general; could use more secure storage.



Existing Facilities: PW Operations Campus

- Administration Building needs to be replaced.
- Campus water system needs to be replaced.
- Campus needs a backup power supply.
- Staff facilities (wet/dry/lockers/restrooms) are inadequate for current and future staffing.
- Meeting and training spaces are inadequate.
- Storage buildings (pole barns) need repairs to remain in use and serve current needs.
- More secure storage is needed throughout.
- Increased security measures are needed.



Public Works Operations and Wastewater Administration Building Analysis

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Existing Facilities: Former WWTP Site



Public Works Operations and Wastewater Administration Building Analysis

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Added on 01.12.2023
12 of 19

Amended on 01.12.2023
18 of 288

Summary of Findings – Former WWTP Site

1. Substantial hazard and risk as a partially secured attractive nuisance.
2. Cost for complete removal is significant.
3. Partial removal is a viable alternative.
4. A lower cost security alternative can mitigate risk while buying time for remediation and removal
5. Opportunities exist for sequencing the work to meet redevelopment needs.
6. Existing piping, powerlines and facilities need to be protected and stay active.



Alternative Concepts (Starting Point)

The RFP asked us to consider conceptual alternatives that:

1. Co-locate wastewater and operations staff at the PW Ops site using new and renovated facilities
2. Co-locate wastewater and operations staff at the WRF site using new and renovated facilities
3. Renovate the existing WRF Admin building and add new buildings as needed for WRF functions
4. Replace and/or renovate facilities at the PW Ops site as needed for PW Ops functions



Public Works Operations and Wastewater Administration Building Analysis

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Alternative Concepts (as of today)

1. Renovate the existing WRF Admin building and add new buildings as needed for all wastewater functions
2. Replace and/or renovate facilities at the PW Operations site as needed for all PW Operations functions
3. Co-locate WRF and PW staff at the WRF site using new and renovated facilities
 - Separate facilities
 - Shared facilities



Public Works Operations and Wastewater Administration Building Analysis

JACOBS

Concepts for the Public Works Operations Campus



Public Works Operations and Wastewater Administration Building Analysis



Concepts for the Wastewater Campus



Public Works Operations and Wastewater Administration Building Analysis

JACOBS

Moving PW Operations to the WRF site



Public Works Operations and Wastewater Administration Building Analysis

Next Steps and Discussion

Alternatives Development Workshop on January 18.

Alternatives Analysis Workshop on February 22.

Identification of final alternatives by March 1.

Cost estimating of final alternatives in March.

Draft Report in May and Final Report in June.

Questions about the process or our findings to date?

Questions about the alternatives development?



January 10, 2023

STATE OF OREGON)
County of Yamhill) ss. OATH OF OFFICE
City of McMinnville)

I, **SAL PERALTA**, do solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of Oregon, and that I will, to the best of my ability, perform the duties of the office of **Councilor**, of the City of McMinnville during my continuance therein, so help me God.

Sal Peralta

Subscribed and sworn to before me this 10thth day of January, 2023.

Arnold Poole, Municipal Court Judge



January 10, 2023

STATE OF OREGON)
County of Yamhill) ss. OATH OF OFFICE
City of McMinnville)

I, **ZACK GEARY**, do solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of Oregon, and that I will, to the best of my ability, perform the duties of the office of **Councilor**, of the City of McMinnville during my continuance therein, so help me God.

Zack Geary

Subscribed and sworn to before me this 10thth day of January, 2023.

Arnold Poole, Municipal Court Judge



January 10, 2023

STATE OF OREGON)
County of Yamhill) ss. OATH OF OFFICE
City of McMinnville)

I, **JESSICA PAYNE**, do solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of Oregon, and that I will, to the best of my ability, perform the duties of the office of **Councilor**, of the City of McMinnville during my continuance therein, so help me God.

Jessica Payne

Subscribed and sworn to before me this 10thth day of January, 2023.

Arnold Poole, Municipal Court Judge

Federal Railroad Administration

Oregon Gov

White noise - Quiet Zone

remove the requirement for ~~train~~ RR Engineers to sound a horn or whistle at public railroad/road crossings.

The engineers would still be authorized to sound the horn in instances where they considered it an emergency

Submit an application to the FRA, the FRA will then work with the Road Authority and put together a diagnostic team to decide what improvements (if any) are required @ each crossing

The Government Agency requesting the Quiet Zone is responsible for funding any improvements required

- | | | | | | |
|---|--------------------|----|-------------------------|----|---------------|
| 1 | Davis & Booth Best | 6 | 3rd | 11 | Lafayette Ave |
| 2 | Davis (Lintheld) | 7 | 5th | 12 | Orchard |
| 3 | Stoley | 8 | 8th | | |
| 4 | 1st | 9 | 13th | | |
| 5 | 2nd | 10 | 11 th Daniel | | |

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Scenic Woods LLC. dba: Scariano
BUSINESS LOCATION ADDRESS: 707 NE 5th Street
LIQUOR LICENSE TYPE: Winery Primary 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: N/A
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

LIQUOR LICENSE APPLICATION

Page 1 of 4

Check the appropriate license request option:

[New Outlet](#) | [Change of Ownership](#) | [Greater Privilege](#) | [Lesser Privilege](#) | [Additional Privilege](#)

Select the license type you are applying for.

More information about all license types is available [online](#)

Full On Premises

- Commercial
- Caterer
- Public Passenger Carrier
- Other Public Location
- For Profit Private Club
- Nonprofit Private Club

Winery

- Primary location
- Additional locations: 2nd 3rd 4th 5th

Brewery

- Primary location
- Additional locations: 2nd 3rd

Brewery Public House

- Primary location
- Additional locations: 2nd 3rd

Grocer Sales Privilege

- Primary location
- Additional locations: 2nd 3rd

Distillery

- Primary location
- Additional tasting locations: 2nd 3rd 4th 5th 6th

- Limited On Premises
- Off Premises
- Warehouse
- Wholesale Malt Beverage and Wine

INTERNAL USE ONLY

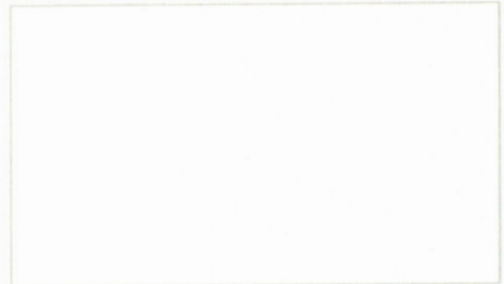
Local Governing Body: After providing your recommendation, return this application to the applicant.

LOCAL GOVERNING BODY USE ONLY

City/County name.

City of Medford

Optional: Date Stamp *12/29/2022*



- Recommend this license be granted
- Recommend this license be denied

Printed Name

Date

Chad M. Gray
chad.gray@oregon.gov



STAFF REPORT

DATE: January 10, 2023
TO: Mayor and City Councilors
FROM: Jennifer Cuellar, Finance Director
SUBJECT: Billing Services Agreement with McMinnville Water and Light

Strategic Priority and Goal:



CITY GOVERNMENT CAPACITY

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

Report in Brief

One requirement of Ordinance 5123 authorizing the city services charge is to enter into a billing services agreement with McMinnville Water and Light (MWL). A resolution ratifying the agreement is before Council for its consideration.

Billing Services Agreement

The intent of the billing services agreement is to establish basic operating norms between MWL and city staff and their respective business processes. It also establishes an amount that the city will reimburse MWL for the cost not only of providing billing services for the city services charge (estimated annual total of \$139,000) but also for the cost associated with providing the same services for the wastewater utility (estimated annual total \$147,000). See exhibit A of the agreement (attached) for details on the direct and estimated staffing costs to be reimbursed through the agreement.

As you may recall, one theme that has come up in the discussion of the city services charge is the city's commitment to reimburse MWL for the costs associated with adding this charge to utility bills as well as its ongoing support costs. This agreement addresses that and also identifies the cost associated with the billing program for the wastewater utility as well.

At the six-month mark, city and MWL staff will get together to review whether the estimated costs noted above are set at an appropriate level or whether any adjustments to the reimbursement amount is merited. Annual review of the cost basis will be the norm going forward.

The attached resolution ratifies the authority of the City Manager to have entered into this agreement.

Council Action options and Fiscal Impact

Approve the resolution ratifying the agreement (staff recommendation)

This action will enable the City to collect the new city services charge as well as provide a methodology for reimbursing MWL for the cost of running the billing services component of that program as well as the billing services costs for the wastewater utility. This will allow for the new revenue stream to come online to support general fund services - police, fire, library, parks and recreation, planning, support services and the physical infrastructure of these municipal services - at approximately \$2.2 million per year and an estimated \$1.6 million in the current fiscal year. The total annual cost will be approximately \$139,000 for the general fund and \$147,000 for the wastewater services fund.

Do not approve the resolution ratifying the agreement

This action will mean that the City will cease collecting the new city services charge as a billing agreement is a requirement of Ordinance 5123. This would require a FY23 budget adjustment to address the impact of these revenues being removed from the general fund operating budget and would reduce the revenue projections available for general fund services in FY24 and beyond. While this action would also remove the costs associated with the billing programs for city services charge and the wastewater utility, it is foreseeable that the city would need to find a methodology for reimbursing MWL for the costs of wastewater billing services at a level similar to the cost estimate in the agreement in an alternative manner.

Attachments

- A. Resolution 2023-01
- B. Billing Services Agreement (signed)

RESOLUTION NO. 2023-01

A RESOLUTION RATIFYING BILLING SERVICES AGREEMENT WITH
MCMINNVILLE WATER AND LIGHT

WHEREAS, the City Council of the City of McMinnville, adopted Ordinance 5123 on September 13, 2022, establishing a City Services Charge to add sustainable resources for city services supported by the General Fund; and

WHEREAS, Section 7(E) of Ordinance No. 5123 establishes that the City and McMinnville Water and Light should enter into a billing services agreement,

WHEREAS, the City Manager on behalf of the City and the Mayor on behalf of the McMinnville Water and Light Commission signed the billing services agreement in December of 2022,

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MCMINNVILLE, OREGON AS FOLLOWS:

1. The City Council hereby ratifies the authority of the city manager to enter into this agreement.
2. This resolution will take effect immediately upon passage and shall continue in full force and effect until revoked, replaced or modified.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 10th day of January 2023 by the following votes:

Ayes: Geary, Garvin, Menke, Chenoweth, Payne

Nays: _____

Approved this 10th day of January 2023.



MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

BILLING SERVICES AGREEMENT

This billing services agreement ("Agreement") is entered by into and between the City of McMinnville, a municipal corporation of the State of Oregon (the "City") and the Water and Light Commission of the City of McMinnville ("MW&L"), collectively known as the "Parties".

RECITALS

- a. Whereas, MW&L currently bills wastewater service fees for the City; and
- b. Whereas, the City has adopted an Ordinance No. 5123 authorizing MW&L to perform the city-service-charge billing function under a billing service agreement, and has adopted a billing schedule for a city service charge ("CSC"); and
- c. Whereas, this Agreement is entered in order to authorize, under Ordinance 5123, a cooperative billing and payment process for fees and charges associated with the City's wastewater service fees, and a city service charge (collectively referred to as "City Charges"); and
- d. Whereas, the City acknowledges that MW&L will incur costs for the administration of the cooperative billing and payment process as generally described in **Exhibit A**; and
- e. Whereas, MW&L has contracted with a third-party billing vendor to integrate the City Charges into its customer service and billing system under parameters (assumptions) in part, as shown for illustration in **Exhibit B**; and
- f. Whereas, MW&L may adopt its own operating rules to integrate the City Charges into its customer information systems; and
- g. Whereas, such rules should reflect the cooperative nature of this Agreement;

NOW THEREFORE, the parties acknowledge as follows:

1. TERM

This Agreement will be effective when executed by both parties. The initial term of the Agreement will be one year. After the initial term either party may terminate this Agreement by providing 365 days' written notice of termination to the other party. Notwithstanding the initial term, this Agreement will terminate January 30, 2023, if the City Council does not ratify the authority of the city manager to enter this Agreement.

2. COSTS:

- a. Cost-based. The City acknowledges that MW&L will incur operating costs, as reasonably calculated by MW&L and approved by the City, for operation by MW&L staff, including administration of MW&L's third-party billing vendor (National Information Solutions Cooperative, Inc. {NISC}) to process the City Charges in the MW&L customer information system for billing and payment ("administrative costs"). Administrative costs will be deemed approved by the City unless the City objects to a charge within 60 days of the cost being retained by MW&L. City approval or objection may come from the City finance director, city manager, or their designee.
 - 1) Cost Review. After the first six months and at least annually thereafter, the

parties will meet and review the cost basis described in this section. As reasonably indicated, the parties will make changes to the cost basis set forth in this section and as illustrated in **Exhibit A**, or as otherwise determined.

- b. Keep Funds Separate. MW&L will retain funds for its actual administrative costs only, and will receive no City general fund or other City fund support for the Water and Light Department or its funds. In turn, under this Agreement the City will approve retention by MW&L of administrative costs in a manner and in such amounts that, in compliance with MW&L's rules and regulations, prevent an unauthorized transfer of water-fund or electric-fund resources to other funds of the City.
- c. Changing Costs. Vendor costs, including but not limited to software costs, mail costs, credit card fees, and other costs, will change on an ongoing monthly basis. With reasonable notice and City approval as part of the administrative costs, MW&L may change personnel costs to include, without being limited to, full-time-equivalent (FTE). The City acknowledges that MW&L will incur, on a monthly basis, costs for City Charges which are generally estimated for illustrative purposes in the attached **Exhibit A**.
- d. Setup. With reasonable notice, documentation, and approval, the City agrees that MW&L will retain billing system setup costs related to this Agreement as incurred on and after the summer of 2021. For illustrative purposes, billing system setup costs paid by the City to date, and an estimate of projected setup costs, are shown on the attached **Exhibit C**.
- e. Payment. MW&L will retain administrative costs incurred by MW&L as a monthly reduction from remittance to the City of those amounts collected by MW&L for City Charges.

3. BILLING PROCEDURE

- a. Generally. The Parties agree that with regard to timing (start-up; additions; changes) and operation of the MW&L customer information system, MW&L will be the billing agent for the City for the purposes of billing and payment processing of the City Charges (including but not limited to wastewater service fees) to customer accounts of the City. With reasonable notice of rate schedules to MW&L, City Charges will be reasonably processed consistent with a schedule adopted by the City, and with Commission rules and schedules (see "coordination" below), and not contrary to MW&L's agreement with its billing vendor (see **Exhibit B**).

1) The City will provide updated schedules for City Charges to MW&L. MW&L will provide reasonable information to the City to keep the City informed of MW&L bill and payment processing expressed in this Agreement. MW&L will consult with the City regarding future billing vendor contracts or amendments to the existing vendor contract that have an effect on the billing and payment process of City Charges.

2) While MW&L will respond to routine billing inquiries from customers regarding City Charges, the City will provide to MW&L City phone number(s) and contact information for any non-routine customer inquiries regarding City Charges that are beyond MW&L administration and/or which fall under express City authority under Ordinance No. 5123.

- b. Coordination of Systems and Schedules. MW&L will reasonably coordinate its billing system with the City rate schedules. It is anticipated that further refinements in billing processes may occur after passage of time provides data to utilize in refining procedures. Where there is a need to interpret a City rate schedule to coordinate with the MW&L billing system, the meaning of terms used will be based on MW&L service categories (water and electric). For example, MW&L will initially classify City residential CSC customers by a system using MW&L residential electric service categories (classes and devices). See **Exhibit B** for details. The parties will cooperate to identify and implement efficiencies in business processes, including but not limited to administration of City Charges.

4. GENERAL

- a. Notice. Any written notification required for this Agreement (or change of address) will be made to the following by first class U.S. mail or email.

If to MW&L: General Manager
P.O. Box 638
McMinnville, Oregon 97128
Email: jcd@mc-power.com

With courtesy copy to: General Counsel [same]
srj@mc-power.com

If to the City: City Manager
230 NE 1st Street
McMinnville, Oregon 97128
Jeff.Towery@mcminnvilleoregon.gov

With courtesy copy to: City Attorney
230 NE 1st Street
McMinnville, Oregon 97128

5. Entire Agreement - Amendment.

This Agreement supersedes and replaces all existing billing service agreements, if any, between the McMinnville Common Council and the Water and Light Commission of the City of McMinnville. This Agreement may be amended with the mutual agreement of the parties when necessary to accommodate changes in City practices or administrative needs of MW&L.

6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument. A facsimile or digital signature shall constitute an original signature for all purposes.

7. Authority. Each party represents that it has the legal authority to enter into this

Agreement. Costs to defend the legal authority to enter or operate this Agreement will be borne by the City or MW&L in a manner consistent with keeping City's and MW&L's funds separate and apart and in proportion to the respective fund's financial interests in the Agreement.

8. Insurance. Each party represents that it carries adequate insurance.

City of McMinnville

By: 
Jeff Towery, City Manager

DATE: 12-22-2022

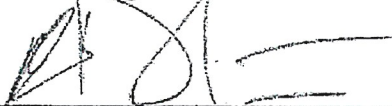
ATTEST


City Recorder

APPROVED AS TO FORM

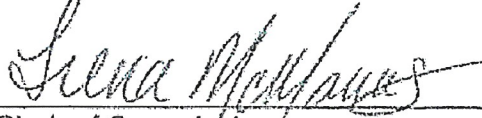

City Attorney

The Water and Light Commission of the City of McMinnville

By: 
Remy Drabkin, Mayor and Ex-officio Member
of the Water and Light Commission

DATE: 12/20/22

ATTEST:


Clerk of Commission

DATE: 12/20/22

EXHIBIT A

**FN1

Expense Description	Expense Type (Direct or Shared)	Sewer	CSC	Total	Additional Information
		Est Ave Monthly Amt Beginning Jan 2023	Est Ave Monthly Amt Beginning Jan 2023	Est Ave Monthly Amt Beginning Jan 2023	
NISC Software Charges	Shared & Direct	\$2,469	\$2,560	\$5,029	NISC software charges for Sewer & CSC utilities based on # agreements (11,277 Sewer & 14,500 CSC)
NISC Mail-Processing Fees	Shared	\$1,865	\$2,395	\$4,260	Printing and mailing of utility bills by NISC based on # agreements (11,277 Sewer & 14,500 CSC)
Monthly Credit Card Fees	Direct	\$1,347	\$225	\$1,572	Pro-rata credit card processing fees based on est Residential revenue split (E 60%, W 15%, S 30%, CSC 5%)
Collection Fees	Direct	\$169	N/A	\$169	If Sewer (only) is sent to collection agencies. (Does not include CSC or other City Charges)
Customer Service Costs	Direct	\$5,459	\$5,459	\$10,918	Pay & benefits at top step for 1 Sr. CSR (Sewer & CSC = .5 FTE each). Covers workload above Electric & Water tasks
Accountant Costs	Direct	\$358	\$358	\$716	Pay & benefits for 10 hrs/mo at top step of Accountant position. Covers financial processing for Sewer & CSC remittance
Management Costs	Direct	\$582	\$582	\$1,164	10% of Cust Service and Accounting personnel costs. Covers mgmt, office supplies, comp hardware, copiers, etc.

*** Note on Cost Type**
 Direct costs are those above MWL's normal electric and water utility costs. Shared costs are those allocated between MWL and the City to recognize value received.

Sewer	CSC	Total
\$12,246	\$11,576	\$23,816
\$146,876	\$138,939	\$285,814

Estimated Average Monthly Totals
 Estimated Average Annual Totals

Examples of other Shared Costs not included are as follows:

- Portion of FTE for Mtr Readers (Sewer)
- Portion of Iron Mtr Rdn system (Sewer)
- Portion of Mtr Reading vehicles (Sewer)
- Portion of FTE for Billing (Sewer and CSC)
- Portion of IT personnel (Sewer and CSC)
- Portion of IT hardware (Sewer and CSC)
- Portion of deprec., utilities, copiers, office supplies, etc (Sewer and CSC)

**FN1. [FN to "Additional Information, column 6] "NISC and other vendor methodology may change as applied to this Agreement after the effective date of this Agreement."

EXHIBIT B

The text below is an excerpt from the statement of work between MW&L and its billing vendor for the billing system set up as described in this MOU. The excerpt provides for three categories of billing "devices" for the CSC (Low Income; Multi-Family; and Standard). As an example, the "multi-family residential" "device" is defined with MW&L categories as residences that have an electric meter service, but no water meter. After initial billing system set up, apartments served by an electric meter without an individual water meter will be identified as "multi-family residential". However, a mobile home, served by both electric and water meter, will be identified as standard residential. Individual account adjustments may be required, after initial set up, and after the billing system is in operation.

[EXCERPT FROM STATEMENT OF WORK]

Assumptions

- Data will be migrated from IVUE Service updating records to a created Provider within the IVUE Service module.
 - Data migrated includes the following content:
 - Active Service Agreements for Residential Electric Rate 40 (inside city limits) will be selected to create City Service Charge Service Agreements. Device Services will be created within this residential category for Low Income, Multi-Family, and Residential services as follows:
 - Low Income Residential: Active Rate Code 40 services that have received assistance within the last 2 years.
 - Multi-Family Residential: Active Rate Code 40 services that just have an electric meter (no water meter or sewer service).
 - Standard Residential: Active Rate Code 40 services that do not qualify as Low Income or Multi-Family as defined above.
 - NOTE: If an active Rate Code 40 service qualifies for both Low Income and Multi-Family, the Low-Income classification will apply.
 - General Service Water Active Service Agreements with Inside-City Rate Schedules 73, 73B, 74, 75, 75A, or 75B will be selected to create City Service Charge Service Agreements. Device Service will be created within this category for specific Device Types per Water Meter Size.
 - Attributes will either be copied from the originating records or assigned programmatically based on Member/MSIS input as needed.

EXHIBIT C
(Set Up Costs)

Invoice Date	Expense Description	Invoice Amount	Invoice Status	Additional Information
2/14/22	MWL Labor Invoice #1	\$6,566	Paid	MWL staff pay and benefits for City Service Charge Implementation - Sep 2021 to Jan 2022 (54.0 hrs)
8/15/22	MWL Labor Invoice #2	\$3,670	Paid	MWL staff pay and benefits for City Service Charge Implementation - Feb to Jun 2022 (31.8 hours)
10/18/22	NISC Bill Redesign	\$9,000	Paid	NISC utility bill redesign to separate MWL and City charges.
11/7/22	MWL Labor Invoice #3	\$6,932	Paid	MWL staff pay and benefits for City Service Charge Implementation - Jul to Sep 2022 (55.3 hours)
TBD	MWL Labor Invoice #4 (Estimated)	\$10,850	n/a	MWL staff pay and benefits for CSC Implementation (higher hours for validation) - Oct to Dec 2022 (estimate 100 hours)
TBD	NISC City Service Charge Programming & Implementation (Contract Amount)	\$14,500	n/a	NISC charges for setup and programming of the new City Service Charge in the utility and GL systems. - To be billed when invoiced by NISC

Total Actual Invoices Paid to Date:	\$26,066
Total Estimated Invoices to be Billed/Paid:	<u>\$25,350</u>
Total Estimated CSC Implementation Cost:	<u>\$51,418</u>



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

STAFF REPORT

DATE: January 10, 2023
TO: Mayor and City Councilors
FROM: Tom Schauer, Senior Planner
SUBJECT: Resolution No. 2023-02, establishing a role for the Affordable Housing Committee in conducting outreach and making recommendations to City Council for use of Affordable Housing Construction Excise Tax funds

STRATEGIC PRIORITY & GOAL:



ENGAGEMENT & INCLUSION

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

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

Report in Brief:

This is the consideration of Resolution No. 2023-02, a resolution establishing a role for the Affordable Housing Committee in conducting outreach and making recommendations to City Council for use of Affordable Housing Construction Excise Tax (AHCET) funds.

Background:

In 2021, the by-laws governing the Affordable Housing Committee (AHC) were codified into the Municipal Code when the AHC became a permanent committee. The provisions which state the purpose, responsibilities, and powers of the Affordable Housing Committee are excerpted below.

2.31.010 Purpose.

The purpose of the McMinnville affordable housing committee is to review and recommend to the council policies and/or amendments to current zoning ordinances, building division review processes, system development charge fees, street standards and other governmental policies that encourage increased access to and construction of housing for citizens earning 120 percent or less of McMinnville's median income as defined by the U.S. Department of Housing and Urban Development. (Ord. 5100 §1 (Exh. A), 2021).

2.31.020 Responsibilities and Power.

- A. The affordable housing committee shall advise and make recommendations to the city council consistent with its purpose.
- B. In coordination with the city council, the affordable housing committee shall review its action plan annually and amend as warranted.
- C. The affordable housing committee shall coordinate its activities with other jurisdictions and organizations as appropriate.
- D. The affordable housing committee shall perform such other tasks as may be requested by the city council. (Ord. 5100 §1 (Exh. A), 2021).

On April 26, 2022, the City Council adopted Ordinance 5112, establishing an Affordable Housing Construction Excise Tax (AHCET), which went into effect on July 1, 2022. As revenues are generated from the CET, it will be necessary to evaluate needs and priorities for use of the funds, and to make decisions regarding expenditures of the AHCET funds.

Discussion:

As described above, it is within the Affordable Housing Committee's (AHC's) scope, purpose, and powers to recommend policies that encourage increased access to and construction of affordable housing, to advise and make recommendations to the city council consistent with the AHC's purpose, and to perform such other tasks as may be requested by the city council.

Accordingly, the Affordable Housing Committee is well-positioned to conduct outreach and make recommendations to City Council regarding needs and priorities for use of CET funds, to recommend methods and criteria for allocating, determining, and awarding use of CET funds, and to subsequently participate in review and recommendations of projects and activities seeking use of CET funds.

Examples of outreach and recommendations the AHC can provide related to use of CET funds may include, but are not limited to, the following:

- Conduct community and stakeholder outreach to assess needs and priorities for use of CET funds and identify potential projects and activities expected to be seeking funding.
- Initially and periodically review CET fund availability and forecasts to assess short-term (1-year) and longer-term (3 to 5-year) funding availability to help evaluate what share of funds should be used in the short-term vs. carried over to longer-term to have the most significant impact to increase the supply of affordable housing and leverage other funds.
- Recommend methods for determining use and awards of CET funds, which may include recommended funding allocations, criteria, use of competitive RFPs, and respective evaluation criteria.
- Participate in the review, evaluation, and scoring of proposals for use of CET funds, with recommendations to City Council.

At their November 23, 2022 meeting, the Affordable Housing Committee voted to recommend preparation of a resolution for City Council establishing and confirming this role of the Affordable Housing Committee pertaining to the Affordable Housing Construction Excise Tax.

Attachments:

Resolution No. 2023-02

Fiscal Impact:

There is no anticipated fiscal impact to the City of McMinnville with this decision to establish this role for the Affordable Housing Committee.

Recommendation/Suggested Motion:

"I MOVE TO APPROVE RESOLUTION NO. 2023-02 ESTABLISHING A ROLE FOR THE AFFORDABLE HOUSING COMMITTEE IN CONDUCTING OUTREACH AND MAKING RECOMMENDATIONS TO CITY COUNCIL REGARDING THE USE OF AFFORDABLE HOUSING CONSTRUCTION EXCISE TAX (AHCET) FUNDS."

RESOLUTION NO. 2023 - 02

A Resolution establishing a role for the Affordable Housing Committee in conducting outreach and making recommendations to City Council for use of Affordable Housing Construction Excise Tax (AHCET) Funds.

RECITALS:

Whereas, it is within the Affordable Housing Committee's (AHC's) scope, purpose, and powers to recommend policies that encourage increased access to and construction of affordable housing, to advise and make recommendations to the City Council consistent with the AHC's purpose, and to perform such other tasks as may be requested by the City Council.

Whereas, the purpose of the Affordable Housing Committee includes addressing increased access to and construction of housing for citizens earning 120 percent or less of McMinnville's median income; and

Whereas, on April 26, 2022, the City Council adopted Ordinance 5112 establishing an Affordable Housing Construction Excise Tax (AHCET) to address affordable housing needs for citizens earning 80 percent or less of McMinnville's median income; and

Whereas, the Affordable Housing Committee is well-positioned to conduct outreach and make recommendations to City Council regarding needs and priorities for use of CET funds, to recommend methods and criteria for allocating, determining, and awarding use of CET funds, and to subsequently participate in review and recommendations of projects and activities seeking use of CET funds.

Whereas, at the November 23, 2022 meeting of the Affordable Housing Committee, the Committee voted to recommend a resolution establishing their role in conducting outreach and making recommendations to City Council regarding the Affordable Housing Construction Excise Tax.

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

1. The City Council hereby establishes a role for the Affordable Housing Committee regarding use of Affordable Housing Construction Excise Tax (CET) Funds. This role may include, but is not limited to, the following: conducting outreach and making recommendations to City Council regarding needs and priorities for use of CET funds, recommending methods and criteria for allocating, determining, and awarding use of CET funds, and subsequently participating in review and recommendations of projects and activities seeking use of CET funds.
2. This Resolution will take effect January 10, 2023.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 10th day of January 2023 by the following votes:

Ayes: _____ Geary, Garvin, Menke, Chenoweth, Payne _____

Nays: _____

Approved this 10th day of January 2023.



MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder



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

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Jose's Taquiera
 BUSINESS LOCATION ADDRESS: 1259 SW Booth Bend Rd
 LIQUOR LICENSE TYPE: Limited on-premises

Is the business at this location currently licensed by OLCC

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

Hours of operation: Sunday – Saturday 10:30 am to 9:00 pm
 Entertainment: N/A
 Hours of Music: N/A
 Seating Count: 48 total

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

Check the appropriate license request option:

- New Outlet** | **Change of Ownership** | **Greater Privilege** | **Lesser Privilege**

Select the license type you are applying for.

More information about all license types is available [online](#).

Full On-Premises

- Commercial
- Caterer
- Public Passenger Carrier
- Other Public Location
- For Profit Private Club
- Nonprofit Private Club

Winery

- Primary location
- Additional locations: 2nd 3rd 4th 5th

Brewery

- Primary location
- Additional locations: 2nd 3rd

Brewery-Public House

- Primary location
- Additional locations: 2nd 3rd

Grower Sales Privilege

- Primary location
- Additional locations: 2nd 3rd

Distillery

- Primary location
- Additional tasting locations: 2nd 3rd 4th 5th 6th

Limited On-Premises

- Off Premises
- Warehouse
- Wholesale Malt Beverage and Wine

INTERNAL USE ONLY

Application received: 10/18/22

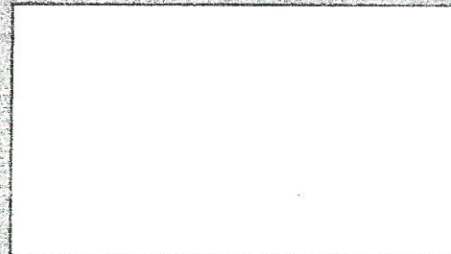
Minimum documents acquired: 10/18/22

LOCAL GOVERNING BODY USE ONLY

City/County name:

Date application received: 1/16/2023

Optional: Date Stamp



- Recommend this license be granted
- Recommend this license be denied

Printed Name

Date

Return this form to:

Investigator name: L Tompkins

Email: lysa.tompkins@oregon.gov



CITY OF MCMINNVILLE
COMMUNITY DEVELOPMENT DEPARTMENT
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: January 10, 2023
TO: Mayor and City Councilors
FROM: Heather Richards, Community Development Director
SUBJECT: Ordinance No. 5128, Appeal of a Planning Commission Denial for a Short-Term Rental Permit, STR 7-22, 790 NW 21st Street, Tax Lot R4417-AC-02344

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

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

Report in Brief:

This is the consideration of an appeal of a Planning Commission denial for a short-term rental permit, STR 7-22, 790 NW 21st Street.

The City Council was conducted a public hearing on December 13, 2022, where they heard the basis for the Planning Commission denial, the appeal argument from the applicant and public testimony. The City Council closed the public hearing and kept the record open for a final argument from the appellant until January 10, 2023, 5:00 PM, based on the applicant's request.

Background:

Emily LaGow, the applicant, appealed the Planning Commission's decision to the City Council on October 21, 2022.

Per Section 17.72.180 of the McMinnville Municipal Code (MMC), if an appeal of a Planning Commission is filed within the appropriate period, the City Council shall receive a report and recommendation from the Planning Commission and shall hold a public hearing on the appeal.

17.72.180 Appeal from Ruling of Planning Commission. An action or ruling of the Planning Commission pursuant to this title may be appealed to the City Council within 15 (fifteen) calendar days of the date the written notice of the decision is mailed. Written notice of the appeal shall be filed with the City Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review

specifying that they were party to the initial proceedings. If the appeal is not taken within the 15 (fifteen) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. Notice of a City Council hearing on an appeal of a decision of the Planning Commission shall take the form of that provided for the initial application before the Planning Commission.

Emily LaGow submitted an application for a short-term rental permit at 790 NW 21st Street on June 10, 2022, prior to the short-term rental permit moratorium. While city staff was processing the application, the City received a complaint on July 4, 2022, that the property was already operating as a short-term rental prior to receiving a permit and that the property was advertised online as a short-term rental prior to receiving a short-term rental permit.

The City placed the property into its code enforcement program. If a business is operating without the proper permits, the City has the option to shut-down the business or allow the business to enter into a compliance plan with the City to abate the issue – in this case, that meant ceasing any operation as a short-term rental and going into a public hearing process for the short-term rental permit.

The applicant stated that the property was managed by ITrips and that the management company moved some clients who were renting another property in McMinnville as a short-term rental during the July 4th weekend to this property due to an air conditioning failure at the other property. This action then switched the property to a short-term rental status in their software programs and online. This issue arose due to the property management company accidentally listing the property for a short-term rental basis after it had to move guests from another nearby short-term rental to this property due to an emergency situation.

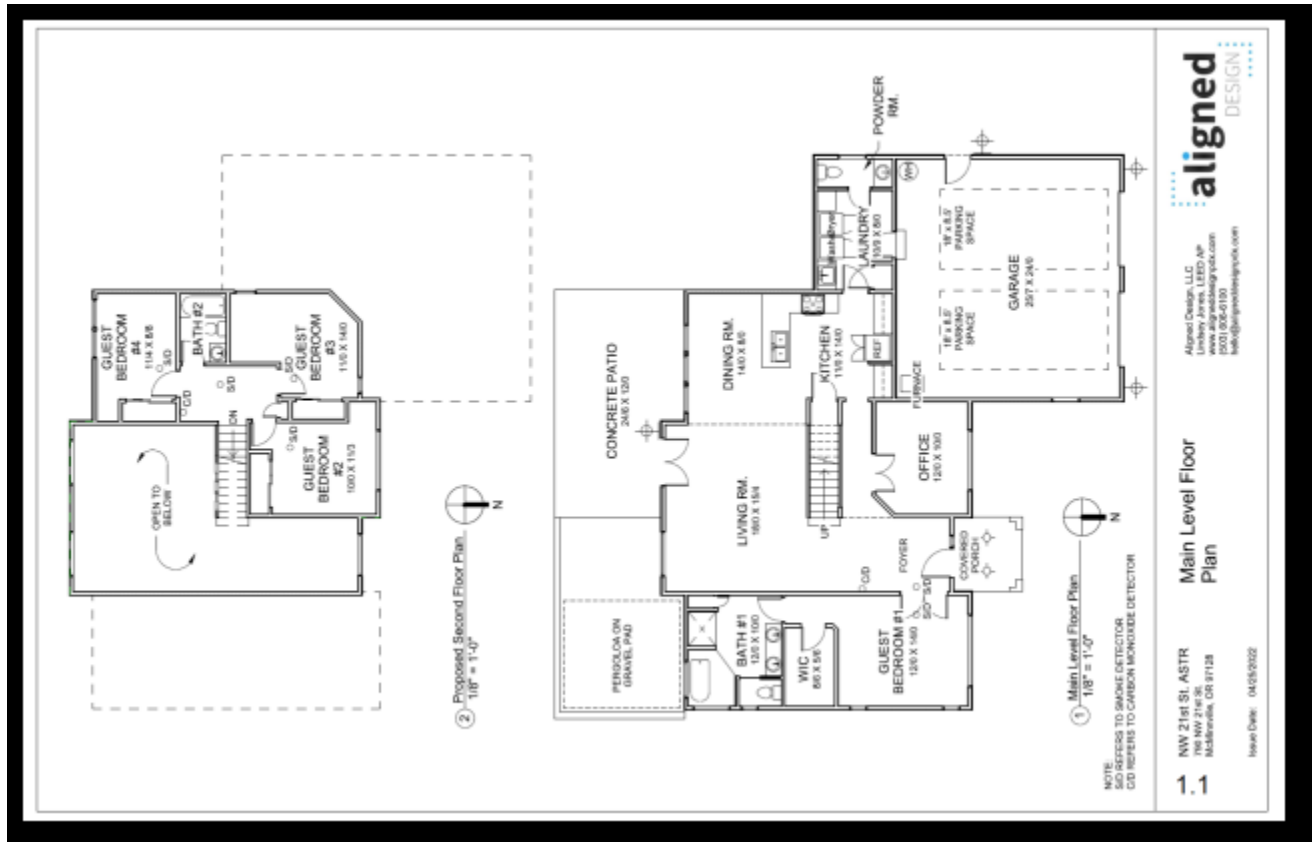
The Planning Commission hosted a public hearing on September 1, 2022. At that time they heard public testimony expressing concerns about the accuracy of the application submitted and what was represented online for the property, that resulted in a discrepancy of the data to support the review criteria. For example, the code requires one off-street parking space per guest room. The application represented the property as a four-bedroom short-term rental but the advertising online was for a five-bedroom property. The property can only accommodate four off-street parking spaces, and the surrounding residents were concerned about people parking on the street. Another concern was that the applicant was not appropriately responding to the code criteria that a person living within the 97128 zip code needs to be available to respond to issues at the property. The applicant provided the name of someone that she was contracted with to provide those services and a phone number, but when a neighboring property owner called the phone number provided they learned that it went to a call center from 11 PM – 7 AM.

The Planning Commission was concerned about the issues raised and several other discrepancies in the application provided and the management of the property. The Planning Commission closed the public hearing on September 1, 2022. The applicant chose to exercise their right for a seven-day period to respond to the concerns and provided an email response on September 9, 2022.

Then the Planning Commission met on October 6, 2022, to deliberate on the land-use application and voted 7 – 1 to deny the application on the basis that it did not provide enough off-street parking spaces for the number of guestrooms on the property (advertised as five guestrooms) and that the management company's Portland-based call center did not satisfy the criteria for someone living within the 97128 zip code to respond to issues at the property.

Below is a synopsis of those concerns:

Section 17.12.010(P)(3) – One parking space is required for each guest room of the short-term rental to ensure on-street parking is not unduly impacted. The application indicated that the home was a “four (4) bedroom, three (3) bath home”, and provided a floor plan that indicated the same. Please see below.



However, it was disclosed at the public hearing that there are actually five guest rooms in the house offered in the rental listing. Apparently, an office had been converted into a guest room and the home’s layout that was provided as part of the short-term rental application was not representative of what was advertised online, including a home layout identifying five guest rooms.

The applicant in her rebuttal stated that she would reduce the number of guest rooms to four bedrooms if the property was used as a short-term rental and that it had five bedrooms only when it was being advertised as a long-term rental.

Staff amended its recommendation that the parking criteria had been met from its September 1, 2022, to a finding that this criterion was not satisfied based on the new evidence entered into the record. And the Planning Commission affirmed that finding in their decision.

Screenshot from ITrip Vacations, Baker Creek Retreat, September 30, 2022:

Exquisite Wine Country Escape, New Décor Throughout, Patio & Fire Table, 1.5 Miles to McMinnville

Baker Creek Retreat

\$4,256 - \$11,032 / month in McMinnville csrw@itrip.net

4 Bedrooms 2.5 Bathrooms Sleeps 10

Favorite Share Availability

Nestled in the heart of wine country within the Willamette Valley, this incredible five bedroom retreat is the perfect option for your family or small group visiting the area. Sitting a couple blocks away from Michelbook Country Club and just over a mile to downtown McMinnville, The Baker Creek Retreat is a fantastic option for you to explore everything that this area of the Pacific Northwest has to offer.

As you enter, the foyer opens up to the entire home. You will find the open floor plan combining the living, dining, and kitchen layout, making it perfect for groups to enjoy together. One of the many great features is the two main level bedrooms and laundry on this floor.

Ascending upstairs you will find another three exquisitely finished bedrooms including the bunk room, equipped with a mounted big screen TV and gaming console. Another full bath accompanies these bedrooms as well.

In the backyard, you will find a gazebo that covers some plush outdoor seating and a fire table. In addition, there are more Adirondack chairs, some giant Jenga, and a treehouse overlooking the manicured lawn.

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements	
Bedroom 1 (main floor):	King
Bedroom 2 (main floor):	Queen
Bedroom 3 (Second floor):	Queen
Bedroom 4 (Second floor):	Queen
Bedroom 5 (Second floor):	Bunk Twin (2)

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements:

Bedroom 1 (main floor): King bed

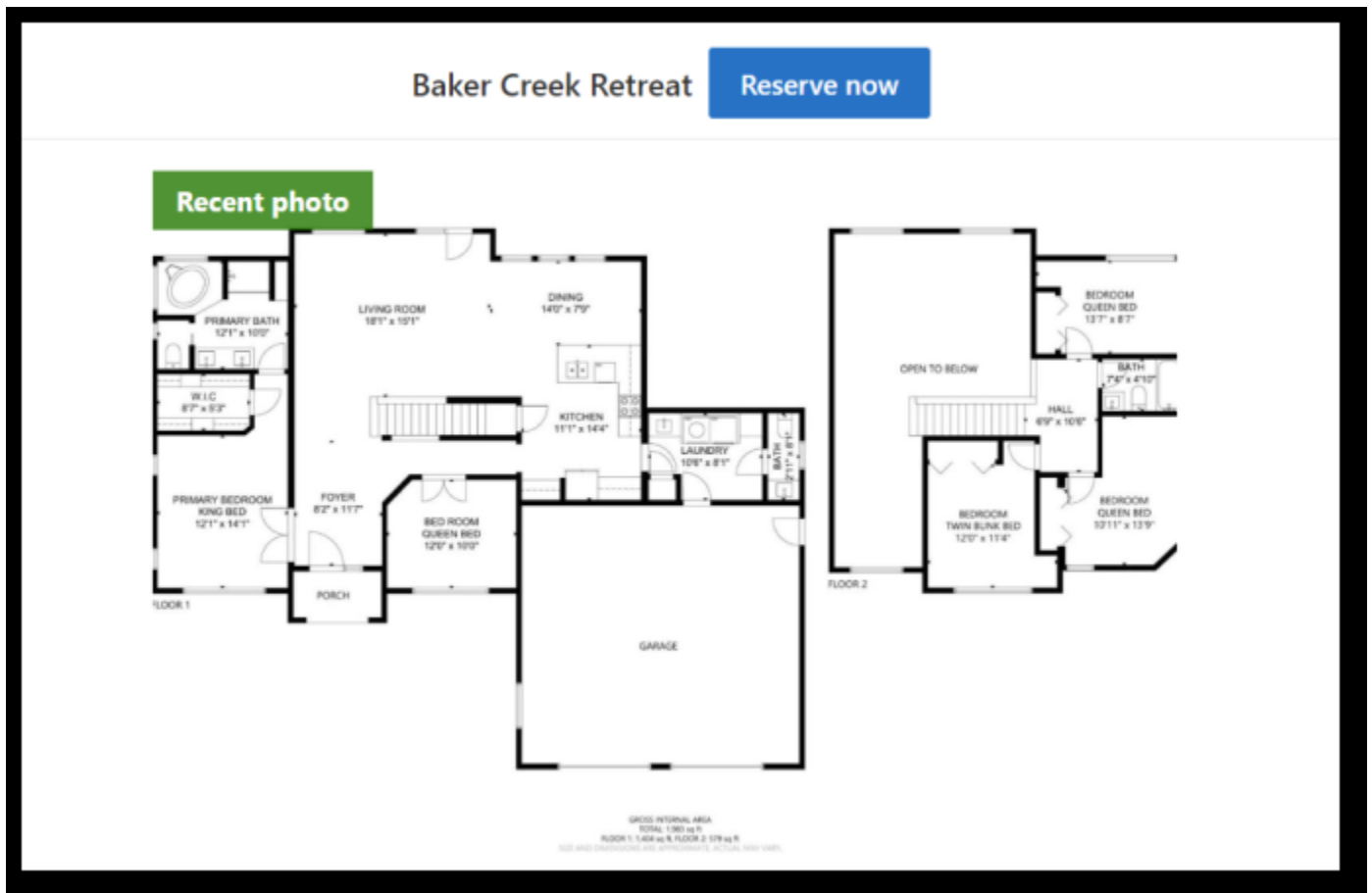
Bedroom 2 (main floor): Queen bed

Bedroom 3 (Second floor): Queen bed

Bedroom 4 (Second floor): Queen bed

Bedroom 5 (Second floor): Twin bunk bed

A floorplan on Booking.com shows five bedrooms. (Screenshot, September 30, 2022):



Photos of five bedrooms on booking.com (Screenshot, September 30, 2022):



The Planning Commission wanted clarification on how many bedrooms there were in the property and why there was a discrepancy.

Response from the applicant:

Q. One parking spot per advertised bedroom?

R. We will reduce the number of available bedrooms across all listings and house rules to 4 bedrooms/8 people maximum. We will ask that cars be parked in the garage as well as the driveway so that we don't have cars blocking the sidewalk. The House Rules and Listings will reflect this consistently.

Section 17.12.010(P)(7) – A person living within the 97128 zip code needs to be available to respond to issues at the property. It was not clear to the Planning Commission if the person listed on the application was that person or if it was the management company which is based in Portland.

Response from the applicant:

- Q. *Has the applicant come up with a responsible person? Who is available at 11:00 at night? Was Erika alerted that she is the contact? Prove to us that someone is available. Why the two different names/email address for Erika?*
- R. *The code states: "That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to an emergency or complaint related to the vacation home rental." This statement does not specify whether the contact be a property manager, someone who can make "executive decisions," or a housecleaner. The spirit of the discussion on 9/1/22 indicates that the city would like a property manager, or business owner, or the property owner, to be available, but with respect, this seems like a discussion suited toward a change to the code, vs. a debate over the qualifications of the person that has been identified in this application to be the contact.*

Therefore, our responsible person is Erika Correa. She lives within the geographic area of 97128, works for the property manager, iTrip, and has agreed to this responsibility. She does provide cleaning and inspection services of the home. The phone number and email listed on the application are hers. In addition, iTrip has provided her with an Avachato number (www.avachato.com) that we will also list in the House Rules. An Avachato number allows us to automatically forward any call via text to her number to someone else in McMinnville in a pinch if she sick, travelling or unavailable for some other temporary reason. Her number will be dedicated to this property, so she knows when it rings, there is a complaint or an emergency. She also knows that if she gets a call or text and cannot resolve it immediately, she will contact upper management immediately for resolution. We kindly ask that the neighbors not test her so she can give her attention to emergencies only. We will make her available to the Planning Commission if they'd like to call and speak with her.

In addition, again within the spirit of the 9/1/22 discussion to have a "more responsible person be available," the applicant found a property manager: Wild Haven at 619 NE 3rd St, McMinnville, OR 97128. Michele Bertagna is identified as a Property Manager. Wild Haven would make Ms. Bertagna available for emergencies. However:

- *Applicant is under contract with iTrip with termination allowed with 60 days' notice. Applicant is unable to switch to the new property manager in time for the 9/9 deadline for written feedback to the Commission.*
- *There is no guarantee that Ms. Bertagna will be available 24/7 either as she has other clients, sleeps, gets sick, and presumably takes vacations periodically. The solution we have provided above ensures that Erika (or her phone, set to forward to an iTrip contact in McMinnville) will be available for calls at any time day or night to a local contact.*
- *Per a brief discussion with Ms. Bertagna on Thursday, 9/8, it is the applicant's understanding that this alternative property management company does not immediately offer the call forwarding or monitoring services offered by iTrip (i.e., a decibel meter; likely these services could be added in time). However,*

iTrip offers a more comprehensive set of services now to manage the STR to code overall, help ensure the neighbors aren't disturbed and that issues get resolved quickly.

Additional response from the applicant that reaffirms the use of a call center from 11 PM to 7:00 AM.

Q. Testimony that came in that no one answered the 24/7 hotline and that it ends at 11PM. Opportunity to respond to that?

R. From 11:00 pm to 7:00 AM the calls go to a call center. Depending on the region, the call center contacts the appropriate manager or whomever else depending on the issue. If for any reason the person they try to reach can't be reached, it escalates up to the next person all the way to the two owners of the company.

Applicable Standards and Issues – Staff Review

Originally staff recommended approval of the short-term rental permit for the September 1 public hearing, but after the disclosure of so many discrepancies between the application and the data online about the property during the public testimony, staff reviewed the data entered into the record and amended its recommendation to a denial for the October 6 deliberation meeting. Below is a synopsis of that review.

Use and development of properties in the R-1 zone are subject to the applicable standards of the zone and general provisions of the Zoning Ordinance. No modifications to the site or the exterior of the existing single-family dwelling are proposed at this time, so the only applicable standards for the proposed short-term rental are those listed in Section 17.12.010(P) for use of the property for a Short-Term Rental.

These standards and associated staff review are summarized below. The specific findings regarding the applicable standards are addressed in the Decision Document.

Summary of Findings Regarding Consistency with Applicable Standards

Standard	Summary of Findings
17.12.010. Permitted Uses:	
(P) Short-term rentals, subject to the provisions of Section 17.12.010(P).	Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.
17.12.010(P)	
1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.	Satisfied. The map provided as Figure 4 shows no other short-term rental within 200 feet.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.	Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling. As an ongoing condition of approval, the structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.	Not Satisfied. The application stated that there were four guest rooms and four off-street parking spaces. During the due diligence of the public hearing it was learned that there are five guest rooms. The applicant does not have a provision for

	<p>five off-street parking spaces. Advertisements online show the house furnished and advertised as five guest rooms.</p>
<p>4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.</p>	<p>Satisfied with Conditions. No signage is proposed at this time.</p> <p>As an ongoing condition of approval, any signage shall comply with this standard.</p>
<p>5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.</p>	<p>Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.</p>
<p>6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.</p>	<p>Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application.</p> <p>As an ongoing condition of approval, the structure shall remain in compliance with this standard.</p>
<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Not Clear. The property owner in their rebuttal provided conflicting information. One response states that Erika Correa will be available 24 hours per day seven days a week, and another response indicates that the short term rental will be managed with a call service from 11 PM to 7 AM.</p>
<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>

<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Not Applicable.</p> <p>Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.</p>
<p>CONCLUSION & RECOMMENDATION:</p>	<p>The proposed Short-Term Rental application is problematic in three primary ways:</p> <ol style="list-style-type: none"> 1) The property was operated as a short-term rental without a permit. The management company, ITrip placed a family from another rental into the property over the 4th of July weekend when the air conditioning went out on the other rental. 2) The application indicated that there were four guest rooms and the property had the required four off-street parking spaces. With due diligence, it was learned that there were five guest rooms and the applicant was going to rely on the management company to limit short-term rentals to four guest rooms and allow long-term rentals to be rented with five guest rooms. 3) Testimony was provided that the applicant's local contact was not available after 11 PM. The rebuttal from the applicant is confusing. <p>The permit criteria are not met with the application. Staff recommends a denial.</p>

The final decision document that the Planning Commission voted on to support their decision includes the findings of fact and substantive evidence to support the Planning Commission's conclusory findings. That document can be also be found in Attachment 7 to this staff report.

Discussion

At the public hearing on December 13, the applicant testified that their intention was to only market the short-term rental as a four-bedroom facility if the permit was approved and that their current marketing of the home as a five-bedroom facility was just for long-term rentals, and that the property manager who resides in the 97128 zip code would be directly available 24/7.

Per Section 17.72.040 of the McMinnville Municipal Code, the burden of proving that the criteria are satisfied rests with an applicant throughout the proceeding. The applicant has argued that it has met this burden by providing a site plan showing four “guest bedrooms” and one “office.” During the proceedings before the Planning Commission, there was evidence that the home was advertised as including 5 “guest bedrooms” and that the area labeled for “office” in the site plan was furnished with a queen bed. The applicant responded that this information was with regard to a long-term rental posting and that with a short term rental, only four bedrooms would be available.

With respect to emergency contact availability, the applicant argued that the standard did not require someone to be available 24 hours per day, 7 days per week and between iTrips 24 hour availability (not within the 97128 zip code), Erika Correa, who lives within the 97128 zip code, and the applicant’s attorney Ross Day, who lives in North Keizer but not within the 97128 zip code, the applicant has identified sufficient emergency redundancy for the Council to conclude that “a person...will be available to respond immediately to any emergency or complaint.”

In their letter dated December 20, 2022, the applicant argues that to the degree that the Council disputes these findings, the City can impose a condition of approval limiting the number of bedrooms to four and that a property manager who resides in the 97128 zip code will be available to respond immediately to any emergency or complaint related to the short term rental, and that if the applicant does not adhere to the conditions of approval the permit will be revoked immediately pending an appeal.

Per Section 17.03.055, the City Council “may impose conditions of approval on any planning action to modify that planning action to comply with the criteria of approval.” The language of the code regarding the use of conditions is permissive. As a general rule, a city is not required to approve a noncomplying development, even if conditions of approval might be imposed that would render the proposal consistent with the criteria.

The applicant has argued that by conditioning an approval, the City can more expeditiously revoke the permit rather than proceed through code enforcement. Although Section 17.03.080 does allow revocation of a permit where conditions are violated, any such revocation must be accomplished by providing a right to appeal subject to the City’s code enforcement process as set forth in MCC 2.50.

The applicant also alleged several procedural issues that were the basis for an appeal to LUBA.

- 1) The notice of decision was not provided to the applicant.
- 2) The staff report and meeting materials for the December 13, 2022 public hearing were not sent to the applicant and the applicant’s attorney one week in advance of the public hearing.
- 3) There was the appearance of ex parte contact for Councilor Zack Geary and Kellie Menke based on a reference in one of the public’s written testimony alluding to a previous communication to the two councilors.

Notice of Decision to the Applicant: Per Section 17.72.150 of the McMinnville Municipal Code, within five working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated. An email with the written notice of decision

as provided to the applicant and all parties who participated in the Planning Commission public hearing on October 7, 2022. The decision was rendered on October 6, 2022.

17.72.150 Notice of Decision.

Within five (5) working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated.

Notice of Meeting Materials for City Council Public Hearing Provided to the Applicant 7 Days in Advance of the Hearing: Per Section 17.72.180 of the McMinnville Municipal Code, notice of a City Council hearing on an appeal of a decision of the Planning Commission shall take the form of that provided for the initial application before the Planning Commission.

17.72.180 Appeal from Ruling of Planning Commission.

An action or ruling of the Planning Commission pursuant to this title may be appealed to the City Council within 15 (fifteen) calendar days of the date the written notice of the decision is mailed. Written notice of the appeal shall be filed with the City Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review specifying that they were party to the initial proceedings. If the appeal is not taken within the 15 (fifteen) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. Notice of a City Council hearing on an appeal of a decision of the Planning Commission shall take the form of that provided for the initial application before the Planning Commission.

Per Section 17.72.130(A) of the McMinnville Municipal Code, a staff report shall be submitted to the review body, and shall be made available to the public at least seven (7) days before the date of the public hearing. The staff report and meeting materials for the December 13 City Council public hearing were submitted to the review body (City Council) and made available to the public (posted on the City's website as part of the meeting materials for the December 13 City Council meeting on December 6, 2022, seven (7) days before the date of the public hearing. The state law on which this provision finds its roots, ORS 197.797(2)(i) provides that the notice need only: "State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost." There is no procedural requirement to email or otherwise provide the applicant's attorney with a copy of the staff report seven days in advance.

17.72.130 Public Hearing Process. Public hearings shall be conducted as per requirements of McMinnville Ordinance No. 3682, as amended;

A. *A staff report shall be submitted to the review body, and shall be made available to the public at least seven (7) days before the date of the public hearing. Any public hearing may be continued to a specific date, time and location by oral announcement of that specific date, time, and location prior to the hearing being recessed. This announcement is sufficient notice to all applicants, adverse parties, and interested persons, and no further notice is required.*

City Councilor Ex Parte Contact: Per Attachment 3 (Letter sent to Zack Geary from Phil and Kathy Loving, May 30, 2022) and Attachment 4 (Email from Kellie Menke and Zack Geary regarding letter from Phil and Kathy Loving), the letter sent to Councilor Zack Geary was specific to a moratorium that the City Council was considering on the issuance of short-term rental permits and did not mention the application for the short-term rental permit at 790 NW 21st Street and Councilor Menke has no recollection or evidence of receiving a similar letter. All of the documents relating to this allegation should be added to the record and any concern over this issue resolved.

Attachments:

- 1) Resolution No 2023-03
*Exhibit A to Resolution No 2023-03 -
Decision Document, Findings of Fact, Conclusory Findings*
- 2) Letter Received from Ross Day, dated December 20, 2022
- 3) Letter sent to Zack Geary from Phil and Kathy Loving, May 30, 2022
- 4) Email from Kellie Menke and Zack Geary regarding Letter from Phil and Kathy Loving
- 5) Public Comments Received for Appeal
- 6) Application for Appeal
- 7) STR 7 – 22 Public Record

City Council Options:

- 1) Reopen the record for the limited purpose of accepting the letter sent to Zack Geary from Phil and Kathy Loving dated May 30, 2022 and the email from Kellie Menke and Zack Gearing regarding the letter from Phil and Kathy Loving AND
 - a. Adopt Resolution 2023-03 with the Decision Document, Findings of Fact and Conclusory Findings adopted by the Planning Commission as its own.

OR

- b. Modify the Planning Commission's decision and direct staff to draft a new Decision Document, Findings of Fact and Conclusory Findings for adoption that either:
 1. Upholds the Planning Commission's decision of denial with additional interpretations of law and findings of fact; OR
 2. Overturns the Planning Commission's decision and approves the application with conditions of approval with revised findings.

If the Council directs staff to modify the findings, the Council will consider the adoption of Resolution 2023-03 consistent with its tentative decision on January 24, 2023.

RESOLUTION NO. 2023-03

A Resolution deciding on the appeal of the Planning Commission’s denial of a short-term rental permit for 790 NW 21st Street.

RECITALS:

WHEREAS, on October 6, 2022, the McMinnville Planning Commission, after hosting a public hearing, considering the evidence, and findings of fact, voted to deny a short-term rental permit application for the property at 790 NW 21st, based on the conclusory findings that the application did not comply with Sections 17.12.010(P)(1) and (3) of the McMinnville Municipal Code; and

WHEREAS, per Section 17.72.150 of the McMinnville Municipal Code written notice of the Planning Commission decision was provided to the applicant on October 7, 2022; and

WHEREAS, per Section 17.72.180 of the McMinnville Municipal Code, the applicant submitted an appeal of the Planning Commission decision on October 21, 2022; and

WHEREAS, on December 13, 2022, the McMinnville City Council hosted a public hearing and considered the evidence; and

WHEREAS, on December 13, 2022, the applicant requested seven additional days after the close of the public hearing to submit a final argument; and

WHEREAS, on December 13, 2022, the McMinnville City Council closed the public hearing and provide the applicant until 5;00 PM on January 10 to provide a final argument; and

WHEREAS, on January 10, 2023, the McMinnville City Council considered the evidence in the record; and

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

1. That the Council adopts the Decision Document, Findings of Fact and Conclusory Findings as documented in Exhibit A; and.
2. This Resoution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 10th day of January 2023 by the following votes:

Ayes: _____

Nays: _____

Approved this 10th day of January 2023.

MAYOR

Approved as to form:

City Attorney

EXHIBITS:

- A. AP 1-22 (STR 7-22) Decision Document, Findings of Fact and Conclusionary Findings



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 PLANNING COMMISSION DENIAL OF A SHORT-TERM RENTAL PERMIT AT 790 NW 21st STREET

DOCKET: AP 1-22 (STR 7-22)
REQUEST: Appeal of a Planning Commission denial for a short-term rental permit at 790 NW 21st Street.
LOCATION: 790 NW 21st St. Tax Lot: R4417-AC-02344
ZONING: R-1 (Single-Family Residential)
APPLICANT: Emily (Joyce) LaGow
STAFF: Heather Richards, Community Development Director
Adam Tate, Associate Planner

DATE DEEMED COMPLETE: July 11, 2022

DECISION MAKING

BODY & ACTION: The McMinnville Planning Commission makes the final decision unless the Planning Commission’s decision is appealed to the City Council.

PLANNING COMMISSION

DECISION DATE

& LOCATION: September 1, 2022, Hybrid Public Hearing. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 879 8953 9440
October 6, 2022, Hybrid Public Meeting. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 834 6597 3462

PROCEDURE: The application is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. This short-term rental was found to be operating without a permit and referred to code compliance. The application will now be heard before a public hearing and reviewed by the Planning Commission. in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.

CRITERIA: The applicable criteria and standards for a Short-Term Rental are specified in Section 17.12.010(P) of the Zoning Ordinance.

APPEAL: As specified in Section 17.72.180 of the Zoning Ordinance, the Planning Commission’s decision may be appealed to the City Council within 15 calendar

days of the date the written notice of decision is mailed. The City’s final decision is subject to the 120-day processing timeline, including the resolution of any local appeal.

**CITY COUNCIL
DECISION DATE
& LOCATION:**

December 13, 2022, Hybrid Public Hearing. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 847 1563 4603

January 10, 2023, Hybrid Meeting. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 882 4458 7566

PROCEDURE:

The City Council considers the appeal of the Planning Commission denial by hosting a public hearing, considering the evidence, and rendering a decision. In accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.

CRITERIA:

The applicable criteria and standards for a Short-Term Rental are specified in Section 17.12.010(P) of the Zoning Ordinance.

DECISION

Based on the findings of fact and conclusionary findings, the City Council finds that the Planning Commission’s decision to deny the short-term rental permit at 790 NW 21st Street is the correct decision for the City of McMinnville.

////////////////////////////////////
DECISION: UPHOLD THE PLANNING COMMISSION DECISION AND DENY THE APPLICATION
////////////////////////////////////

City Council: _____
Remy Drabkin, Mayor of the City of McMinnville

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

I. APPLICATION SUMMARY:

Subject Property & Request

The subject property is located at 790 NW 21st Street. The property is zoned R-1. A Short-Term Rental is a permitted use in the R-1 zone as specified in Section 17.15.010(P), subject to compliance with the referenced standards in Section 17.12.010(P), and subject to the procedures specified in Section 17.72 of the Zoning Ordinance. **See Figure 1 for Vicinity Map, Figure 2 for Zoning Map, Figure 3 for Applicant’s Site Plan. See Figure 4 for map of Short-Term Rentals with 200’ buffer shown.** The application submittal includes additional materials including a floorplan diagram, photos, and information from the neighborhood meeting. Those additional materials are included in **Attachment 1**.

Figure 1. Vicinity Map



Figure 2. Zoning Map

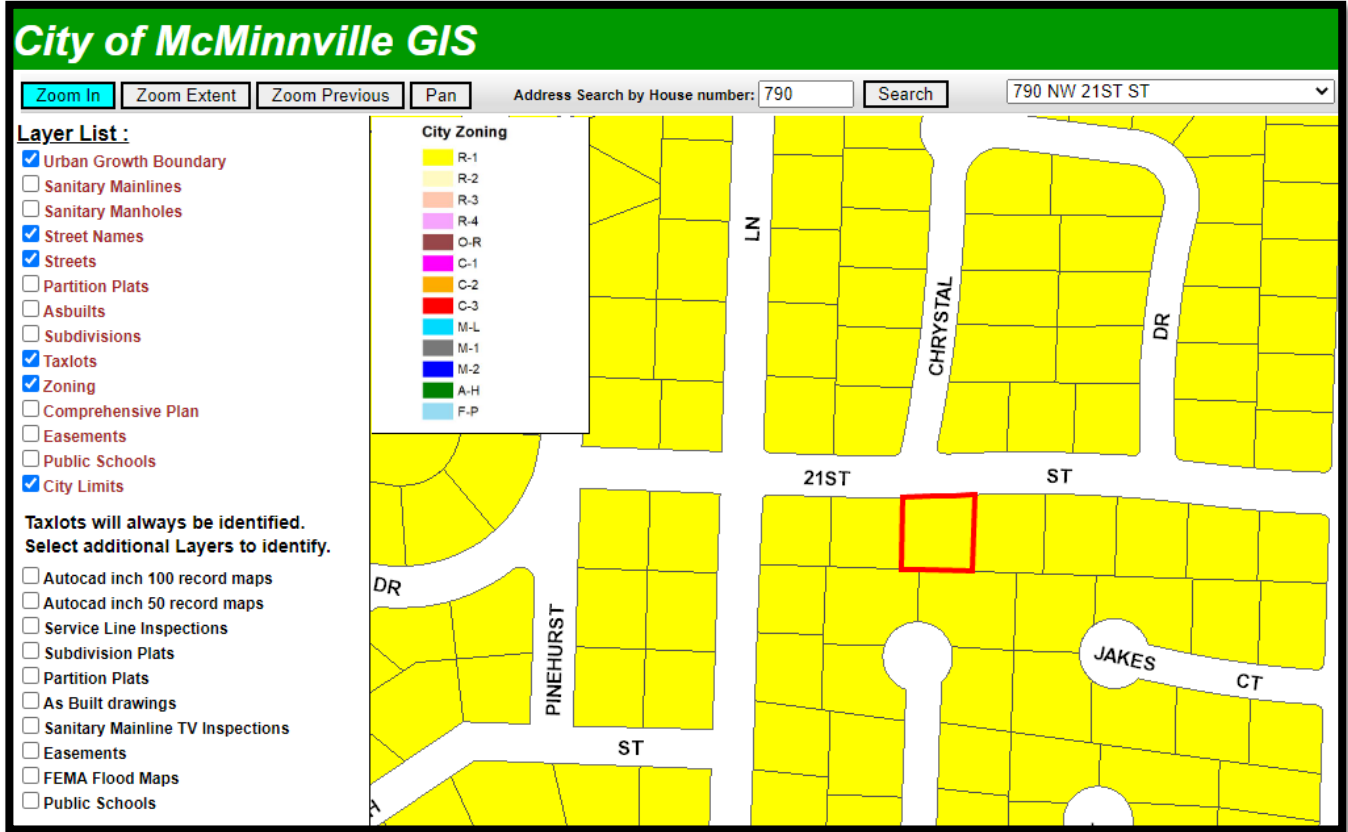


Figure 3. Applicant's Site Plan

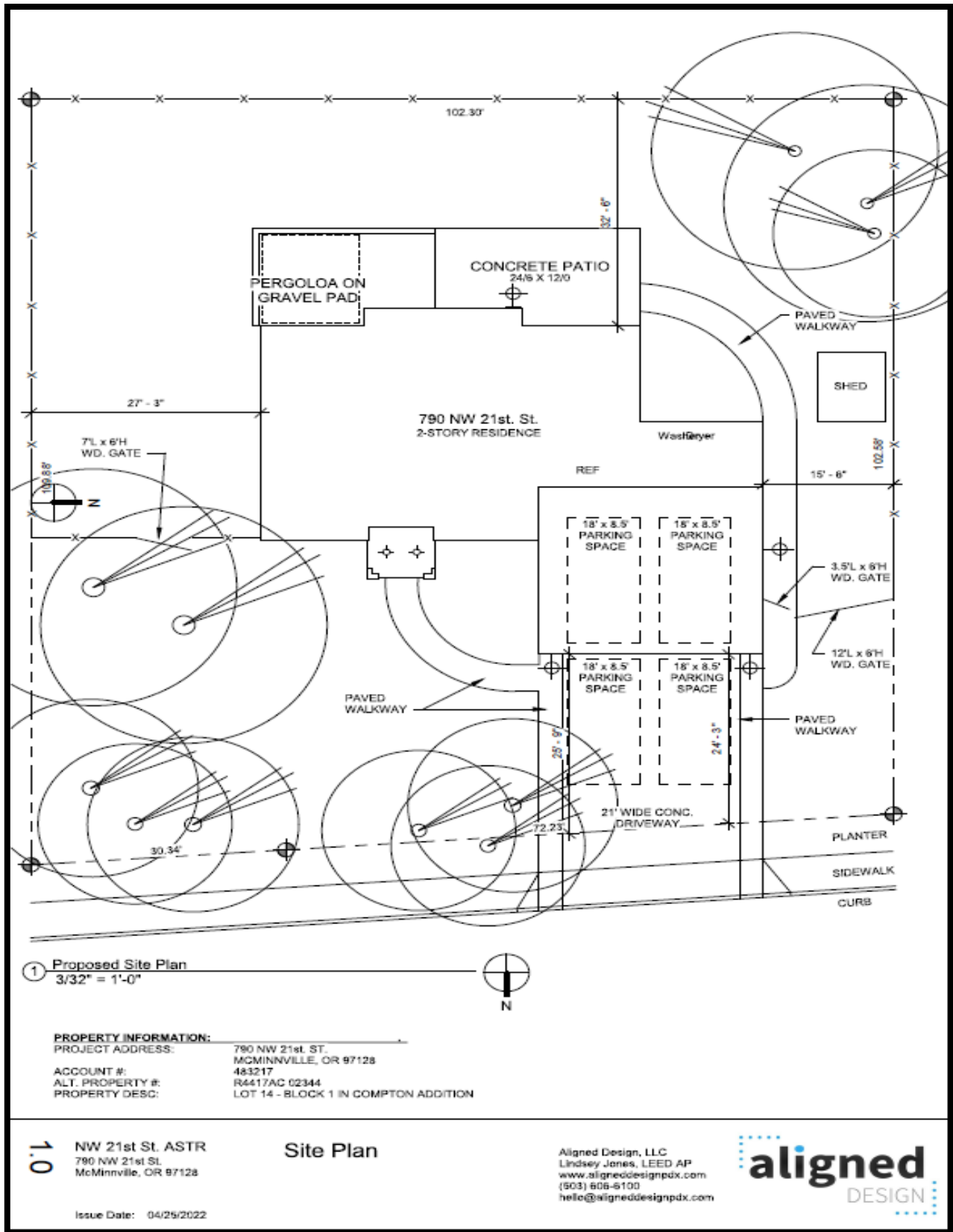
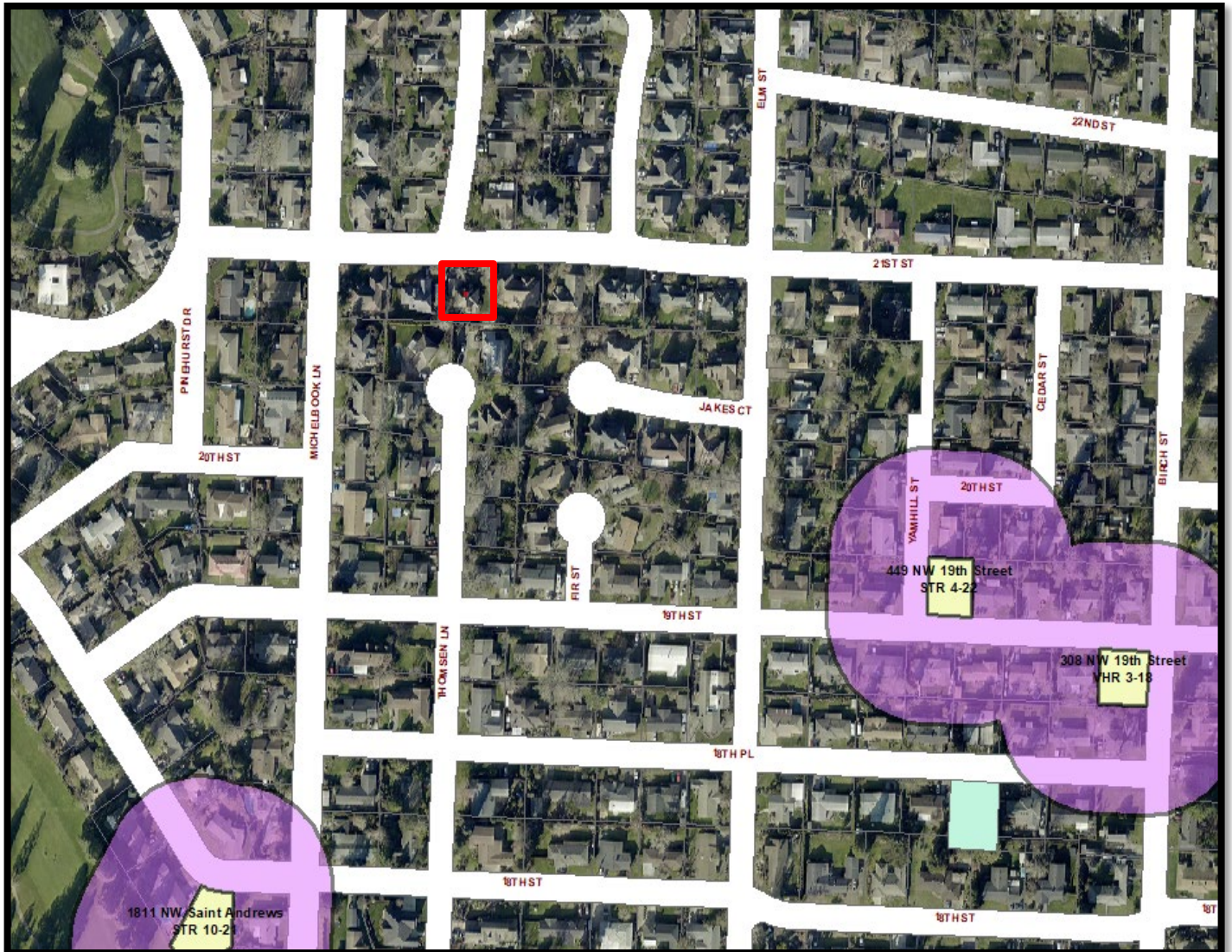


Figure 4. Map of Short-Term Rentals with 200-Foot Buffer



Summary of Applicable Standards and Issues

Use and development of properties in the R-1 zone are subject to the applicable standards of the zone and general provisions of the Zoning Ordinance. No modifications to the site or existing single-family dwelling are proposed at this time, so the only applicable standards for the proposed short-term rental are those listed in Section 17.12.010(P) for use of the property for a Short-Term Rental.

The standards and associated findings are summarized below. The specific findings regarding the applicable standards are addressed in Section VII of this Decision Document. As a Type II land-use application, the criteria need to be clear and objective.

The table below illustrates how the application either complies or does not comply with applicable criteria.

**Summary of Findings Regarding Consistency with Applicable Standards
(Table on next page)**

Standard	Summary of Findings
17.12.010. Permitted Uses:	
(P) Short-term rentals, subject to the provisions of Section 17.12.010(P).	Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.
17.12.010(P)	
1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.	Satisfied. The map provided as Figure 4 shows no other short-term rental within 200 feet.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.	Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling. As an ongoing condition of approval, the structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.	Not Satisfied. The application stated that there were four guest rooms and four off-street parking spaces. During the due diligence of the public hearing it was learned that there are five guest rooms. The applicant does not have a provision for five off-street parking spaces. Advertisements online show the house furnished and advertised as five guest rooms.
4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.	Satisfied with Conditions. No signage is proposed at this time. As an ongoing condition of approval, any signage shall comply with this standard.
5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.	Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.
6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.	Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application. As an ongoing condition of approval, the structure shall remain in compliance with this standard.

<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Not Clear. The property owner in their rebuttal provided conflicting information. One response states that Erika Correa will be available 24 hours per day seven days a week, and another response indicates that the short term rental will be managed with a call service from 11 PM to 7 AM.</p>
<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Not Applicable.</p> <p>Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.</p> <p>If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints, and will be listed as a condition of approval for this application.</p>

II. CONDITIONS: (If the City Council elects to approve the application, these conditions of approval will apply.)

1. That five (5) off-street parking spaces (paved or of a hardscape surface) are required for the use of the Short Term Rental, per the five (5) guest rooms provided.
2. That 10-year Lithium battery-powered smoke alarms and CO2 alarms must be installed in accordance with Sections R314 and R315 of the Building Code. For this one-story building, smoke alarms shall be installed in each sleeping room and outside each separate sleeping area within 21 feet of any door to a sleeping room, measured along a path of travel. On CO2 alarm is required.
3. That prior to use of the subject property for vacation home rental purposes, the applicant shall register with the McMinnville Finance Department as a transient lodging provider. Local Transient Lodging Tax shall be collected and remitted to the City as provided in McMinnville Ordinance No. 4974.
4. That, as this use is required to be occupied as a single-family residence, occupancy of the vacation home rental shall be limited at all times to no more than five unrelated persons, or one or more individuals related by blood, marriage, adoption, or legal guardianship, or other duly authorized custodial relationship.
5. That all other requirements of Section 17.12.010(P) of the Zoning Ordinance referencing vacation home rental use shall be complied with throughout the time this property is used for such purpose, which are outlined below.
 - A. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.
 - B. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
 - C. That a minimum of one off-street parking space be provided for each guest room.
 - D. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
 - E. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.
 - F. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
 - G. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
 - H. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:

- a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
- I. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
 - J. Complaints on conditions “A” through “I” above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

III. ATTACHMENTS:

- 1. AP 1-22 Application and Attachments (on file with the Planning Department)
- 2. AP 1-22 Public Record (on file with the Planning Department)
- 3. STR 7-22 Application and Attachments (on file with the Planning Department)
- 4. STR 7-22 Public Record (on file with the Planning Department)

IV. COMMENTS:

Public Comments

- 1. Email received July 4, 2022, from Mark Pitts, notifying the Planning Director that the short-term rental was operating before their permit was approved.
- 2. Email received on August 29, 2022, from Mark Pitts
- 3. Email received on August 30, 2022 from Kelli Grinich
- 4. Email received from Jay Post on August 30, 2022
- 5. Email received from Kathy Loving on September 1, 2022
- 6. Email received from Mark Pitts, 11.29.22
- 7. Email received from Mollie Post, 11.30.22
- 8. Email from Nick Grinich, 12.07.22
- 9. Email from Kathy Loving, 12.08.22
- 10. Letter from Linda Storr, 12.08.22
- 11. Email from Jay Post, 12.12.22
- 12. Email from Kelli Grinich, 12.12.22

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant mailed notice of a neighborhood meeting dated April 27, 2022, and held a neighborhood meeting on May 25, 2022.
2. The applicant submitted the Short-Term Rental application (STR 7-22) on June 10, 2022.
3. On July 4, 2022, a local resident reported to the Planning Director that the property was operating as a short-term rental before their application was approved, and provided an Airbnb listing showing the property for rent.
4. On July 5, 2022, the property was put into code compliance and the property owner was notified that they must stop current short-term rental operations and given the option to either withdraw their permit or have it go before a public hearing of the Planning Commission.
5. On July 11, 2022, the applicant informed the Planning Director that they wanted to move forward with the application and the application was deemed complete.
6. The hearing date was set for September 1, 2022. On August 3, 2022, notice of the application and the September 1, 2022, 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.
7. 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, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

No comments were received from any agencies.

8. Notice of the application and the September 1, 2022, Planning Commission public hearing was published in the News Register on Friday, August 26, in accordance with Section 17.72.120 of the Zoning Ordinance.
9. On September 1, 2022, the Planning Commission held a duly noticed public hearing to consider the application. The public hearing was closed after hearing testimony on September 1, 2022.
10. On September 9, 2022, the applicant provided a written rebuttal to the public hearing testimony of September 1, 2022.
11. On October 6, 2022, the Planning Commission deliberated and rendered a decision.
12. On October 7, per Section 17.72.150 of the MMC, the Planning Department provided written notice of the decision to the applicant.
13. On October 21, 2022, the applicant submitted an application to appeal the Planning Commission decision to the City Council.
14. Per Section 17.72.180 of the MMC, a public hearing for the appeal was scheduled for December 13, 2022 with the City Council.

15. On November 21, 2022, notice of the application and the December 13, 2022, City Council 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.
16. Notice of the appeal and the December 13, 2022, City Council public hearing was published in the News Register on Friday, December 2, in accordance with Section 17.72.120 of the Zoning Ordinance.
17. On December 6, 2022, the staff report, decision document and public record were posted on the city's website as part of the December 13, City Council meeting materials.
18. On December 13, 2022, the City Council held a duly noticed public hearing to consider the appeal. The public hearing was closed after hearing testimony on December 13, 2022. The applicant request seven days to submit a final argument. City Council voted to provide the applicant until 5:00 pm on January 10, 2023 to submit a final argument.
19. On January 10, 2023, the City Council deliberated and rendered a decision.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 790 NW 21st St. Tax Lot R4417-AC-02344
2. **Size:** Approximately 0.2489 acres
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-1 (Single-Family Residential)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Single-family dwelling
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None identified
8. **Other Features:**
 - a. **Slopes:** The site is generally flat.
 - b. **Easements:** No public easements identified
9. **Utilities:** The property is served with basic municipal services, including water, sewer, power, and franchise utilities.
10. **Transportation:** NW 21st Street is classified as a local residential street in the McMinnville TSP. Local streets have a 50-foot right-of-way.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria and standards for the application.

The applicable standards for a Short-Term Rental are specified in Section 17.12.010 (O) of the Zoning Ordinance. Development standards for the R-1 Zone are provided in Chapter 17.12 of the Zoning

Ordinance; however, the proposed short-term rental will be located within the existing single-family dwelling, and no new development is proposed at this time.

McMinnville Zoning Ordinance

The following Sections of Title 17, Zoning Ordinance, of the McMinnville Municipal Code provide criteria and standards applicable to the request:

Section 17.12.010 lists permitted uses in the R-1 Zone. Subsection (P) provides the following:

P. Short-term rental, subject to the provisions of Section 17.72.110

FINDING: SATISFIED WITH CONDITIONS. The proposed use described in the application is single-family home used for a short-term rental. These are both permitted uses.

Section 17.12.010(P) provides the following:

P. Short-term rental, subject to the provisions of Section 17.72.110 and the following standards.

Section 17.72.110. Applications – Director’s Review with Notification.

FINDING: SATISFIED. Section 17.72.110 provides the applicable procedural requirements. As addressed in Section V of this Decision Document, the application has been processed in accordance with the applicable procedures.

Standards in 17.12.010(P):

1. Short-term rentals shall not be located within 200 feet of another short-term rental, or on the same property as another short-term rental.

FINDING: SATISFIED. There is no other short-term rental within 200 feet of another short-term rental. There is not another short-term rental on the subject property. See **Figure 4** for a map of short-term rentals.

2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.

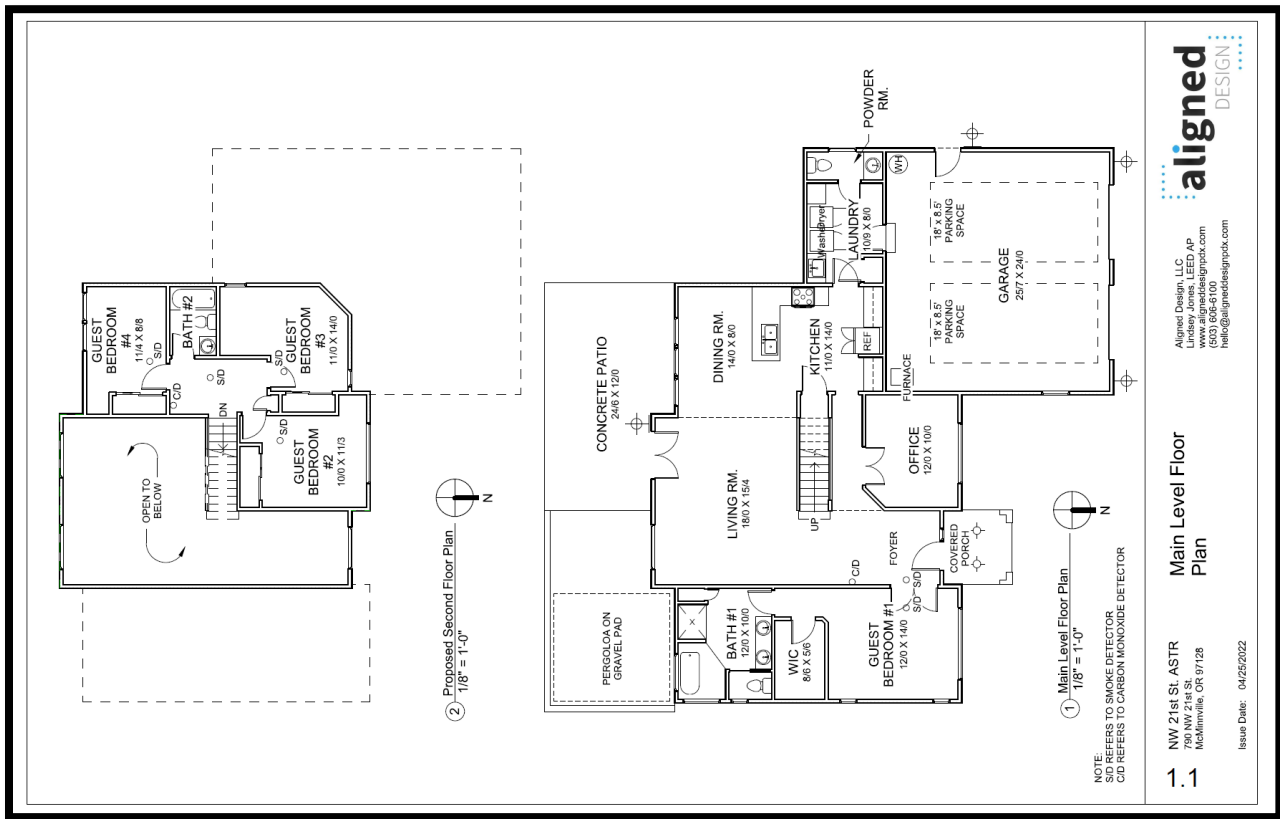
FINDING: SATISFIED WITH CONDITIONS. The existing use in which the proposed short-term rental is proposed is a single-family dwelling. No outward modifications to the residence are proposed at this time.

3. That a minimum of one off-street parking space be provided for each guest room.

FINDING: NOT SATISFIED. The application indicated that the home was a “four (4) bedroom, three (3) bath home”, and provided a floor plan that indicated the same. Please see below. As such, the applicant provided a site plan with four off-street parking spaces. Based on testimony at the public hearing and more research it has been determined that the property has five guestrooms and the applicant does not have room for five off-street parking spaces on the site plan.

Evidentiary basis of the property being utilized with five bedrooms follows on the next page.

Floor plan provided with the application illustrating four bedrooms:



it was disclosed at the public hearing that there are actually five guest rooms in the house offered in the rental listing. Below is a screenshot of the listing with an infographic that indicates four bedrooms, but the narrative states that "this incredible five-bedroom retreat", and further detail in the listing describes two bedrooms on the main floor and three bedrooms on the second floor.

Screenshot from ITrip Vacations, Baker Creek Retreat, September 30, 2022:

Exquisite Wine Country Escape, New Décor Throughout, Patio & Fire Table, 1.5 Miles to McMinnville

Baker Creek Retreat

\$4,256 - \$11,032 / month in McMinnville csnw@itrip.net

4 Bedrooms 2.5 Bathrooms Sleeps 10

Favorite Share Availability

Nestled in the heart of wine country within the Willamette Valley, this incredible five bedroom retreat is the perfect option for your family or small group visiting the area. Sitting a couple blocks away from Michelbook Country Club and just over a mile to downtown McMinnville, The Baker Creek Retreat is a fantastic option for you to explore everything that this area of the Pacific Northwest has to offer.

As you enter, the foyer opens up to the entire home. You will find the open floor plan combining the living, dining, and kitchen layout, making it perfect for groups to enjoy together. One of the many great features is the two main level bedrooms and laundry on this floor.

Ascending upstairs you will find another three exquisitely finished bedrooms including the bunk room, equipped with a mounted big screen TV and gaming console. Another full bath accompanies these bedrooms as well.

In the backyard, you will find a gazebo that covers some plush outdoor seating and a fire table. In addition, there are more Adirondack chairs, some giant Jenga, and a treehouse overlooking the manicured lawn.

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements	
Bedroom 1 (main floor):	King
Bedroom 2 (main floor):	Queen
Bedroom 3 (Second floor):	Queen
Bedroom 4 (Second floor):	Queen
Bedroom 5 (Second floor):	Bunk Twin (2)

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements:

Bedroom 1 (main floor): King bed

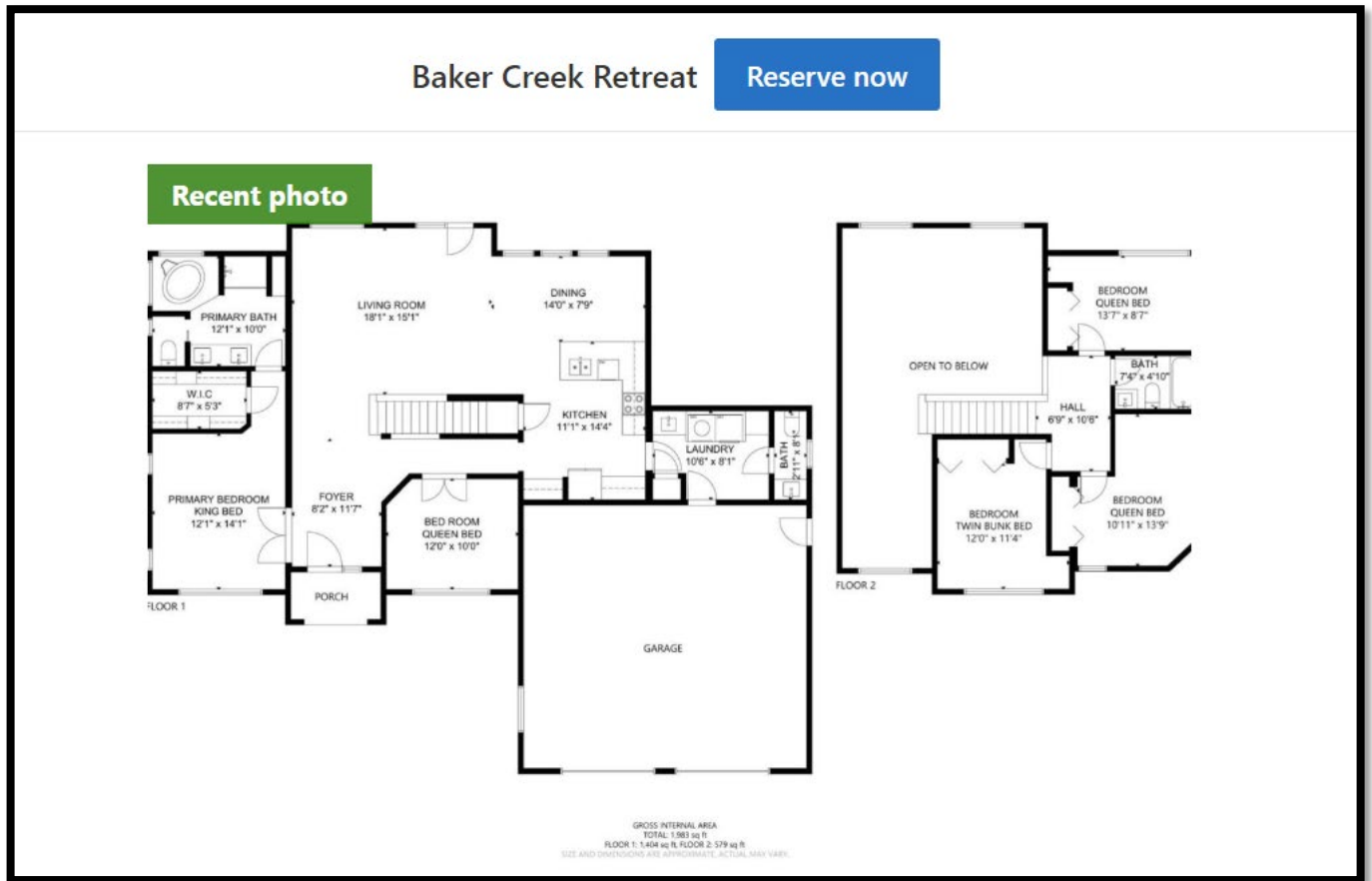
Bedroom 2 (main floor): Queen bed

Bedroom 3 (Second floor): Queen bed

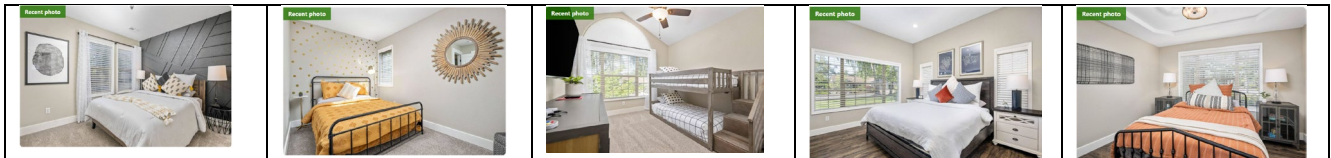
Bedroom 4 (Second floor): Queen bed

Bedroom 5 (Second floor): Twin bunk bed

A floorplan on Booking.com shows five bedrooms. (Screenshot, September 30, 2022):



Photos of five bedrooms on booking.com (Screenshot, September 30, 2022):



- 4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.

FINDING: SATISFIED WITH CONDITIONS. The application doesn't indicate any proposed signage at this time. As an ongoing condition of approval, any future signage shall comply with this requirement.

5. *That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.*

FINDING: SATISFIED WITH CONDITIONS. This provision is an on-going requirement for the operation of the short-term rental and is included as a condition of approval.

6. *That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.*

FINDING: SATISFIED WITH CONDITIONS. Subsection (2)(d) of Ordinance No. 3997 specifies that, for a lodging house, that smoke detectors are required "in all corridors or areas giving access to rooms used for sleeping purposes, and in all sleeping rooms. Where sleeping rooms are on an upper level, an additional detector shall be placed at the center of the ceiling directly above the stairway."

The application identifies the location of smoke detectors consistent with this requirement, with a smoke detector in each guest room and the hallway, for a total of six smoke detectors and carbon monoxide detectors. This is a two-story single-family dwelling.

The application demonstrates compliance with this standard. As an ongoing condition of approval, the structure shall remain in compliance with this standard.

7. *That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.*

FINDING: NOT SATISFIED. The property owner does not live within the geographic area of the 97128 zip code. On the application, the applicant provided the contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental. The contact information and residence location are provided in Section 5 of the application form submitted by the applicant. The location of the residence is within the City of McMinnville and the geographic area of the 97128 zip code.

However, at the public hearing, it was disclosed that the number provided went to a call service from 11 PM to 7 AM. The applicant was asked to respond to that issue in a rebuttal report. A response was provided via email from Emily LaGow on September 9, 2022. The response from the applicant provided conflicting information.

Response from the applicant:

- Q. Has the applicant come up with a responsible person? Who is available at 11:00 at night? Was Erika alerted that she is the contact? Prove to us that someone is available. Why the two different names/email address for Erika?
- R. The code states: "That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond

immediately to an emergency or complaint related to the vacation home rental." This statement does not specify whether the contact be a property manager, someone who can make "executive decisions," or a housecleaner. The spirit of the discussion on 9/1/22 indicates that the city would like a property manager, or business owner, or the property owner, to be available, but with respect, this seems like a discussion suited toward a change to the code, vs. a debate over the qualifications of the person that has been identified in this application to be the contact.

Therefore, our responsible person is Erika Correa. She lives within the geographic area of 97128, works for the property manager, iTrip, and has agreed to this responsibility. She does provide cleaning and inspection services of the home. The phone number and email listed on the application are hers. In addition, iTrip has provided her with an Avachato number (www.avachato.com) that we will also list in the House Rules. An Avachato number allows us to automatically forward any call via text to her number to someone else in McMinnville in a pinch if she sick, travelling or unavailable for some other temporary reason. Her number will be dedicated to this property, so she knows when it rings, there is a complaint or an emergency. She also knows that if she gets a call or text and cannot resolve it immediately, she will contact upper management immediately for resolution. We kindly ask that the neighbors not test her so she can give her attention to emergencies only. We will make her available to the Planning Commission if they'd like to call and speak with her.

In addition, again within the spirit of the 9/1/22 discussion to have a "more responsible person be available," the applicant found a property manager: Wild Haven at 619 NE 3rd St, McMinnville, OR 97128. Michele Bertagna is identified as a Property Manager. Wild Haven would make Ms. Bertagna available for emergencies. However:

- Applicant is under contract with iTrip with termination allowed with 60 days' notice. Applicant is unable to switch to the new property manager in time for the 9/9 deadline for written feedback to the Commission.
- There is no guarantee that Ms. Bertagna will be available 24/7 either as she has other clients, sleeps, gets sick, and presumably takes vacations periodically. The solution we have provided above ensures that Erika (or her phone, set to forward to an iTrip contact in McMinnville) will be available for calls at any time day or night to a local contact.
- Per a brief discussion with Ms. Bertagna on Thursday, 9/8, it is the applicant's understanding that this alternative property management company does not immediately offer the call forwarding or monitoring services offered by iTrip (i.e., a decibel meter; likely these services could be added in time). However, iTrip offers a more comprehensive set of services now to manage the STR to code overall, help ensure the neighbors aren't disturbed and that issues get resolved quickly.

Additional response from the applicant:

- Q. Testimony that came in that no one answered the 24/7 hotline and that it ends at 11PM. Opportunity to respond to that?
- R. From 11:00 pm to 7:00 AM the calls go to a call center. Depending on the region, the call center contacts the appropriate manager or whomever else depending on the issue. If for any reason the person they try to reach can't be reached, it escalates up to the next person all the way to the two owners of the company.

8. *Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short-term rental permit for the subject property will become void. The use of the subject property as a short-term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:*
 - a. *Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or*
 - b. *Transfer of ownership pursuant to a will or bequest upon the death of the owner.*

FINDING: SATISFIED WITH CONDITIONS. The applicant is the current property owner at the time of application.

This code provision is an ongoing requirement for the operation of the short-term rental and is included as a condition of approval.

9. *Permits must be renewed annually. Failure to renew the short-term rental permit annually will result in the permit becoming void, and the use of the subject property as a short-term rental will again be subject to the application and review procedures in Section 17.72.110.*

FINDING: SATISFIED WITH CONDITIONS. This code provision is an ongoing requirement for the operation of the short-term rental, included as a condition of approval.

10. *Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinances. If the short-term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.*

FINDING: NOT APPLICABLE: Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.

17.72.150 Notice of Decision.

Within five (5) working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated.

FINDING: SATISFIED: Notice of the Planning Commission decision was provided to the applicant within five days after the decision was rendered by the Planning Commission.

17.72.160 Effective Date of Decision.

Unless an appeal is filed, a decision made by the Planning Director or the Planning Commission shall become final fifteen (15) calendar days from the date that the notice of the decision is mailed. Unless an appeal is filed, a decision made by the City Council shall become final 21 (twenty-one) days from the date that the notice of decision is mailed. (Ord. 5106 §2, 2021)

FINDING: SATISFIED: The applicant appealed the Planning Commission decision on October 21, 2022, within fifteen calendar days from the date that the notice of the decision was provided.

17.72.180 Appeal from Ruling of Planning Commission.

An action or ruling of the Planning Commission pursuant to this title may be appealed to the City Council within 15 (fifteen) calendar days of the date the written notice of the decision is mailed. Written notice of the appeal shall be filed with the City Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review specifying that they were party to the initial proceedings. If the appeal is not taken within the 15 (fifteen) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. Notice of a City Council hearing on an appeal of a decision of the Planning Commission shall take the form of that provided for the initial application before the Planning Commission.

FINDING: SATISFIED: The applicant appealed the Planning Commission decision on October 21, 2022, within fifteen calendar days from the date that the notice of the decision was provided. A public hearing was scheduled for December 13, 2022, with the City Council where the City Council received a staff report and recommendation from the Planning Commission. Notice of the City Council public hearing was provided per the initial application before the Planning Commission.

HR

Ross A. Day

MAILING ADDRESS:

LICENSED IN OREGON
AND WASHINGTON

7831 ST. CHARLES ST NE
KEIZER, OREGON 97303



December 20, 2022

via electronic (claudia.cisneros@mcminnvilleoregon.gov) mail only

The Honorable Remy Drabkin
Mayor
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Adam Garvin
City Council President
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Sal Peralta
City Councilor, Ward 1
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Chris Chenowith
City Councilor, Ward 1
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Kellie Menke
City Councilor, Ward 2
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Zack Geary
City Councilor, Ward 2
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Jessica Payne
City Councilor, Ward 3
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

RE: *Appeal of Planning Commission Decision STR 7-22*
APPEAL FILE 569-22-000412-PLNG – APPELLANT’S FINAL ARGUMENT

Mayor Drabkin, Council President Garvin, Councilors Peralta, Chenowith, Menke, Geary and Payne:

As you are aware, I represent Emily (Joyce) LaGow (herein “Applicant”), regarding the above-referenced application for a short-term rental permit (herein “Application”) pursuant to Section 17.12.010(P) of the McMinnville Zoning Ordinance (herein “MZO”). This letter constitutes the Applicant’s final argument.

Despite the fact that the Applicant has made it clear there are only four (4) bedrooms available in the Applicant’s home, thereby requiring four (4) off-street parking spaces (which the Applicant’s property indisputably has), city staff inexplicably concludes there are five (5) bedrooms in Applicant’s dwelling, and because the Applicant does not have five (5) off-street parking spaces, the Application should be denied.

Rather than get into a back-and-forth discussion of the facts serving as the foundation of the Application, there is a simple solution: the City Council can impose a condition of approval limiting the number of bedrooms to four (4).

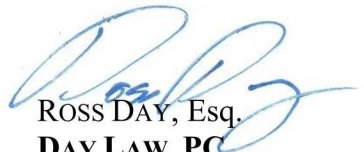
Likewise, the City Council can impose a condition of approval requiring the Applicant to have a provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.

Using “conditions” to ensure compliance with the MZO provides a faster and more definite remedy for the City than traditional code enforcement. Upon determining the Applicant has violated a condition of approval, the City can immediately revoke the Short Term Rental Permit, pending an appeal.

Under the code enforcement process, the availability of an “immediate” remedy to the City is nonexistent.¹ The City must provide the Applicant with due process – a hearing in front of a neutral decisionmaker, opportunity to present evidence, etc – which takes time and is by no means “immediate”. *See generally* McMinnville Municipal Code, Chapter 2.50.

As stated before, the Application meets all of the applicable criteria listed in MZO §17.12.010(P). City staff’s version of the facts are simply incorrect.

However, notwithstanding the factual disagreements between the Applicant and City staff, the Application can nevertheless be APPROVED with conditions described herein.



ROSS DAY, Esq.
DAY LAW, PC
ross@daylawpc.com

¹ Absent a showing of immediate threat to the public’s health and/or safety.

May 30, 2022

Zach Geary,
Ward 2 Councilor
City of McMinnville
230 NE 2nd Street
McMinnville, OR 97128

Dear Councilor Geary,

I am writing to express my strong support for the August 1 moratorium on short-term rental applications and for a thorough revision of the current STR policy and procedure for the following reasons:

The current STR-friendly policy makes the single-family housing problem worse. McMinnville families searching for single-family housing are not only competing with one another for the small supply of single-family homes for sale, but with investors buying homes to make them short term rentals--removing them from the pool of single-family housing options.

The current STR policy is not neighborhood friendly. Should multiple houses go on sale in any McMinnville neighborhood, and if houses are not immediately next to each other, the current policy would allow every second house which met code be purchased and approved as a short-term rental, potentially decimating a traditional McMinnville neighborhood.

The current STR policy is a solution in search of a need. The STR industry web site "Alltherooms.com" indicates May '21-May '22 occupancy rate for McMinnville STR's was 35%. VisitMcMinnville.com indicates that the hotel occupancy rate was 63% for all of 2021 and was 59% for the first three months of 2022. Allowing, even for the pandemic, there is no evidence of an urgent immediate need for more short-term rental properties and yet the current policy has continued to approve additional unneeded short term rental properties.

The current STR policy fails to live up to the creative, quality-of-life-friendliness of other McMinnville city policies. It also fails to use creative STR strategies suggested in the policy literature, such as the approval of STR's based on occupancy rate targets or multiple STR zones in cities allowing easier approval near tourist attractions and stricter standards in traditional residential areas. McMinnville demonstrates a commitment to quality of community life in residential areas in so many of its departments and policies. We are only asking that that be reflected in its short-term rental policy as well.

Sincerely,



Philip & Kathryn Loving
724 NW 21st Street
McMinnville, Oregon 97128
usgrls@frontier.com
503.550.3409

From: [Kellie Menke](#)
To: [Zack Geary](#); [Heather Richards](#)
Subject: RE: Kathy Loving Communications
Date: Thursday, December 15, 2022 10:35:46 AM
Attachments: [image001.jpg](#)
[image002.png](#)

If Zack received this about May 30th, I would have just arrived home for a day and a half before I took off for California to see family and help our eldest daughter move. I sorted the mail for bills but did not look at anything in depth. I was in California for another month before coming home around the first of July. Our Niece, Tiffany, collected all the mail for us. I do not remember ever seeing anything from Kathy Loving. If she sent something it may have gotten lost in the shuffle of all the other mail. As I said before I had surgery on July 6th and was recuperating for about a month. My husband noted to me on several occasions that my mail sorting was not the best during that time.
Kellie Menke

From: Zack Geary <Zack.Geary@mcminnvilleoregon.gov>
Sent: Thursday, December 15, 2022 10:00 AM
To: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>; Kellie Menke <Kellie.Menke@mcminnvilleoregon.gov>
Subject: Re: Kathy Loving Communications

Heather-

I found the letter she wrote to me in my records I keep. It is dated May 30th 2022 and speaks only of STR moratorium support, but I will drop it off to you at your office.

A digital search of my email inbox yields no emails from Kathy Loving.

Thank you-

Zack Geary

City Councilor

City of McMinnville

Zack.Geary@mcminnvilleoregon.gov | 503-560-0617



From: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>
Sent: Wednesday, December 14, 2022 8:35 PM
To: Zack Geary <Zack.Geary@mcminnvilleoregon.gov>; Kellie Menke <Kellie.Menke@mcminnvilleoregon.gov>

Subject: Kathy Loving Communications

Hi Kellie and Zack,

Carrie Richter has requested that I send to her the communications that you received from Kathy Loving regarding 790 NW 21st Street. Can you please forward to me any communications you had from Kathy Loving relative to short-term rentals.

Have a great day!

Heather



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

503-474-5107 (phone)

971-287-8322 (cell)*

*Please note new cell phone number

Heather.Richards@mcminnvilleoregon.gov

www.mcminnvilleoregon.gov



COMMUNITY DEVELOPMENT
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

PUBLIC TESTIMONY RECEIVED (AP 1-22)

Consisting of:

Up until December 6, 2022:

- Mark Pitts, 11.29.22
- Mollie Post, 11.30.22

December 6 – December 12, 2022:

- Nick Grinich, 12.07.22
- Kathy Loving, 12.08.22
- Linda Storr, 12.08.22
- Jay Post, 12.12.22
- Kelli Grinich, 12.12.22

McMinnville City Council
McMinnville Oregon
November 29, 2022

Members of the City Council:

Because the City Council is in the rare position of considering the 790 NW 21st appeal in anticipation of receiving the results of the Planning Commissions general study of short term rentals, I'd like to address both in this letter.

Policy Comments:

I'd like to begin by thanking the City Council for its recent extension of the moratorium on Short Term Rentals in McMinnville. As a citizen (and based on some newspaper coverage) I view the moratorium and the study the Planning Commission is doing as an acknowledgment that the current STR policy needs attention.

As I said when I presented the 21st Street petition with 50 signatures to City Council several weeks ago supporting the moratorium on STR's, the concerns include:

- STR's reduce the stock of single family housing at a time of high demand.
- Demand for STR's is moderate to low. The industry web site "AllTheRooms.com" indicates STR occupancy in McMinnville in 2021 was 45%, meaning high demand family homes converted to STR's were empty most of the time.
- Visit McMinnville indicated that hotel occupancy last year, before new hotels came online, was 60%.
- Given the high demand for single family housing and the much lower demand for STR's and hotel rooms, our neighborhood is at a loss to understand why the city currently has such an "STR-friendly" policy and is hopeful that the newly adopted moratorium will either be extended until real need for short-term lodging can be demonstrated or that a new policy can be keyed to demonstrable high demand targets.

Second, I'd like to thank the Planning Commission, even within the context of a now-suspended STR process, for denying the application from 790 NW 21st Street.

Taken together, the message so far is that even using a policy which needs attention, the Planning Commission denied this application. For the City Council to overturn the denial in the midst of intense attention to short term rentals would, I believe, send the wrong message to the Planning Commission, potential applicants and the general public. It would also encourage denied applicants in a new process to assume support from the City Council--another message best not sent.

Specific 790 NW 21st Street Comments:

In addition, I am writing to express my opposition to the short term rental application for the home at 790 NW 21st Street for the following reasons:

- First, the home began advertising on AirBnB in July, 2022--after submitting her application to the Planning Commission but without having received approval. My previous letters have “blamed” the homeowner, but after hearing testimony from her and the explanation of the early posting from her iTrips representative, I believe it is either inept or “sharp” iTrips business practices that caused the house to be advertised early.
- Second, in the most recent documents available to neighbors at the Planning Commission appeals hearing there was still no satisfactory response to item #7 on the STR requirements list--that someone be available “immediately” in the 97128 zip code to address neighborhood concerns. The document referenced the use of a management company, but included snarky comments that that person would need to be away to sleep, eat and for vacations, so clearly still not complying with the spirit of item #7.
- Third, the experts on the Planning Commission staff recommended denial of the application and the citizen members of the Planning Commission itself voted 7-1 to deny. As indicated earlier, to overturn these two panels whose job it is to review such applications in one rare instance when they deny is to send a confusing message at a pivotal moment in McMinnville STR policy history.

With all of this information in mind, I and my neighbors would respectfully request that the work of the Planning Commission be affirmed and the denial of the application for STR at 790 NW 21st street be upheld.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark E. Pitts', followed by a vertical line.

Mark E. Pitts
For the Ad Hoc 21st Street STR Concern Team

From: [Mollie Post](#)
To: [Mollie Post](#)
Subject: STR Application-790 NW 21st Street
Date: Tuesday, November 29, 2022 1:26:49 PM

This message originated outside of the City of McMinnville.

To Ms. Richards and McMinnville City Council:

I am writing to express my concern about the application for Short Term Rental for the property at 790 NW 21st Street in McMinnville. I have lived right around the corner at 2038 NW Michelbook Lane since 1997. We, too, are part of the Compton Addition neighborhood.

My main concern is that this applicant seems not to want to follow the rules. For example, they rented the house as a STR prior to approval. Also, at the initial neighborhood information meeting and subsequent planning commission meetings we were assured that the home was a four bedroom rental with parking for four cars that would not be on the street. Subsequently, it was rented as a long term rental and cars were parked on the street throughout the October tenancy. I walk my dog twice a day and observed cars parked on the street most of the time. I only wish I had started taking photos sooner and more frequently (see below).

Please consider, if the owner and property managers do not follow the rules while they are in the delicate process of applying for STR approval, what rules will they disregard once they have approval? Will they show respect for the neighborhood?

Thank you for your consideration.

Sincerely,

Mollie McKibben Post



October 17, 2022



October 21, 2022



October 24, 2022



October 31, 2022



**City of
McMinnville**

PLANNING

**City of McMinnville
Community Development
Department**

231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

MEMORANDUM

DATE: December 12, 2022
TO: Mayor and City Councilors
FROM: Heather Richards, Planning Director
SUBJECT: New Public Testimony for AP 1-22 (STR 7-22), Appeal of Planning Commission Denial of a Short Term Rental Permit for 790 NW 21st Street.

Mayor and Councilors,

Following is the public testimony that has been received for Docket AP 1-22, appeal of the Planning Commission denial of a short-term rental permit at 790 NW 21st Street, since the meeting packet was distributed on December 6, 2022.

Public Testimony:

Email from Nick Grinich, 12.07.22
Email from Kathy Loving, 12.08.22
Letter from Linda Storr, 12.08.22

From: [Nick Grinich](#)
To: [Claudia Cisneros](#); [Heather Richards](#)
Subject: Dec 13 Appeal to McMinnville City Council of Denial of STR Application for 790 NW 21st ST
Date: Wednesday, December 7, 2022 9:00:38 AM

This message originated outside of the City of McMinnville.

Dear Councilors,

I urge you to uphold the Planning Commission's 7-1 vote denying the STR Application for 790 NW 21st ST.

Note that the applicant placed her house for short term rent on Airbnb during the permitting process, prior to receiving a STR permit.

The STR applicant for this property fails to provide an adequate emergency contact person living in McMinnville, as required by the City. At the initial public hearing before the Planning Commission, the Commission gave the applicant 7 additional days to address this problem of lack of a local contact to handle emergencies with the STR property. Instead of fixing this deficiency, by their written response, the applicant states that the responsible party would be "Erica or her phone set to forward to iTrip," with iTrip using an out-of-area call center after 11:00pm. The applicant further goes on to say that "this seems like a discussion suited towards a change in the code." Clearly, the requirement to provide a local person to handle emergency calls is not met.

The STR applicant's house is a 5 bedroom property, though only 4 off-street parking spaces are provided. Again, the applicant fails to meet another necessary requirement for approval of the STR permit. Of note, during the STR application process the applicant has rented the 790 NW 21st ST property. These tenants have parked numerous cars on their driveway, its adjacent gravel pad and on both side of the adjacent street (up to 10 cars).

The applicant has had opportunities to correct their deficient STR application, that was then subsequently denied by the Planning Commission. It is not reasonable to allow the applicant to yet provide further modifications or amendments to their application in hopes that the City Council will overrule its own Planning Commission's decision.

Instead, the City Council should reject the applicant's appeal and support the Planning Commission's considered decision to deny this STR permit.

Respectfully submitted,

Nick Grinich
708 NW 21st ST
McMinnville, OR 97128

From: [Kathy Loving](#)
To: [Heather Richards](#)
Cc: [Claudia Cisneros](#)
Subject: Appeal of the Denial of the STR @ 790 NW 21st Street, McMinnville
Date: Thursday, December 8, 2022 12:04:38 AM

This message originated outside of the City of McMinnville.

Planning Director Richards,

I am writing to express my strong support for the denial of the appeal of the Short Term Rental application from Emily (Joyce) LaGow for the property located at 790 NW 21st Street, McMinnville, Oregon 97128. I live 2 houses to the east of this property and have lived in this neighborhood for 31 years, and have major concerns about what we, as neighbors, have witnessed in a house that was denied a STR permit. Within the last month, there has been a couple instances where 11 cars were parked in the driveway and on the street in front of this house. Why, if ever, in a house advertised as a 4 bedroom should that number of vehicles be parked in the driveway and on the street? What is happening at this house that would warrant that many vehicles, and who is policing it? Does the owner of this house, Ms LaGow know of this? Do her representatives? It is my understanding she lives out of state. Why should she care, these cars are not parked in front of her house. If there is a problem whom do we call, the McMinnville Police Department? We can't call a local contact person because there is not a local contact person to call.

The problems we addressed when this application was in the original permit process appear to be the same. There is not a local contact in the event there are problems such as and not limited to; noise, garbage, parking, alcohol. You have a property owner who does not live in the State of Oregon who chose to rent this property without proper permit approval. This action showed complete disregard for McMinnville's STR application policy. And now she has chosen to appeal the denial by the Planning Commission to the City Council.

Ms. LaGow should not be rewarded by a reversal of the denial because she had adequate time to address the issues brought forth by the families of this neighborhood. We are the families. We live here. We care about our neighborhood. The only people who will fight for the livability of our neighborhood are those of us who live

here. The City Council should not usurp the decision made by the Planning Commission. The City of McMinnville has a Planning Department for a reason. You are our line of defense. There are rules and regulations to follow. Ms. LaGow and her representatives chose to not follow the rules and regulations set forth by the City of McMinnville. If the decisions of the Planning Department can be overruled by City Council then there is no reason for a Planning Department.

My hope is that City Council will respect the decision by the Planning Department and the families who live in this neighborhood and deny the appeal from Ms. LaGow.

Thank you for your time and consideration.

Kathy Loving

Nov 27, 2022

City of Mc Minnville

Planning Department

my name is Linda Stahr, I live at
2151 NW Crystal Dr. - directly across the street
from intended STR 790 NW 21st

Just FYI - short approx timeline:

June 8 - move in of furniture by 2 black cars
w/ Georgia plates + blue + white cars (Honda/Suzuki)
and an unmarked white large van

July 4th - Unallowed guests who bought thru
abnb property rental. Parked 2 cars in driveway
+ 1 car in street the entire stay.

Aug 2022 - 2 black cars return (both with
Georgia plates - same cars as before) They stayed
for 30+ days (also 1 extra car showed up)

They parked those cars over sidewalks
many times - blocking use of walks. Also
left overflowing trash outside for 3+ weeks.

Sept - mostly empty - trash left on gravel drive!

Oct 2022 - next blue + white cars return, along
w/ 2 pick-up + another blue car. They then
had 9-11 cars on street + even in front of
mail box several evenings a week.

Only single lane access around corner.
One pick-up started the vehicle at 3/3:30am
+ let run (loudly) for 15 minutes ^(weekly) After
they left the leaves were finally cleaned
up + roof cleaned - some progress.

I have been here for almost 8 yrs
& love this neighborhood & people.
This year my property values were
raised over \$64,000, taxes jumped,
escrow was short (which I owe) and
house payment will rise. Then next
\$13 on Jan 2023 bill will start. Gas
groceries, TV, car/house insurance & more
all higher. I will pay all to stay
in my home (+ husband cost to stay
in assisted living) But is it
worth it for me to stay with
a 3x3 wooden sign indicating
an abnb or STR. Seems it will
not be to my benefit if I ever
need to sell.

Seems no one watches the
home - now - what is next.
No matter how this ends I'm not
sure it will be a good outcome

Thank you

Linda Stahr

From: [JAY POST](#)
To: [Heather Richards](#)
Cc: [Mark Pitts](#)
Subject: Appeal of the Planning Commission decision to deny a short-term rental permit at 790 NW 21st Street.
Date: Monday, December 12, 2022 11:48:49 AM

This message originated outside of the City of McMinnville.

Dear Ms. Richards:

My name is Jay Post, and I'm a long time resident of McMinnville residing at 2038 NW Michelbook Lane. I'm writing to ask the City Council to affirm the Planning Commission denial of the short term rental application at 790 NW 21st St. The applicants have in my opinion already shown repeated disregard for regulations and the legal process. Here are some of my concerns:

If their explanation of prior events is accurate, the property management company violated our local process by placing a client at the rental property prior to it's approval as a short term rental. The explanation given was that air conditioning failed at another local property, resulting in a need to move the client at that property. Although I'm not personally aware of evidence supporting this explanation, I'll give the property owner and rental company the benefit of the doubt and assume the explanation is supported by facts. If so, they (rental management company and/or property owner?) chose the option of moving their client to a property not approved by the city. There would have been potential other options including keeping them at their current location, or placing them at a hotel/motel. They chose the option that placed them in violation of city rules.

Even prior to the approval which applicant has anticipated, there has apparently been at least one instance of disregard for on-street parking rules.

It's still not clear that there is a person available to contact 24/7 should neighbors become aware of a disturbance or violation at the rental property. There should be a named individual, as well as a local backup individual for times when the primary person is unavailable.

I feel that the applicant has shown a pattern of disregard for the rules and the local process even prior to the approval that they've anticipated. Why should we expect that they'd be more likely to comply with rules after approval?

My opinion is that the denial of approval of this application by the Planning Commission should be upheld by the City Council.

Jay Post
2038 NW Michelbook Lane

Dear Councilors;

Thank you so much for taking the time to read my letter, and for all the work you do to make McMinnville wonderful. I've loved our town since the first moment I stepped onto the Linfield Campus, decades ago. One of my college jobs was interning for the Chamber of Commerce. When the opportunity came to return to McMinnville decades ago, we grabbed it.

I'm writing today to urge the City Council to deny the Short Term Rental permit for 790 NW 21st Street. I'm attaching a picture with ten cars parked at the house, taken on a Sunday night after the last STR planning commission meeting.

We as a neighborhood are frustrated with this process, especially as it lingers on beyond the final Planning Commission 7-1 decision. Fifty people in our neighborhood signed a petition expressing the desire to not have this property become a short term rental.

This weekend I read a quote from Erin Stephenson about Visit McMinnville: "Visit McMinnville's newly adopted vision is to 'cultivate the visitor economy to enhance the quality of life for our community'. ...we can harness the power of McMinnville as a destination and make it work for us...additional hotel rooms can be the engine that pays for the things we value ---the Mack Theater, but also eventually out at Evergreen..."

This application goes against everything this lovely statement implies. Having a large family home host different big groups of strangers every weekend, potentially every night, turns the heart of our neighborhood into a business, the revenue of which flies straight to Texas, not to McMinnville. For weeks there have been five cars associated with the property. This home should be a family home, not a hollow community contributor which sees a steady flow of strangers come and go.

This house is a natural attractant for large groups. The short term occupancy will be impossible for the Planning Commission or Heather Richard's office to police, and there will be no recourse for neighbors, who will need to call on weekends about altercations, parking, noise, and other issues.

Please take the time to read the review left on Airbnb for the illegal July 4th occupancy. It doesn't jibe with the iTrip excuse that the occupants were moved around because of air conditioning failure in another unit.

The owner had multiple chances to fix the problem before the Planning Commission 7-1 decision to deny the application. The Planning Commission decision was sound. The Texan owner has no regard for the neighbors, nor the city of McMinnville.

Respectfully submitted,

Kelli Grinich

708 NW 21st Street
McMinnville, OR 97128





COMMUNITY DEVELOPMENT
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

APPEAL APPLICATION (STR 7-22)

Consisting of:

- Appeal Application
- Applicant Supplemental,
12.13.22

Ross A. Day

LICENSED IN OREGON
AND WASHINGTON

MAILING ADDRESS:

7831 ST. CHARLES ST NE
KEIZER, OREGON 97303



October 21, 2022



via electronic mail (heather.richards@mcminnvilleoregon.gov;
adam.tate@mcminnvilleoregon.gov) facsimile (503.474.4955) and first-class mail

City of McMinnville Planning Department
231 NE 5th Street
McMinnville, Oregon 97128

RE: *Appeal of planning commission decision STR 7-22*

To whom it may concern:

I represent Emily (Joyce) LaGow (herein "Applicant"), the applicant on Short-Term Rental application STR 7-22 (herein "Application"). Enclosed please find an appeal form, appealing the decision of the city of McMinnville's (herein "City") planning commission's decision on the Application (herein "Decision").

In addition to the completed appeal form, I have also attached a copy of the transmittal letter from your office and a copy of the actual decision.

Undoubtedly your office will note the absence of an appeal fee with the electronic submission of the appeal. Included with this letter is check number 10001 in the amount of \$1,095.00 representing the appeal fee.

There is nothing in the McMinnville Zoning Ordinance (herein "MZO") that requires the payment of an appeal fee to perfect an appeal. In fact, MZO §17.72.180 do not require the payment of an appeal fee in order to perfect an appeal. That section of the MZO only requires "written notice of the appeal" and requires the written notice to include the identification of the decision to be reviewed, the date of the decision to be reviewed, and a statement of interest from the person seeking review.

The payment of the appeal fee is **not** jurisdictional. The Oregon Land Use Board of Appeals has held that unless the zoning ordinance *specifically states* that payment of an appeal is jurisdictional, then payment of an appeal fee is **not** jurisdictional. *Ratzlaff v. Polk County*, 56 Or. LUBA 740, 745 (2008). In other words, as long as "written notice" is timely provided, the Applicant has perfected her appeal. The submission of this "written notice" constitutes timely filing of the Applicant's appeal.

Which brings me to a second point. MZO §17.72.180 requires an appeal to the City Council be made within 15 (fifteen) calendar days of the date written notice of the decision is mailed. Nowhere on the Decision is there any indication of a date of mailing the Decision. The Decision

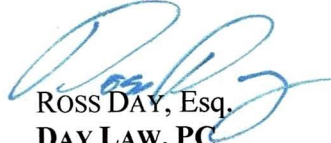
7831 ST. CHARLES ST. NE, KEIZER, OREGON 97303
TEL: 503.743.6460 • WEB: WWW.DAYLAWPC.COM

itself was not signed by the chairperson of the planning commission until October 7th, 2022. Further, the Applicant received a letter accompanying the Decision which was dated October 7th, 2022. Presumably the date of mailing was October 7th, 2022, meaning the date the decision must be appealed is October 22nd, 2022. Because October 22nd, 2022, falls on a Saturday, the date of filing the appeal is adjusted to October 24th, 2022.

The October 7th, 2022, letter from your office, however, states the deadline for appealing the Decision is October 21st, 2022. The planning commission reached its decision on the Application on October 6th, 2022, but the Decision itself was not mailed – at the earliest – until October 7th, 2022. The deadline for the Applicant to appeal the Decision – as stated in your office’s October 7th, 2022, letter is incorrect.

Nevertheless, the Applicant is submitting her appeal in advance of the October 24th, 2022, deadline.

Thank you for your attention to this matter. Please contact my office at your earliest convenience to discuss the hearing in front of the City Council.


ROSS DAY, Esq.
DAY LAW, PC
ross@daylawpc.com

cc: Adam Tate (email only)
Client

10001

Day Law, P.C.

DATE 10/21/2022

PAYEE City of McMinnville

TOTAL 1095.00

MEMO

10/21/22 Per Emily LaGow request to shred check upon arrival.

Shredded 10/24/22 12:44pm

Witness:

Devin Aldrich
Amanda Winter



Day Law, P.C.
7831 St. Charles Street N.E.
Keizer, Oregon 97303



POSTAGE DUE 2.48



City of McMinnville Planning Department
231 NE 5th Street
McMinnville, Oregon 97128





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.	AP. 1-22
Date Received	10/21/22
Fee	\$1095.00
Receipt No.	207015
Received by	DA

Appeal Application

5109-22-000412-PING

Copy of Receipt & Record # w/ Jacket #
Emailed to Emily LaGow
& Ross Day 10/21/22 4:32 pm
See Attached Email DA

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other _____
 Provided testimony prior to this appeal.

Applicant Name Emily (Joyce) LaGow Phone 206-714-3791
Contact Name Ross Day, Esq. Phone 503-743-6460
(If different than above)
Address 7831 St. Charles Street NE
City, State, Zip Keizer, Oregon 97303
Contact Email ross@daylawpc.com

Original Application Information

File No.: STR 7-22 Review Body: Planning Commission
Decision: Deny Date of Decision: October 6th, 2022
Date Decision Mailed: Unknown - Possibly October 7th, 2022 Appeal Date Deadline: October 24th, 2022
Description of Original Application Request: Application to permit a short-term rental

Appeal of a decision made by the following review body is requested:

- PLANNING DIRECTOR (See Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance for further information.)
- PLANNING COMMISSION (See Section 17.72.180 (Appeal from Ruling of Planning Commission) of the Zoning Ordinance for further information.)

Please state in detail the basis for and issues raised in this appeal. You must identify the criteria and findings that you are appealing. Attach additional sheets as necessary.

As an initial matter, there is nothing in the City's ordinances that requires an appellant to "identify the criteria and findings you are appealing. McMinnville ordinance 3380, Section 17.72.180 does not require any such identification, as is required in Section 17.72.170.

Next, the transmittal letter that accompanied the planning commission's incorrectly states that the appeal is due on October 21st, 2022. The decision being appealed was signed by the chair of the planning commission on October 7th, 2022. Fifteen (15) days from October 7th, 2022 is October 22nd - not October 21st - which makes the appeal due by October 24th, 2022. The decision is not accompanied by a certificate of mailing, so the actual date of mailing is unknown - one of many procedural errors of the challenged decision.

Third, the decision being appealed does not make factual finding sufficient to support the planning commission's decision - yet another procedural error in the decision.

Finally, as a substantive matter, the decision being appealed is not supported by substantial evidence in the record. The applicant met her burden of proof with respect to the applicable criteria. The decision appears to be based not on the facts as presented, but rather on general opposition by neighbors who do not want a short-term rental property in their neighborhood.

The applicant/appellant reserves the right to raise additional challenges to the planning commission's decision through additional argument and presentation of additional evidence.

In addition to this completed application, the applicant must provide the following:

- 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.

Emily LaGow
Emily LaGow, EG# 23-2027-1413 CDTT
Appellant's Signature

Oct 21, 2022
Date







Completed Appeal Foirm

Final Audit Report

2022-10-21

Created:	2022-10-21
By:	Ross Day (ross@daylawpc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAU3KmmN3KumrDCNxjaviwWboquutlPkjU

"Completed Appeal Foirm" History

-  Document created by Ross Day (ross@daylawpc.com)
2022-10-21 - 7:04:46 PM GMT- IP address: 24.22.32.40
-  Document emailed to lagowj@amazon.com for signature
2022-10-21 - 7:05:11 PM GMT
-  Email viewed by lagowj@amazon.com
2022-10-21 - 7:13:14 PM GMT- IP address: 71.135.214.119
-  Signer lagowj@amazon.com entered name at signing as Emily LaGow
2022-10-21 - 7:13:34 PM GMT- IP address: 71.135.214.119
-  Document e-signed by Emily LaGow (lagowj@amazon.com)
Signature Date: 2022-10-21 - 7:13:36 PM GMT - Time Source: server- IP address: 71.135.214.119
-  Agreement completed.
2022-10-21 - 7:13:36 PM GMT



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 SHORT-TERM RENTAL AT 790 NW 21st STREET

DOCKET: STR 7-22
REQUEST: Application to permit a short-term rental.
LOCATION: 790 NW 21st St. Tax Lot: R4417-AC-02344
ZONING: R-1 (Single-Family Residential)
APPLICANT: Emily (Joyce) LaGow
STAFF: Heather Richards, Community Development Director
Adam Tate, Associate Planner

DATE DEEMED COMPLETE: July 11, 2022

DECISION MAKING BODY & ACTION: The McMinnville Planning Commission makes the final decision unless the Planning Commission's decision is appealed to the City Council.

DECISION DATE & LOCATION: September 1, 2022, Hybrid Public Hearing. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 879 8953 9440
October 6, 2022, Hybrid Public Meeting. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 834 6597 3462

PROCEDURE: The application is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. This short-term rental was found to be operating without a permit and referred to code compliance. The application will now be heard before a public hearing and reviewed by the Planning Commission. in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.

CRITERIA: The applicable criteria and standards for a Short-Term Rental are specified in Section 17.12.010(P) of the Zoning Ordinance.

APPEAL: As specified in Section 17.72.180 of the Zoning Ordinance, the Planning Commission's decision may be appealed to the City Council within 15 calendar days of the date the written notice of decision is mailed. The City's final decision

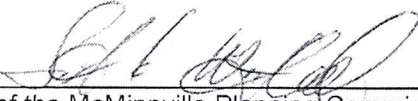
Attachments:
Attachment 1 – Application and Attachments

is subject to the 120-day processing timeline, including the resolution of any local appeal.

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are **NOT SATISFIED** and **DENIES** the Short-Term Rental permit for the property at 790 NW 21st Street (STR 7-22).

////////////////////////////////////
DECISION: DENIAL
////////////////////////////////////

Planning Commission: 
Sidonie Winfield, Chair of the McMinnville Planning Commission

Date: 10/2/22

Planning Department: 
Heather Richards, Planning Director

Date: October 6, 2022

-
- Attachments:
- Attachment 1 – Application and Attachments
 - Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
 - Attachment 3 – Public Testimony Received



COMMUNITY DEVELOPMENT DEPT.
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

SENT VIA EMAIL

October 7, 2022

Emily (Joyce) LaGow
3201 Esperanza Crossing 453
Austin, TX 78758

RE: Docket STR 7-22, a Short-Term Rental application for 790 NW 21st Street

Dear Ms. LaGow:

This letter is to advise you that, at a meeting of the McMinnville Planning Commission on Thursday, October 6, 2022, your application, for approval of a short-term rental at 790 NW 21st Street was considered by the McMinnville Planning Commission.

Based on the material submitted by the applicant, the testimony received, and material provided by the Planning Department, the Planning Commission voted 7 to 1 to **DENY** your request (STR 7-22).

The Planning Commission determined that your application failed to meet the criteria for short-term rentals in Section 17.12.010(P) of the McMinnville Municipal Code.

Pursuant to the Zoning Ordinance of the City of McMinnville, Section 17.72.130(C)(4), the decision of the Planning Commission shall be final unless an appeal is filed.

Per Section 17.72.180 of the Zoning Ordinance of the City of McMinnville, "an action or ruling of the Planning Commission may be appealed to the City Council within 15 calendar days of the date the written notice is mailed. The appeal shall be filed with the Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review specifying that they were party to the initial proceedings."

If no appeal is filed with the Planning Department on or before October 21, 2022, the Planning Commission's decision is final.

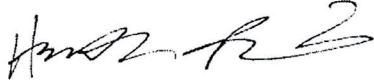
Letter Re: STR 7-22

Date: October 7, 2022

Page 2

If you have any questions or comments, you may reach me at (503) 434-7311.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Richards", written in a cursive style.

Heather Richards, PCED
Planning Director

HR

c: Mark Pitts (sent via email)
Kelli Grinch (sent via email)
Jay Post (sent via email)
Kathy Loving (sent via email)

COPY



Planning Department
231 NE Fifth Street o McMinnville, OR 97128
(503) 434-7311 Office o (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Office Use Only:
File No.
Date Received
Fee
Receipt No.
Received by

Short Term Rental Application

Applicant Information

Applicant is: [X] Property Owner [] Contract Buyer [] Option Holder [] Agent [] Other

Applicant Name Emily (Joyce) LaGow Phone 206-714-3791

Contact Name (If different than above) Phone

Address 3201 Esperanza Crossing 453

City, State, Zip Austin, TX 78758

Contact Email joycelagow@hotmail.com

Property Owner Information

Property Owner Name (If different than above) Phone

Contact Name Phone

Address

City, State, Zip

Contact Email

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 790 NW 21ST ST, MCMINNVILLE, OR 97128

Assessor Map No. R4 R4417AC02344 Total Site Area Lot size: 0.25 Acres

Subdivision Compton Addition Block Lot

Comprehensive Plan Designation Zoning Designation R-1

COPY

The Director may approve, approve with conditions, or deny the application, based on the following criteria:

1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.
4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
5. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.
6. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:
 - a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

COPY

1. Please describe the residence and its proposed use. The homeowner intends to rent their four (4) bedroom, three (3) bath home on a short-term basis. The rental will be made available for guest use year round and will be professional managed and maintained by iTrip Vacations management company.

2. How many guest rooms will be provided? 4
 What is the maximum number of guests that can be accommodated? 8

3. How many off-street parking spaces are available? 4
 Are the parking spaces paved? Yes No

4. Are there smoke detectors in the residence? Yes No
 If so, where are they located? _____
Smoke detectors are provided in each bedroom and hallway, and carbon monoxide detectors are provided on each floor where a carbon monoxide source is located.

5. Does the property owner live within the city limits of McMinnville? Yes No
 If no, please provide contact information of a person living within the city limits who shall be available to respond immediately to any emergency or complaint related to the vacation home rental:
 Contact Name Erika Correa Phone 971-983-9324
 Address 540 NE 26th Ct Phone _____
 City, State, Zip McMinnville, OR 97128
 Contact Email mariaponce352@yahoo.com

6. Has the applicant registered as a Transient Lodging Provider in order to collect, and pay, the Transient Lodging Tax imposed by the City of McMinnville on the rent charged to an occupant who occupies a provider's lodging for 30 successive days or less? Yes No

In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.***
- Digital photographs of the subject residence's exterior.*
- Floor plan showing the size, function, and arrangement of interior rooms.*
- Compliance of Neighborhood Meeting Requirements.*
- Other information deemed necessary by the Planning Director to allow review of the applicant's proposal.*
- Payment of the applicable review fee, which can be found on the Planning Department web page.*

Y903

Short Term Rental Information & Submittal Requirements



Planning Department
231 NE Fifth Street • McMinnville, OR 97128
(503) 434-7311 Office • (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Overview

In order to operate a vacation home rental in any of the residential zones of the City of McMinnville, a property owner must first submit an application and meet a specific set of standards as set forth in Section 17.12.010(O) (Permitted Uses) of the Zoning Ordinance, and also listed below. [Vacation home rentals located in commercial zones are exempt from these requirements; however, *all* such establishments are subject to the requirements of the *Transient Lodging Tax* program, which is administered by the City's Finance Department.]

Please note that occupancy of a vacation home rental in McMinnville is limited to a single family, as that term is defined by the McMinnville Zoning Ordinance.

Application Submittal

The following materials must be provided at the time of submittal, or the application will not be accepted for processing.

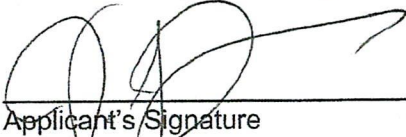
- A completed Short Term Rental application form.
- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.**
- Digital photographs of the subject residence's exterior.
- Floor plan showing the size, function, and arrangement of interior rooms.
- Compliance of Neighborhood Meeting Requirements
- Payment of the applicable review fee.

Review Process

An application for a vacation home rental permit is subject to review by the Planning Director as stated in Section 17.72.110 (Director's Review with Notification) of the Zoning Ordinance, after notification of the application has been provided to property owners within 100-feet of the subject site. The decision made by the Planning Director may be appealed to the Planning Commission as outlined in Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance.

COPY

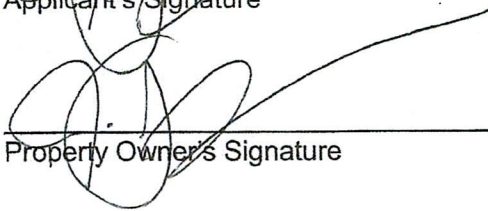
I hereby certify that the statements contained herein are in all respects true and correct to the best of my knowledge and belief.



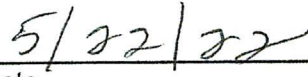
Applicant's Signature



Date



Property Owner's Signature



Date



Aligned Design, LLC
Lindsey Jones, LEED AP
www.aligneddesignpdx.com
(503) 606-6100
hello@aligneddesignpdx.com

Issue Date: 04/25/2022

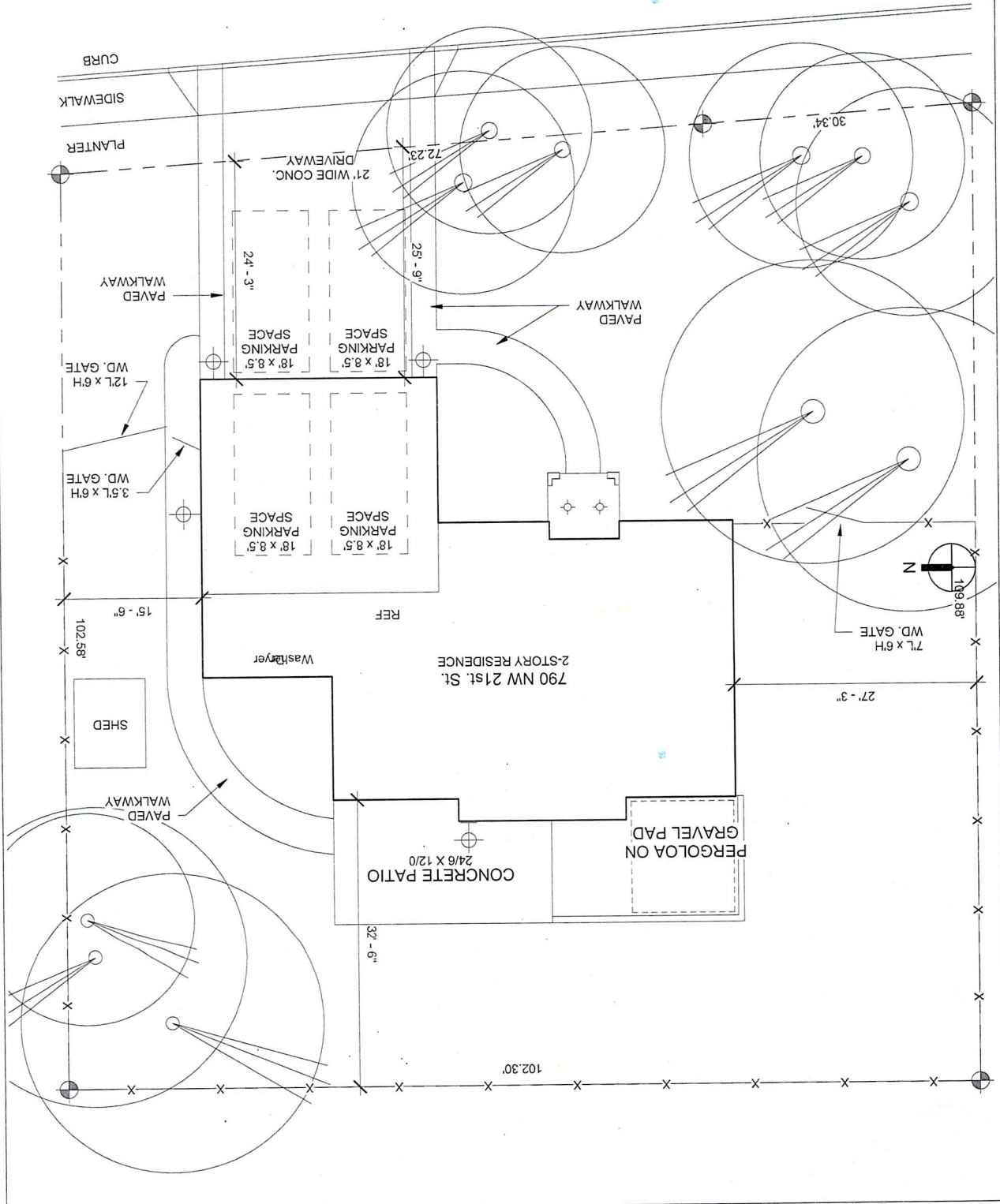
Site Plan

NW 21st St. ASTR
790 NW 21st St.
McMinnville, OR 97128

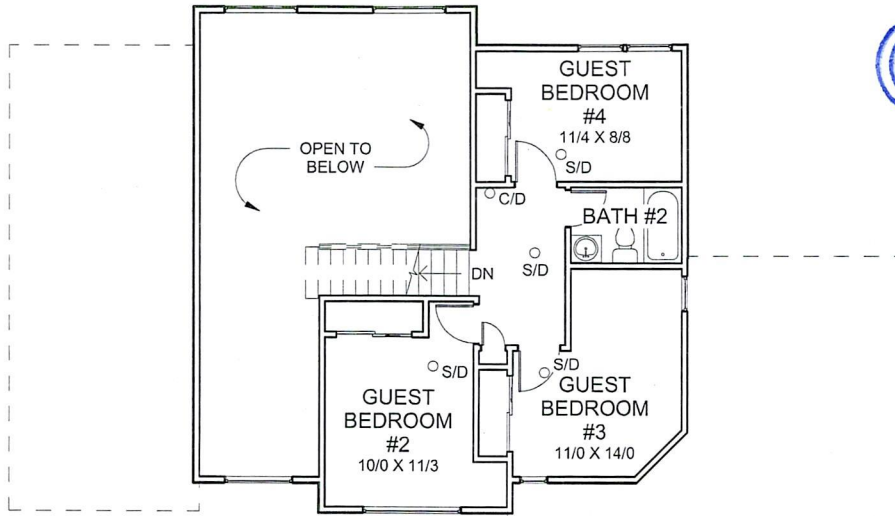
0.1

PROPERTY INFORMATION:
PROJECT ADDRESS: 790 NW 21st St.
MCMINNVILLE, OR 97128
483217
R4417AC 02344
ALT. PROPERTY #: 483217
ACCOUNT #: 483217
PROPERTY DESC: LOT 14 - BLOCK 1 IN COMPTON ADDITION

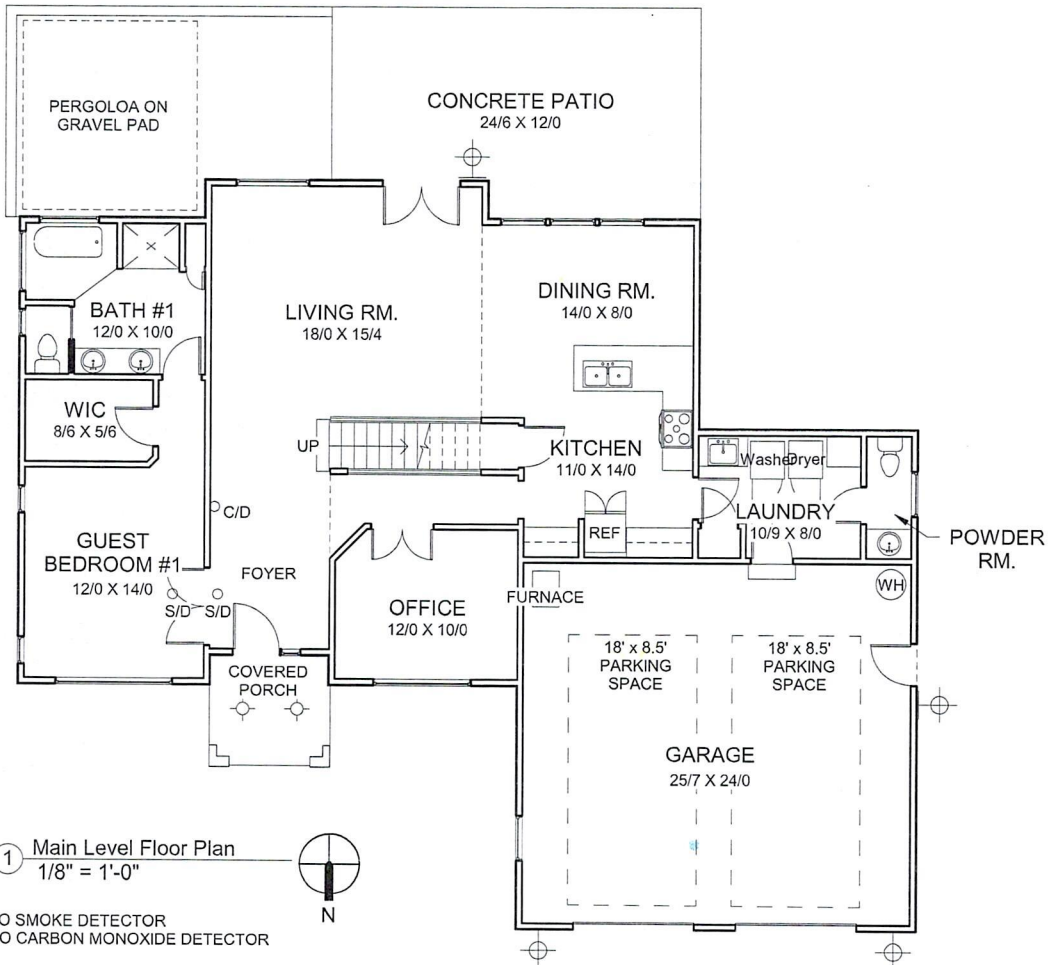
1 Proposed Site Plan
3/32" = 1'-0"



COPY



2 Proposed Second Floor Plan
1/8" = 1'-0"



1 Main Level Floor Plan
1/8" = 1'-0"

NOTE:
S/D REFERS TO SMOKE DETECTOR
C/D REFERS TO CARBON MONOXIDE DETECTOR

NW 21st St. ASTR
790 NW 21st St.
McMinnville, OR 97128

Main Level Floor Plan

Aligned Design, LLC
Lindsey Jones, LEED AP
www.aligneddesignpdx.com
(503) 606-6100
hello@aligneddesignpdx.com



Issue Date: 04/25/2022

4522/4526 SE 41st Ave. - Type-B ASTR

HOUSE RULES

Check in time: 4pm.

Check out time: 11am.

We cannot accommodate early check-ins nor late check outs. Should any unauthorized persons occupy or use the Premises, Tenant shall vacate the premises immediately without any refund. No key will be issued to anyone who is not an adult.

HAZARDOUS PRACTICES

Do not dismantle smoke detectors as they are there for your protection. Use the overhead stove fan when cooking to avoid accidental, activation of smoke detector alarm.

FAMILY RENTAL ONLY

Reservations made for teenagers or young single groups will not be honored without any accompanying adult staying in the unit at ALL times. We require at least one member of the party to be 25 (twenty-five) years of age! Any violators will be evicted according to local statutes with forfeiture of all monies.

FALSIFIED RESERVATION

Any reservation obtained under false pretense will be subject to forfeiture of reservation deposit, damage deposit, and/or balance of rental payment.

HOUSEKEEPING

There is **no daily maid service**. Linens and towels are included and not to be taken from the unit. An initial setup of trash liners, bathroom paper, soap is provided.

NONSMOKING UNIT

Smoking is strictly prohibited. Your damage deposit will be forfeited and you will incur an additional charge for carpet cleaning and deodorizing if any evidence of smoking is found.

COBA 1

4522/4526 SE 41st Ave. - Type-B ASTR

COPY

RULES AND REGULATIONS

1. Tenant agrees to leave the premises and its contents in the same condition, neat and tidy, as Tenant found the premises to be upon move-in, normal wear and tear expected. Beds should be stripped of linens and placed in a pile in each bedroom for housekeeping.
2. All dishes are to be washed and all garbage removed from the premises and placed in outside receptacles. Please place trash bins in front of house for pickup.
3. The maximum number of occupants shall not exceed eight (8) people.
4. Furnishings are not to be removed from the premises for use outside or in other properties.
5. "No pets" policy must be observed. Pets are not allowed on premises.
6. Smoking is not allowed in the unit.
7. Reservations are not made by or for a minor, defined as any person under the age of twenty-five.
8. Tenant and any guest of Tenant shall obey all laws of the state of the rental resides in, as well as local laws, at all times while they are on the premises. Failure to abide by the these laws, or the above rules, may cause tenant to be asked to vacate the premises and forfeit all rents and security/damage deposits.
9. Quiet Hours: 10pm-7am. There shall be no noise that can be heard outside the home between the hours of 10pm - 7am. If noise is an issue, you will get a written warning text message to the number that booked the reservation and/or a phone call. If noise does not stop, you will be fined or possibly evicted immediately.

SLEEPING CAPACITY/DISTURBANCES

Tenant and all other occupants will be required to vacate the premises and forfeit the rental fee and security deposit for any of the following: Occupancy exceeding the sleeping capacity of

4522/4526 SE 41st Ave. - Type-B ASTR

eight (8), using the premises for any illegal activity, causing damage to the premises rented or to any of the neighboring properties and **any other acts which interferes with neighbors' right to quiet enjoyment of their premises.**

Violations of our noise or maximum number of guests agreed to at the time of booking will result in possible fines or immediate eviction with all loss of all rents. Depending on severity if there is a noise situation we may call and issue a warning or proceed with a \$300 fine. If we cannot reach the guest that booked the property someone will show up to at a minimum issue a \$300 fine and/or evict the entire group immediately. Any delay will result in us involving the authorities and trespassing every person on the property as well as the loss of all rents. Additional fines or damages may be assessed after removal.

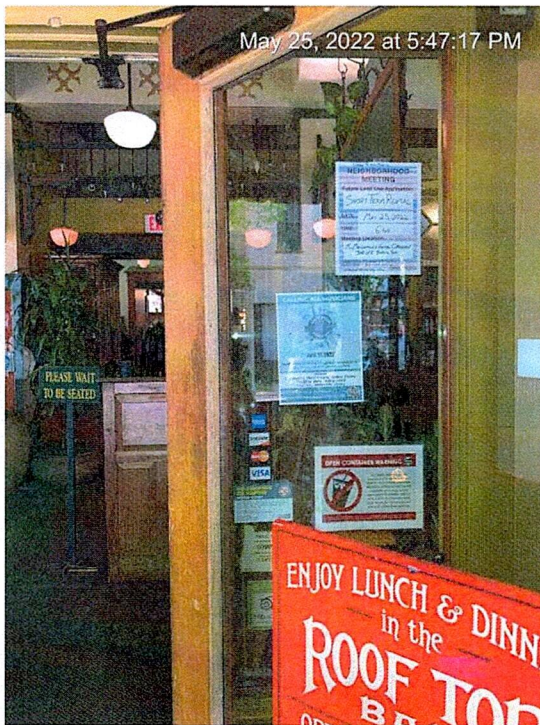
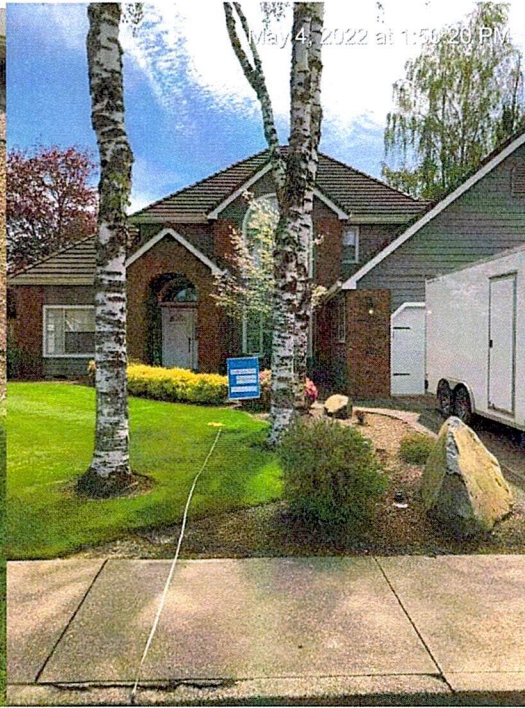
PARKING

A parking plan will be emailed to you 2 days before arrival. You can park in the garage and in the driveway. You may not park in front of other neighbors' homes.

Please remember that you are renting a private home. Please treat it with the same respect you would like shown in your own home.

COPY

790 NW 21st St.
McMinnville OR 97128



City of McMinnville
Phone: 503-434-7301
www.mcminnvilleoregon.gov



City of McMinnville

Transient Lodging Tax Registration Form

Date: 4-20-2022

Business Type: LLC

Establishment Name: BONE CREEK RETREAT

Establishment Address: 790 NW 21st Street, McMinnville, OR 98128

Mailing Address, if different: 3201 Esperanza Crossing 453, Austin, TX 78758

Manager / Operator Name: iTrip Vacations

Owner, Corporation or Partnership Name, if different: Joyce Lagow / BECKETT PROPERTIES

Email Address: joycelagow@hotmail.com

Phone: 206-714-3791

Number of Rooms: 4

I declare, under penalty of making a false statement, that to the best of my knowledge, and belief, the statements herein are correct and true.

Signature [Handwritten Signature]

Title _____

Date 5/22/22

Mail your completed registration form to:

City of McMinnville
Finance Department
230 NE Second Street
McMinnville, OR 97128

Or fax to: 503/435-5860



COMMUNITY DEVELOPMENT DEPT.
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

SENT VIA EMAIL

October 7, 2022

Emily (Joyce) LaGow
3201 Esperanza Crossing 453
Austin, TX 78758

RE: Docket STR 7-22, a Short-Term Rental application for 790 NW 21st Street

Dear Ms. LaGow:

This letter is to advise you that, at a meeting of the McMinnville Planning Commission on Thursday, October 6, 2022, your application, for approval of a short-term rental at 790 NW 21st Street was considered by the McMinnville Planning Commission.

Based on the material submitted by the applicant, the testimony received, and material provided by the Planning Department, the Planning Commission voted 7 to 1 to **DENY** your request (STR 7-22).

The Planning Commission determined that your application failed to meet the criteria for short-term rentals in Section 17.12.010(P) of the McMinnville Municipal Code.

Pursuant to the Zoning Ordinance of the City of McMinnville, Section 17.72.130(C)(4), the decision of the Planning Commission shall be final unless an appeal is filed.

Per Section 17.72.180 of the Zoning Ordinance of the City of McMinnville, "an action or ruling of the Planning Commission may be appealed to the City Council within 15 calendar days of the date the written notice is mailed. The appeal shall be filed with the Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review specifying that they were party to the initial proceedings."

If no appeal is filed with the Planning Department on or before October 21, 2022, the Planning Commission's decision is final.

Letter Re: STR 7-22

Date: October 7, 2022

Page 2

If you have any questions or comments, you may reach me at (503) 434-7311.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Richards".

Heather Richards, PCED
Planning Director

HR

c: Mark Pitts (sent via email)
Kelli Grinch (sent via email)
Jay Post (sent via email)
Kathy Loving (sent via email)



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 SHORT-TERM RENTAL AT 790 NW 21st STREET

DOCKET: STR 7-22
REQUEST: Application to permit a short-term rental.
LOCATION: 790 NW 21st St. Tax Lot: R4417-AC-02344
ZONING: R-1 (Single-Family Residential)
APPLICANT: Emily (Joyce) LaGow
STAFF: Heather Richards, Community Development Director
Adam Tate, Associate Planner

DATE DEEMED COMPLETE: July 11, 2022

DECISION MAKING BODY & ACTION: The McMinnville Planning Commission makes the final decision unless the Planning Commission’s decision is appealed to the City Council.

DECISION DATE & LOCATION: September 1, 2022, Hybrid Public Hearing. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 879 8953 9440
October 6, 2022, Hybrid Public Meeting. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 834 6597 3462

PROCEDURE: The application is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. This short-term rental was found to be operating without a permit and referred to code compliance. The application will now be heard before a public hearing and reviewed by the Planning Commission. in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.

CRITERIA: The applicable criteria and standards for a Short-Term Rental are specified in Section 17.12.010(P) of the Zoning Ordinance.

APPEAL: As specified in Section 17.72.180 of the Zoning Ordinance, the Planning Commission’s decision may be appealed to the City Council within 15 calendar days of the date the written notice of decision is mailed. The City’s final decision

is subject to the 120-day processing timeline, including the resolution of any local appeal.

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are **NOT SATISFIED** and **DENIES** the Short-Term Rental permit for the property at 790 NW 21st Street (STR 7-22).

////////////////////////////////////
DECISION: DENIAL
////////////////////////////////////

Planning Commission: _____
Sidonie Winfield, Chair of the McMinnville Planning Commission

Date: _____

Planning Department:  _____
Heather Richards, Planning Director

Date: October 6, 2022

-
- Attachments :
 Attachment 1 – Application and Attachments
 Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
 Attachment 3 – Public Testimony Received

I. APPLICATION SUMMARY:

Subject Property & Request

The subject property is located at 790 NW 21st Street. The property is zoned R-1. A Short-Term Rental is a permitted use in the R-1 zone as specified in Section 17.15.010(P), subject to compliance with the referenced standards in Section 17.12.010(P), and subject to the procedures specified in Section 17.72 of the Zoning Ordinance. **See Figure 1 for Vicinity Map, Figure 2 for Zoning Map, Figure 3 for Applicant’s Site Plan. See Figure 4 for map of Short-Term Rentals with 200’ buffer shown.** The application submittal includes additional materials including a floorplan diagram, photos, and information from the neighborhood meeting. Those additional materials are included in **Attachment 1**.

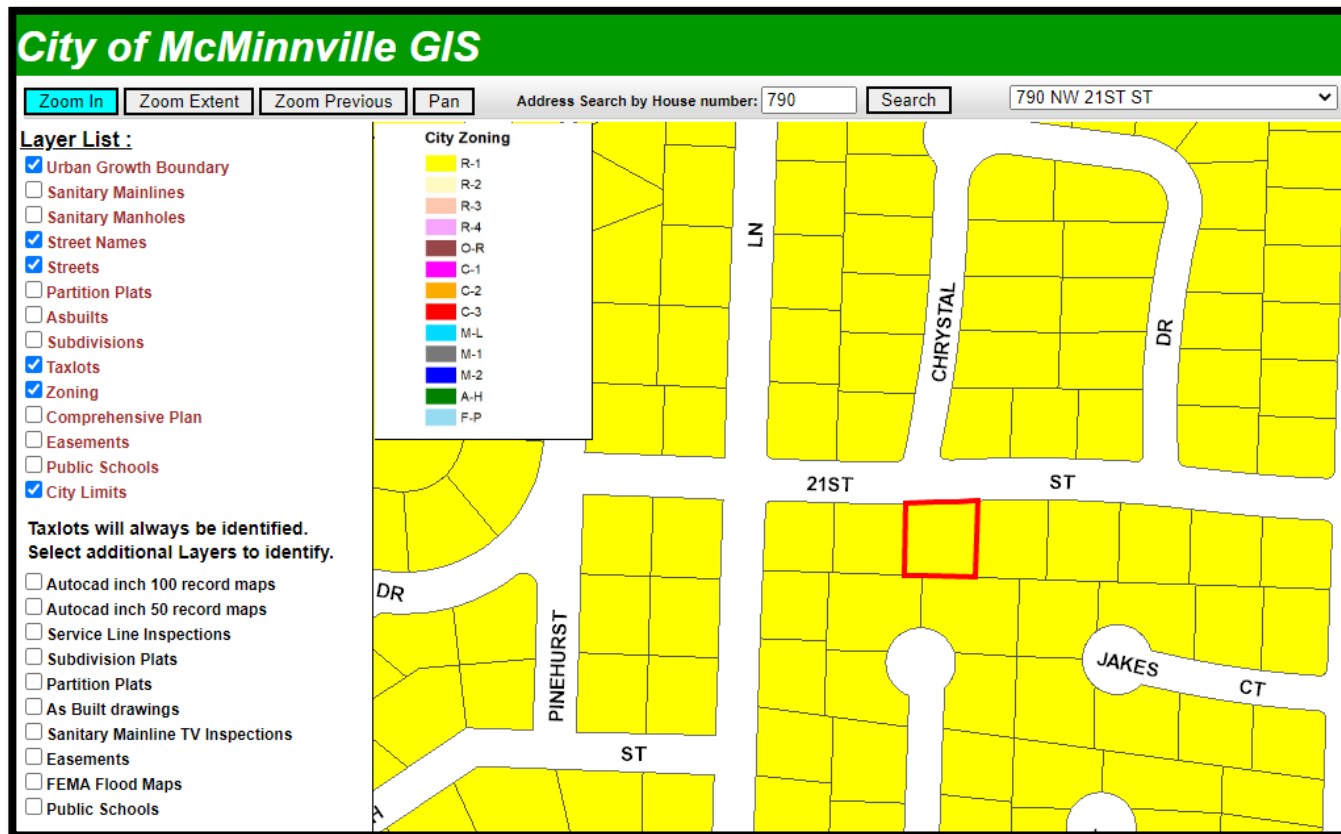
Figure 1. Vicinity Map



Attachments :

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- Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
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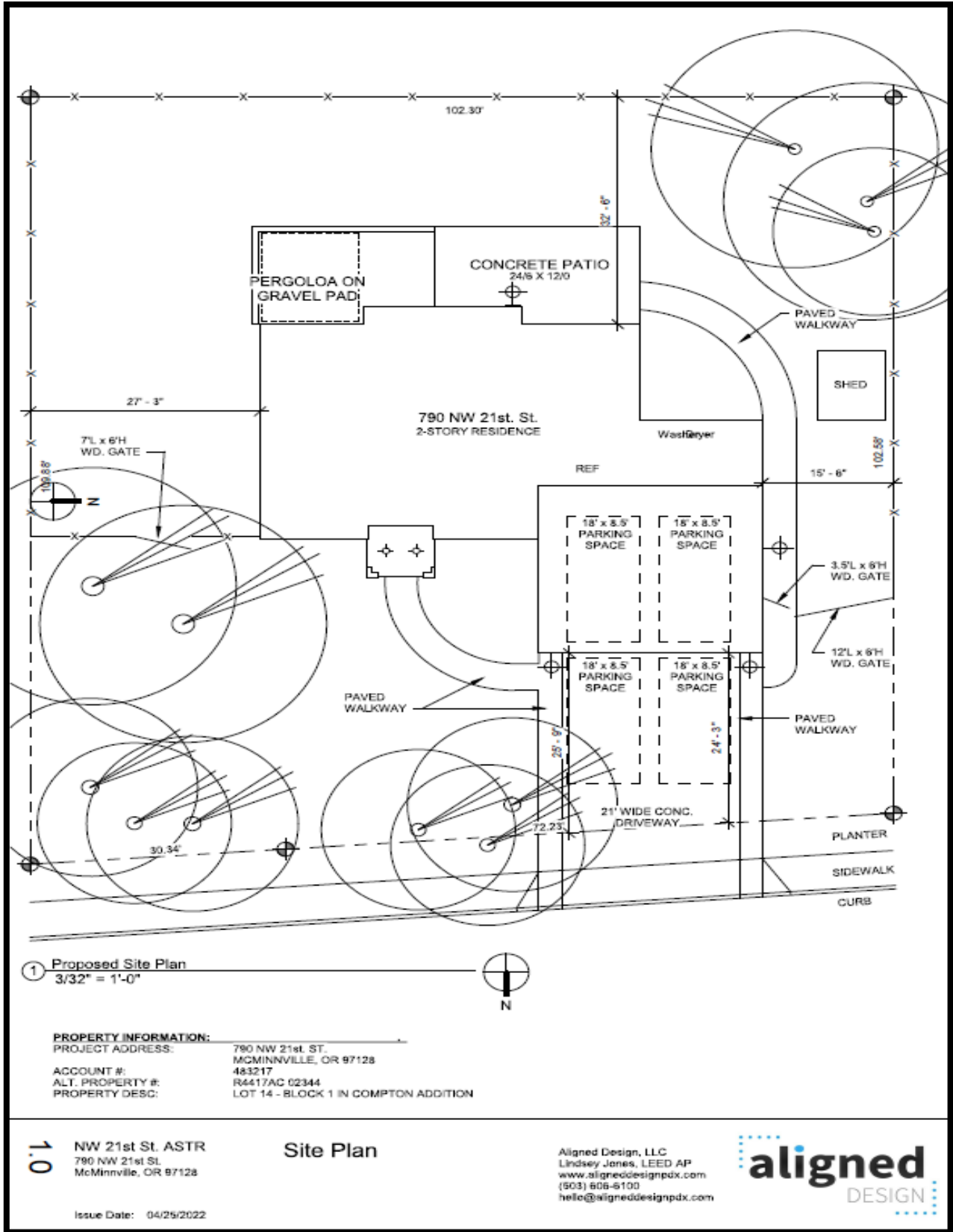
Figure 2. Zoning Map



Attachments :

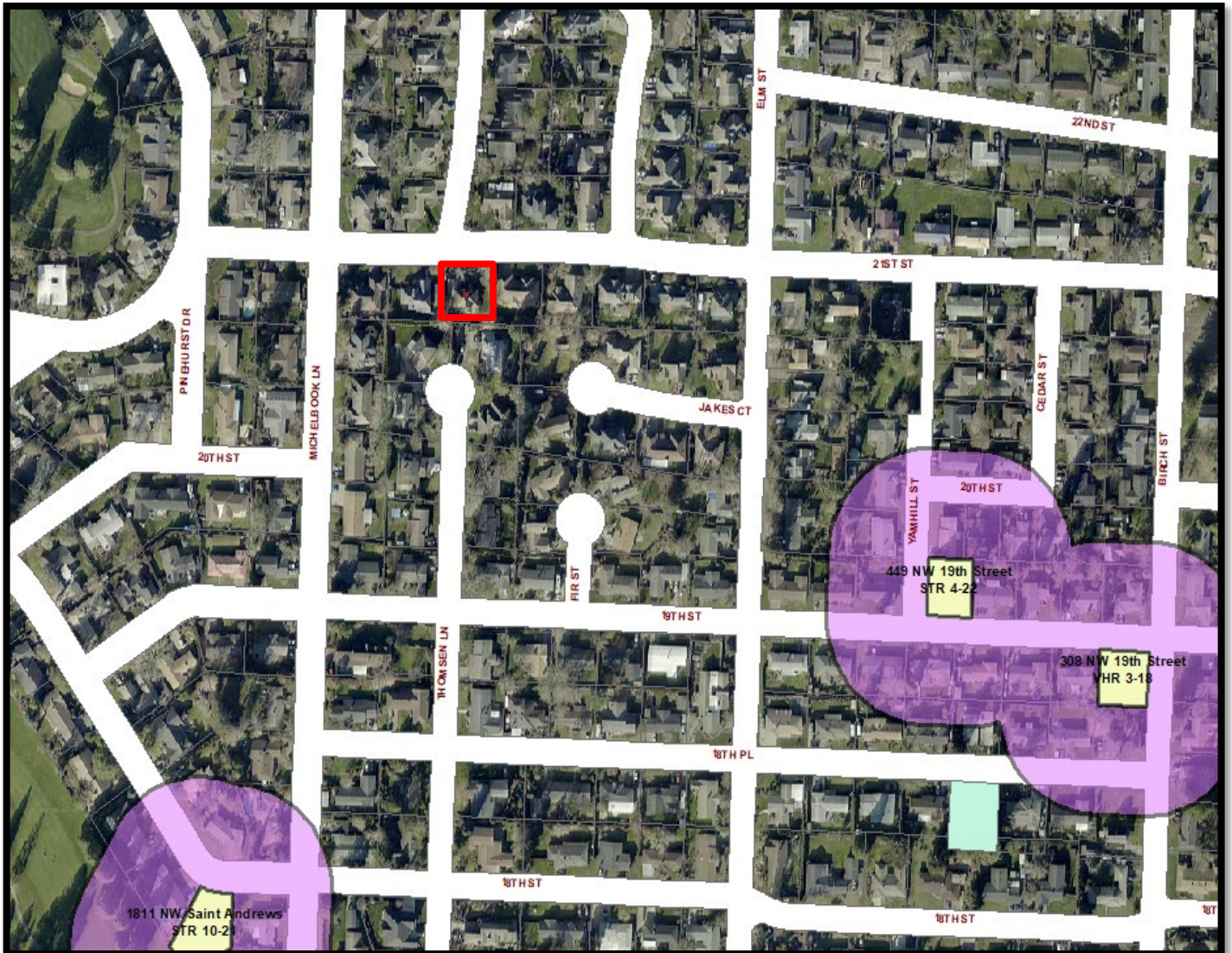
- Attachment 1 – Application and Attachments
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Figure 3. Applicant's Site Plan



- Attachments:
- Attachment 1 – Application and Attachments
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 - Attachment 3 – Public Testimony Received

Figure 4. Map of Short-Term Rentals with 200-Foot Buffer



Summary of Applicable Standards and Issues

Use and development of properties in the R-1 zone are subject to the applicable standards of the zone and general provisions of the Zoning Ordinance. No modifications to the site or existing single-family dwelling are proposed at this time, so the only applicable standards for the proposed short-term rental are those listed in Section 17.12.010(P) for use of the property for a Short-Term Rental.

The standards and associated findings are summarized below. The specific findings regarding the applicable standards are addressed in Section VII of this Decision Document. As a Type II land-use application, the criteria need to be clear and objective.

The table below illustrates how the application either complies or does not comply with applicable criteria.

- Attachments :
- Attachment 1 – Application and Attachments
 - Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
 - Attachment 3 – Public Testimony Received

**Summary of Findings Regarding Consistency with Applicable Standards
(Table on next page)**

Standard	Summary of Findings
17.12.010. Permitted Uses:	
(P) Short-term rentals, subject to the provisions of Section 17.12.010(P).	Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.
17.12.010(P)	
1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.	Satisfied. The map provided as Figure 4 shows no other short-term rental within 200 feet.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.	Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling. As an ongoing condition of approval, the structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.	Not Satisfied. The application stated that there were four guest rooms and four off-street parking spaces. During the due diligence of the public hearing it was learned that there are five guest rooms. The applicant does not have a provision for five off-street parking spaces. Advertisements online show the house furnished and advertised as five guest rooms.
4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.	Satisfied with Conditions. No signage is proposed at this time. As an ongoing condition of approval, any signage shall comply with this standard.
5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.	Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.
6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.	Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application. As an ongoing condition of approval, the structure shall remain in compliance with this standard.

Attachments :

- Attachment 1 – Application and Attachments
- Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
- Attachment 3 – Public Testimony Received

<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Not Clear. The property owner in their rebuttal provided conflicting information. One response states that Erika Correa will be available 24 hours per day seven days a week, and another response indicates that the short term rental will be managed with a call service from 11 PM to 7 AM.</p>
<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Not Applicable.</p> <p>Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.</p> <p>If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints, and will be listed as a condition of approval for this application.</p>

Attachments :

- Attachment 1 – Application and Attachments
- Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
- Attachment 3 – Public Testimony Received

II. CONDITIONS: (If the Planning Commission elects to approve the application, these conditions of approval will apply.)

1. That five (5) off-street parking spaces (paved or of a hardscape surface) are required for the use of the Short Term Rental, per the five (5) guest rooms provided.
2. That 10-year Lithium battery-powered smoke alarms and CO2 alarms must be installed in accordance with Sections R314 and R315 of the Building Code. For this one-story building, smoke alarms shall be installed in each sleeping room and outside each separate sleeping area within 21 feet of any door to a sleeping room, measured along a path of travel. On CO2 alarm is required.
3. That prior to use of the subject property for vacation home rental purposes, the applicant shall register with the McMinnville Finance Department as a transient lodging provider. Local Transient Lodging Tax shall be collected and remitted to the City as provided in McMinnville Ordinance No. 4974.
4. That, as this use is required to be occupied as a single-family residence, occupancy of the vacation home rental shall be limited at all times to no more than five unrelated persons, or one or more individuals related by blood, marriage, adoption, or legal guardianship, or other duly authorized custodial relationship.
5. That all other requirements of Section 17.12.010(P) of the Zoning Ordinance referencing vacation home rental use shall be complied with throughout the time this property is used for such purpose, which are outlined below.
 - A. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.
 - B. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
 - C. That a minimum of one off-street parking space be provided for each guest room.
 - D. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
 - E. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.
 - F. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
 - G. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
 - H. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject

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property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:

- a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
- I. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
 - J. Complaints on conditions “A” through “I” above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

III. ATTACHMENTS:

1. STR 7-22 Application and Attachments (on file with the Planning Department)
2. Public Testimony (on file with the Planning Department)

IV. COMMENTS:

Public Comments

1. Email received July 4, 2022, from Mark Pitts, notifying the Planning Director that the short-term rental was operating before their permit was approved.
2. Email received on August 29, 2022, from Mark Pitts
3. Email received on August 30, 2022 from Kelli Grinch
4. Email received from Jay Post on August 30, 2022
5. Email received from Kathy Loving on September 1, 2022

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant mailed notice of a neighborhood meeting dated April 27, 2022, and held a neighborhood meeting on May 25, 2022.
2. The applicant submitted the Short-Term Rental application (STR 7-22) on June 10, 2022.
3. On July 4, 2022, a local resident reported to the Planning Director that the property was operating as a short-term rental before their application was approved, and provided an Airbnb listing showing the property for rent.

Attachments :

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4. On July 5, 2022, the property was put into code compliance and the property owner was notified that they must stop current short-term rental operations and given the option to either withdraw their permit or have it go before a public hearing of the Planning Commission.
5. On July 11, 2022, the applicant informed the Planning Director that they wanted to move forward with the application and the application was deemed complete.
6. The hearing date was set for September 1, 2022. On August 3, 2022, notice of the application and the September 1, 2022, 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.
7. 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, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

No comments were received from any agencies.

8. Notice of the application and the September 1, 2022, Planning Commission public hearing was published in the News Register on Friday, August 26, in accordance with Section 17.72.120 of the Zoning Ordinance.
9. On September 1, 2022, the Planning Commission held a duly noticed public hearing to consider the application. The public hearing was closed after hearing testimony on September 1, 2022.
10. On September 9, 2022, the applicant provided a written rebuttal to the public hearing testimony of September 1, 2022.
11. On October 6, 2022, the Planning Commission deliberated and rendered a decision.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 790 NW 21st St. Tax Lot R4417-AC-02344
2. **Size:** Approximately 0.2489 acres
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-1 (Single-Family Residential)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Single-family dwelling
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None identified

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8. **Other Features:**
 - a. **Slopes:** The site is generally flat.
 - b. **Easements:** No public easements identified
9. **Utilities:** The property is served with basic municipal services, including water, sewer, power, and franchise utilities.
10. **Transportation:** NW 21st Street is classified as a local residential street in the McMinnville TSP. Local streets have a 50-foot right-of-way.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria and standards for the application.

The applicable standards for a Short-Term Rental are specified in Section 17.12.010 (O) of the Zoning Ordinance. Development standards for the R-1 Zone are provided in Chapter 17.12 of the Zoning Ordinance; however, the proposed short-term rental will be located within the existing single-family dwelling, and no new development is proposed at this time.

McMinnville Zoning Ordinance

The following Sections of Title 17, Zoning Ordinance, of the McMinnville Municipal Code provide criteria and standards applicable to the request:

Section 17.12.010 lists permitted uses in the R-1 Zone. Subsection (P) provides the following:

- P. Short-term rental, subject to the provisions of Section 17.72.110

FINDING: SATISFIED WITH CONDITIONS. The proposed use described in the application is single-family home used for a short-term rental. These are both permitted uses.

Section 17.12.010(P) provides the following:

- P. Short-term rental, subject to the provisions of Section 17.72.110 and the following standards.

Section 17.72.110. Applications – Director’s Review with Notification.

FINDING: SATISFIED. Section 17.72.110 provides the applicable procedural requirements. As addressed in Section V of this Decision Document, the application has been processed in accordance with the applicable procedures.

Standards in 17.12.010(P):

1. Short-term rentals shall not be located within 200 feet of another short-term rental, or on the same property as another short-term rental.

FINDING: SATISFIED. There is no other short-term rental within 200 feet of another short-term rental. There is not another short-term rental on the subject property. See **Figure 4** for a map of short-term rentals.

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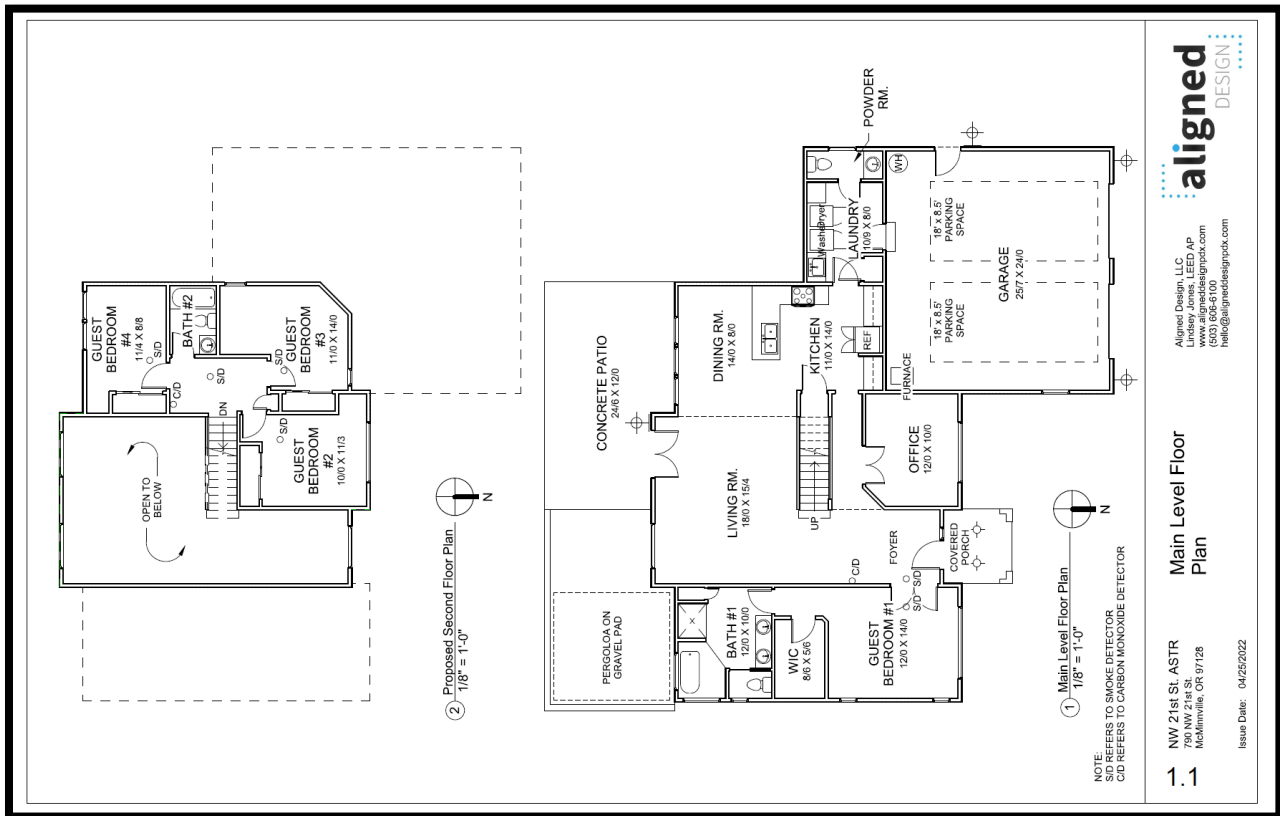
- Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.

FINDING: SATISFIED WITH CONDITIONS. The existing use in which the proposed short-term rental is proposed is a single-family dwelling. No outward modifications to the residence are proposed at this time.

- That a minimum of one off-street parking space be provided for each guest room.

FINDING: NOT SATISFIED. The application indicated that the home was a “four (4) bedroom, three (3) bath home”, and provided a floor plan that indicated the same. Please see below. As such, the applicant provided a site plan with four off-street parking spaces. Based on testimony at the public hearing and more research it has been determined that the property has five guestrooms and the applicant does not have room for five off-street parking spaces on the site plan.

Floor plan provided with the application illustrating four bedrooms:



it was disclosed at the public hearing that there are actually five guest rooms in the house offered in the rental listing. Below is a screenshot of the listing with an infographic that indicates four bedrooms, but the narrative states that “this incredible five-bedroom retreat”, and further detail in the listing describes two bedrooms on the main floor and three bedrooms on the second floor.

- Attachments :
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Screenshot from ITrip Vacations, Baker Creek Retreat, September 30, 2022:

Exquisite Wine Country Escape, New Décor Throughout, Patio & Fire Table, 1.5 Miles to McMinnville

Baker Creek Retreat

\$4,256 - \$11,032 / month in McMinnville csnw@itrip.net

4 Bedrooms 2.5 Bathrooms Sleeps 10

Favorite Share Availability

Nestled in the heart of wine country within the Willamette Valley, this incredible five bedroom retreat is the perfect option for your family or small group visiting the area. Sitting a couple blocks away from Michelbook Country Club and just over a mile to downtown McMinnville, The Baker Creek Retreat is a fantastic option for you to explore everything that this area of the Pacific Northwest has to offer.

As you enter, the foyer opens up to the entire home. You will find the open floor plan combining the living, dining, and kitchen layout, making it perfect for groups to enjoy together. One of the many great features is the two main level bedrooms and laundry on this floor.

Ascending upstairs you will find another three exquisitely finished bedrooms including the bunk room, equipped with a mounted big screen TV and gaming console. Another full bath accompanies these bedrooms as well.

In the backyard, you will find a gazebo that covers some plush outdoor seating and a fire table. In addition, there are more Adirondack chairs, some giant Jenga, and a treehouse overlooking the manicured lawn.

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements	
Bedroom 1 (main floor):	King
Bedroom 2 (main floor):	Queen
Bedroom 3 (Second floor):	Queen
Bedroom 4 (Second floor):	Queen
Bedroom 5 (Second floor):	Bunk Twin (2)

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements:

Bedroom 1 (main floor): King bed

Bedroom 2 (main floor): Queen bed

Bedroom 3 (Second floor): Queen bed

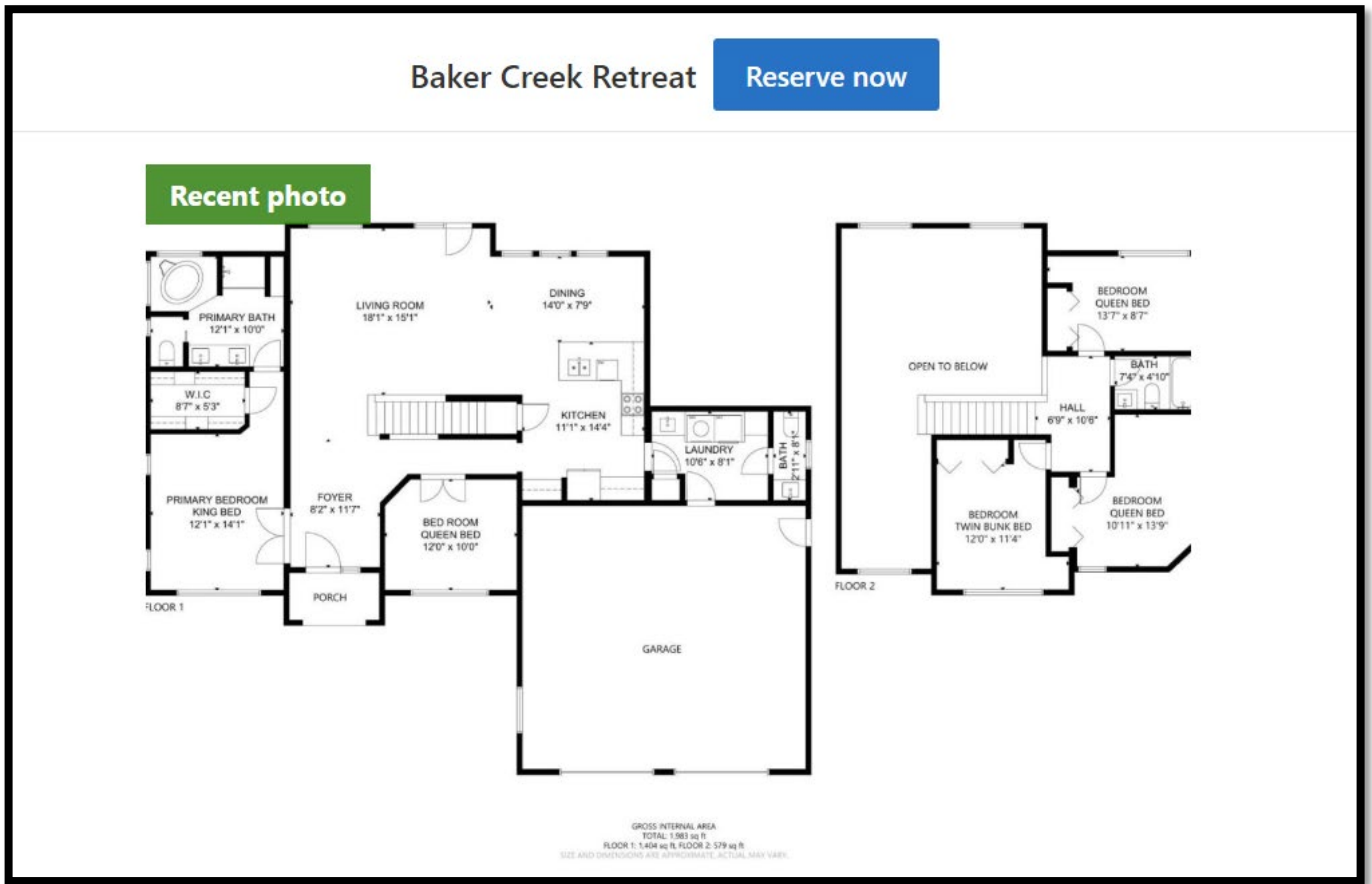
Bedroom 4 (Second floor): Queen bed

Bedroom 5 (Second floor): Twin bunk bed

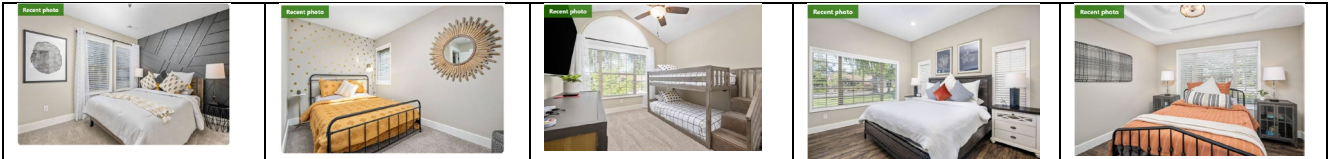
Attachments :

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A floorplan on Booking.com shows five bedrooms. (Screenshot, September 30, 2022):



Photos of five bedrooms on booking.com (Screenshot, September 30, 2022):



4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.

FINDING: SATISFIED WITH CONDITIONS. The application doesn't indicate any proposed signage at this time. As an ongoing condition of approval, any future signage shall comply with this requirement.

Attachments:

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5. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.

FINDING: SATISFIED WITH CONDITIONS. This provision is an on-going requirement for the operation of the short-term rental and is included as a condition of approval.

6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.

FINDING: SATISFIED WITH CONDITIONS. Subsection (2)(d) of Ordinance No. 3997 specifies that, for a lodging house, that smoke detectors are required “in all corridors or areas giving access to rooms used for sleeping purposes, and in all sleeping rooms. Where sleeping rooms are on an upper level, an additional detector shall be placed at the center of the ceiling directly above the stairway.”

The application identifies the location of smoke detectors consistent with this requirement, with a smoke detector in each guest room and the hallway, for a total of six smoke detectors and carbon monoxide detectors. This is a two-story single-family dwelling.

The application demonstrates compliance with this standard. As an ongoing condition of approval, the structure shall remain in compliance with this standard.

7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.

FINDING: NOT SATISFIED. The property owner does not live within the geographic area of the 97128 zip code. On the application, the applicant provided the contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental. The contact information and residence location are provided in Section 5 of the application form submitted by the applicant. The location of the residence is within the City of McMinnville and the geographic area of the 97128 zip code.

However, at the public hearing, it was disclosed that the number provided went to a call service from 11 PM to 7 AM. The applicant was asked to respond to that issue in a rebuttal report. A response was provided via email from Emily LaGow on September 9, 2022. The response from the applicant provided conflicting information.

Response from the applicant:

Q. Has the applicant come up with a responsible person? Who is available at 11:00 at night? Was Erika alerted that she is the contact? Prove to us that someone is available. Why the two different names/email address for Erika?

Attachments :

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R. The code states: "That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to an emergency or complaint related to the vacation home rental." This statement does not specify whether the contact be a property manager, someone who can make "executive decisions," or a housecleaner. The spirit of the discussion on 9/1/22 indicates that the city would like a property manager, or business owner, or the property owner, to be available, but with respect, this seems like a discussion suited toward a change to the code, vs. a debate over the qualifications of the person that has been identified in this application to be the contact.

Therefore, our responsible person is Erika Correa. She lives within the geographic area of 97128, works for the property manager, iTrip, and has agreed to this responsibility. She does provide cleaning and inspection services of the home. The phone number and email listed on the application are hers. In addition, iTrip has provided her with an Avachato number (www.avachato.com) that we will also list in the House Rules. An Avachato number allows us to automatically forward any call via text to her number to someone else in McMinnville in a pinch if she sick, travelling or unavailable for some other temporary reason. Her number will be dedicated to this property, so she knows when it rings, there is a complaint or an emergency. She also knows that if she gets a call or text and cannot resolve it immediately, she will contact upper management immediately for resolution. We kindly ask that the neighbors not test her so she can give her attention to emergencies only. We will make her available to the Planning Commission if they'd like to call and speak with her.

In addition, again within the spirit of the 9/1/22 discussion to have a "more responsible person be available," the applicant found a property manager: Wild Haven at 619 NE 3rd St, McMinnville, OR 97128. Michele Bertagna is identified as a Property Manager. Wild Haven would make Ms. Bertagna available for emergencies. However:

- Applicant is under contract with iTrip with termination allowed with 60 days' notice. Applicant is unable to switch to the new property manager in time for the 9/9 deadline for written feedback to the Commission.
- There is no guarantee that Ms. Bertagna will be available 24/7 either as she has other clients, sleeps, gets sick, and presumably takes vacations periodically. The solution we have provided above ensures that Erika (or her phone, set to forward to an iTrip contact in McMinnville) will be available for calls at any time day or night to a local contact.
- Per a brief discussion with Ms. Bertagna on Thursday, 9/8, it is the applicant's understanding that this alternative property management company does not immediately offer the call forwarding or monitoring services offered by iTrip (i.e., a decibel meter; likely these services could be added in time). However, iTrip offers a more comprehensive set of services now to manage the STR to code overall, help ensure the neighbors aren't disturbed and that issues get resolved quickly.

Additional response from the applicant:

Attachments :

- Attachment 1 – Application and Attachments
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Q. *Testimony that came in that no one answered the 24/7 hotline and that it ends at 11PM. Opportunity to respond to that?*

R. *From 11:00 pm to 7:00 AM the calls go to a call center. Depending on the region, the call center contacts the appropriate manager or whomever else depending on the issue. If for any reason the person they try to reach can't be reached, it escalates up to the next person all the way to the two owners of the company.*

8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short-term rental permit for the subject property will become void. The use of the subject property as a short-term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:
- a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.

FINDING: SATISFIED WITH CONDITIONS. The applicant is the current property owner at the time of application.

This code provision is an ongoing requirement for the operation of the short-term rental and is included as a condition of approval.

9. Permits must be renewed annually. Failure to renew the short-term rental permit annually will result in the permit becoming void, and the use of the subject property as a short-term rental will again be subject to the application and review procedures in Section 17.72.110.

FINDING: SATISFIED WITH CONDITIONS. This code provision is an ongoing requirement for the operation of the short-term rental, included as a condition of approval.

10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinances. If the short-term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

FINDING: NOT APPLICABLE: Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.

AT

Attachments :

- Attachment 1 – Application and Attachments
 Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
 Attachment 3 – Public Testimony Received

December 13, 2022

via electronic (claudia.cisneros@mcminnvilleoregon.gov) mail only

The Honorable Remy Drabkin
Mayor
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128
The Honorable Chris Chenowith
City Councilor, Ward 1
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128
The Honorable Jessica Payne
City Councilor, Ward 3
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Adam Garvin
City Council President
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128
The Honorable Kellie Menke
City Councilor, Ward 2
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

The Honorable Sal Peralta
City Councilor, Ward 1
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128
The Honorable Zack Geary
City Councilor, Ward 2
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

RE: *Appeal of Planning Commission Decision STR 7-22*
APPEAL FILE 569-22-000412-PLNG

Mayor Drabkin, Council President Garvin, Councilors Peralta, Chenowith, Menkie, Geary and Payne:

I represent Emily (Joyce) LaGow (herein “Applicant”), the application for the above-referenced application for a short-term rental permit (herein “Application”) pursuant to Section 17.12.010(P) of the McMinnville Zoning Ordinance (herein “MZO”). Thank you for taking the time to consider the Applicant’s appeal.

The McMinnville Planning Commission (herein “Commission”) denied the Application, determining the Application did not meet the criteria under MZO §17.12.010(P). Specifically, the Commission held the Application did not meet the requirement of MZO §17.12.010(P)(3) (One off-street parking space per guest room) and MZO §17.12.010(P)(7) (Property owner must live in the area of 97128 zip code or have alternate person available to respond to emergencies/complaints).

Unfortunately, the bases for denying the Application appears to be a miscommunication between the Applicant and the City.

As an initial matter, the Applicant owns the private real property who address is 790 NW 21st Street, McMinnville, Oregon, 97128 (herein “Property”).

Number of Rooms to Rent and Parking

MZO §17.12.010(P)(3) requires that a minimum of one off-street parking space be provided for each guest room. The Application (which is attached as Exhibit 1 to this letter) clearly states there are four (4) guest rooms, and there are four (4) off-street parking spaces.

Attached as Exhibit 2 to this letter is a copy of the site plan submitted with the Application (herein “Site Plan”). Page 2 of the Site Plan clearly demonstrates four (4) guest rooms and four (4) off-street parking spaces. The Applicant met her burden sufficient to meet the criteria of MZO §17.12.010(P)(3).

The miscommunication stems from the fact the Applicant was once renting the Property, advertising five (5) guest rooms. The Applicant assumed she could continue renting the Property, advertising the Property as having space for ten (10) guests until such time as the Application was approved and permit issued.

To be perfectly clear: there are only four (4) guest rooms available. There are four (4) off-street parking spaces available. This criterion is satisfied.

Response/Availability for Emergencies and/or Complaints

MZO §17.12.010(P)(7) requires:

That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.

Importantly, this section of the MZO does not require someone be available 24 hours a day, 7 days a week to respond to emergencies/complaints. Such a rule would be as untenable as it would be unreasonable. Unfortunately, some of the opponents of the Application asserted to the Commission the MCZ required 24 hours a day, 7 days a week availability.

As explained in the Application, and again explained herein, the Applicant has a designated contact person named Erika Correa who will be able to respond to complaints/emergencies at the Property. In addition, I live in north Keizer and I will be available to respond to complaints/emergencies as well.

Finally, iTrip (the company the Applicant will be using to manage the booking of the Property, has a phone number that can be called to report complaints/emergencies. This phone number operates 24 hours a day, 7 days a week.

As I understand the circumstances involving the Commission’s consideration of the Application, opponents of the Application misrepresented Ms. Correa’s role. Opponents attempted to contact

Ms. Correa, and apparently when they called Ms. Correa did not answer the call. Opponents then called the iTrip phone number, and were told that iTrip did not answer calls after 11 p.m. The representation made to the Commission was that the Applicant did not have a person on-call to respond to complaints/emergencies as required by the MZO. This representation is absolutely false.

Ms. Correa is available to respond to complaints/emergencies as they arise, as am I. iTrip, the company assisting the Applicant with managing the Property is also available 24 hours a day, 7 days a week to respond to complaints/emergencies as required by the MZO. MZO §17.12.010(P)(7) is satisfied.

Conclusion

Pursuant to ORS 197.797(6)(a), the Applicant requests an additional seven (7) days to submit additional evidence. Pursuant to ORS 197.797(6)(e), the Applicant requests seven (7) days from the date the record is closed to new and/or rebuttal evidence to submit final argument.

The Application meets all of the applicable criteria listed in MZO §17.12.010(P). The decision of the Commission should be REVERSED and the Application should be GRANTED.

Best,



ROSS DAY, Esq.
DAY LAW, PC
ross@daylawpc.com



Planning Department
231 NE Fifth Street o McMinnville, OR 97128
(503) 434-7311 Office o (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Office Use Only:
File No.
Date Received
Fee
Receipt No.
Received by

Short Term Rental Application

Applicant Information

Applicant is: [X] Property Owner [] Contract Buyer [] Option Holder [] Agent [] Other

Applicant Name Emily (Joyce) LaGow Phone 206-714-3791

Contact Name (If different than above) Phone

Address 3201 Esperanza Crossing 453

City, State, Zip Austin, TX 78758

Contact Email joycelagow@hotmail.com

Property Owner Information

Property Owner Name (If different than above) Phone

Contact Name Phone

Address

City, State, Zip

Contact Email

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 790 NW 21ST ST, MCMINNVILLE, OR 97128

Assessor Map No. R4 R4417AC02344 Total Site Area Lot size: 0.25 Acres

Subdivision Compton Addition Block Lot

Comprehensive Plan Designation Zoning Designation R-1

The Director may approve, approve with conditions, or deny the application, based on the following criteria:

1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.
4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
5. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.
6. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:
 - a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

1. Please describe the residence and its proposed use. The homeowner intends to rent their four (4) bedroom, three (3) bath home on a short-term basis. The rental will be made available for guest use year round and will be professional managed and maintained by iTrip Vacations management company.
2. How many guest rooms will be provided? 4
What is the maximum number of guests that can be accommodated? 8
3. How many off-street parking spaces are available? 4
Are the parking spaces paved? Yes No
4. Are there smoke detectors in the residence? Yes No
If so, where are they located? Smoke detectors are provided in each bedroom and hallway, and carbon monoxide detectors are provided on each floor where a carbon monoxide source is located.
5. Does the property owner live within the city limits of McMinnville? Yes No
If no, please provide contact information of a person living within the city limits who shall be available to respond immediately to any emergency or complaint related to the vacation home rental:
Contact Name Erika Correa Phone 971-983-9324
Address 540 NE 26th Ct Phone _____
City, State, Zip McMinnville, OR 97128
Contact Email mariaponce352@yahoo.com
6. Has the applicant registered as a Transient Lodging Provider in order to collect, and pay, the Transient Lodging Tax imposed by the City of McMinnville on the rent charged to an occupant who occupies a provider's lodging for 30 successive days or less? Yes No

In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.**
- Digital photographs of the subject residence's exterior.
- Floor plan showing the size, function, and arrangement of interior rooms.
- Compliance of Neighborhood Meeting Requirements.
- Other information deemed necessary by the Planning Director to allow review of the applicant's proposal.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

Short Term Rental Information & Submittal Requirements



Planning Department
231 NE Fifth Street • McMinnville, OR 97128
(503) 434-7311 Office • (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Overview

In order to operate a vacation home rental in any of the residential zones of the City of McMinnville, a property owner must first submit an application and meet a specific set of standards as set forth in Section 17.12.010(O) (Permitted Uses) of the Zoning Ordinance, and also listed below. [Vacation home rentals located in commercial zones are exempt from these requirements; however, *all* such establishments are subject to the requirements of the *Transient Lodging Tax* program, which is administered by the City's Finance Department.]

Please note that occupancy of a vacation home rental in McMinnville is limited to a single family, as that term is defined by the McMinnville Zoning Ordinance.

Application Submittal

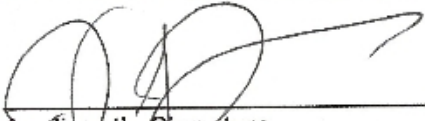
The following materials must be provided at the time of submittal, or the application will not be accepted for processing.

- A completed Short Term Rental application form.
- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.**
- Digital photographs of the subject residence's exterior.
- Floor plan showing the size, function, and arrangement of interior rooms.
- Compliance of Neighborhood Meeting Requirements
- Payment of the applicable review fee.

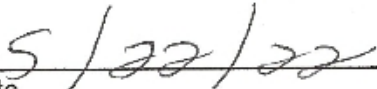
Review Process

An application for a vacation home rental permit is subject to review by the Planning Director as stated in Section 17.72.110 (Director's Review with Notification) of the Zoning Ordinance, after notification of the application has been provided to property owners within 100-feet of the subject site. The decision made by the Planning Director may be appealed to the Planning Commission as outlined in Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance.

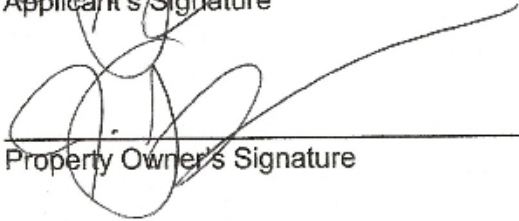
I hereby certify that the statements contained herein are in all respects true and correct to the best of my knowledge and belief.



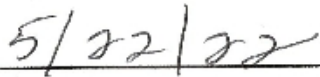
Applicant's Signature



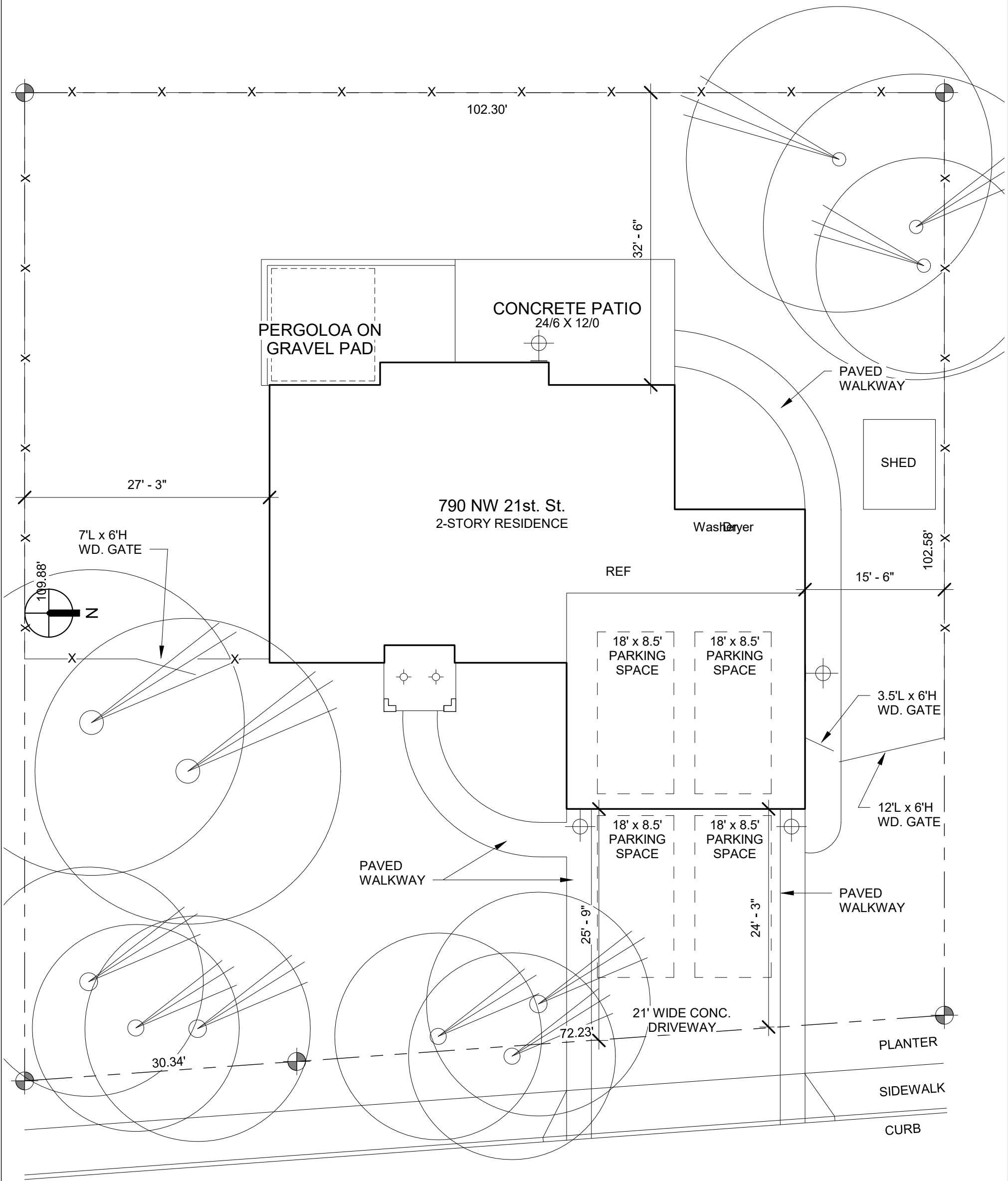
Date



Property Owner's Signature



Date



1 Proposed Site Plan
3/32" = 1'-0"



PROPERTY INFORMATION:

PROJECT ADDRESS: 790 NW 21st. ST.
MCMINNVILLE, OR 97128
ACCOUNT #: 483217
ALT. PROPERTY #: R4417AC 02344
PROPERTY DESC: LOT 14 - BLOCK 1 IN COMPTON ADDITION

1.0 NW 21st St. ASTR
790 NW 21st St.
McMinnville, OR 97128

Site Plan

Aligned Design, LLC
Lindsey Jones, LEED AP
*** aligneddesignpdx.com
(503) 606-6100
hello@aligneddesignpdx.com

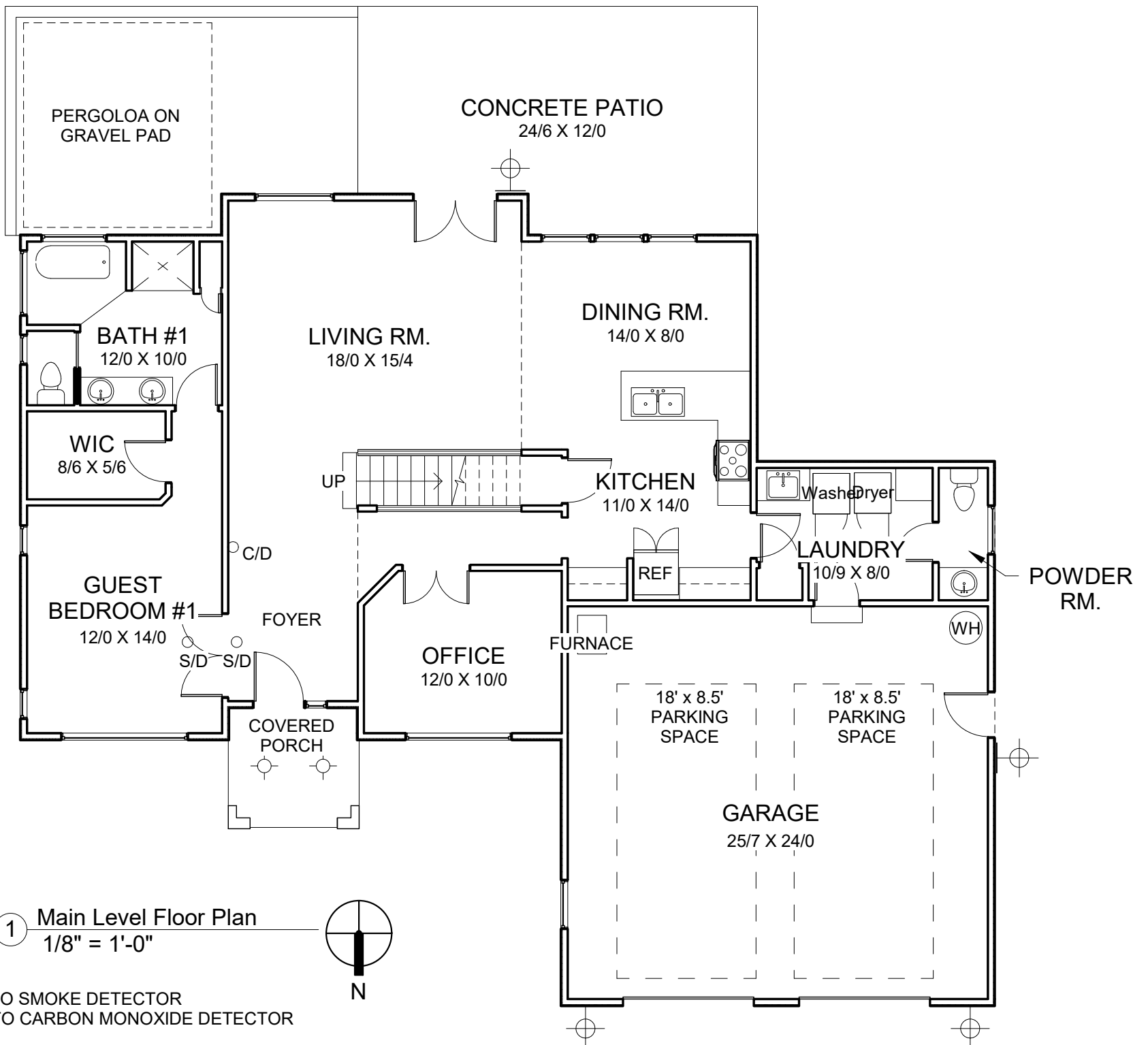
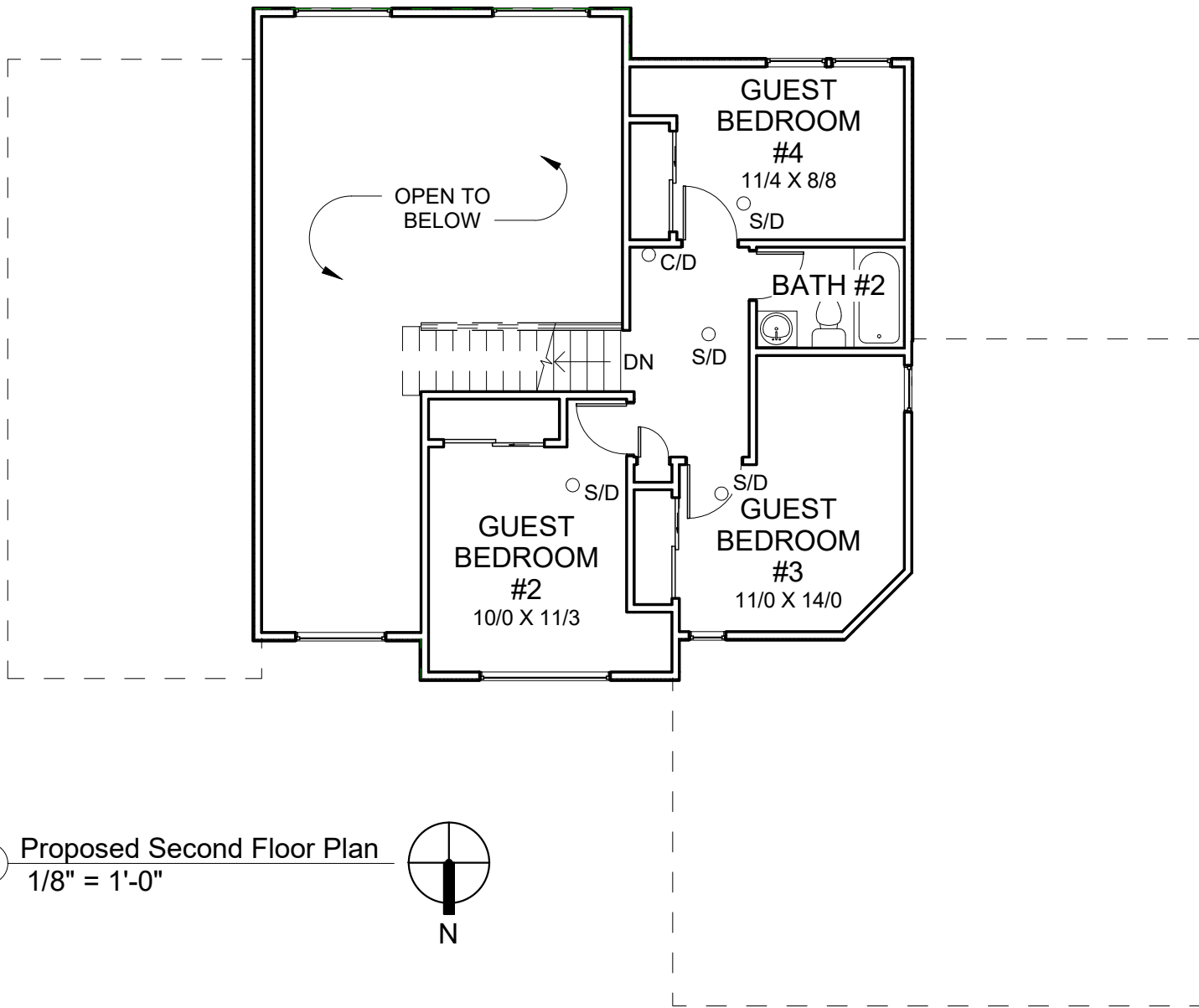


Exhibit 2

Appeal Letter to McMinnville City Council

December 13th, 2022

Issue Date: 04/25/2022



NOTE:
S/D REFERS TO SMOKE DETECTOR
C/D REFERS TO CARBON MONOXIDE DETECTOR

NW 21st St. ASTR
790 NW 21st St.
McMinnville, OR 97128

Main Level Floor Plan

Aligned Design, LLC
Lindsey Jones, LEED AP
*** aligneddesignpdx.com
(503) 606-6100
hello@aligneddesignpdx.com



Issue Date: 04/25/2022

Exhibit 2
Appeal Letter to McMinnville City Council
December 13th, 2022



COMMUNITY DEVELOPMENT
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

Planning Commission Public Record (STR 7-22)

Consisting of:

- Minutes October 6, 2022 Planning Commission Meeting
- Staff Report to Planning Commission, October 6, 2022
- Draft Decision Document for Planning Commission, October 6, 2022
- Applicant Rebuttal, September 9, 2022
- Minutes September 1, 2022 Planning Commission Meeting
- Staff Presentation, Planning Commission, September 1, 2022
- Staff Report to Planning Commission, September 1, 2022
- Draft Decision Document for Planning Commission, September 1, 2022
- Public Testimony Received (08.29.22 – 09.01.22)
- Email from Mark Pitts, (07.04.22 – Operating without a Permit)
- Original Application and Attachments

Please note that video recordings of the September 1, 2022 Planning Commission public hearing and the October 6, 2022 Planning Commission meeting can be found on the project website at:

https://www.mcminnvilleoregon.gov/meetings?field_microsite_tid_1=28



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

DRAFT MINUTES

October 6, 2022
Planning Commission
Regular Meeting

6:30 pm
Hybrid Meeting
McMinnville, Oregon

Members Present: Brian Randall, Beth Rankin, Sidonie Winfield, Sylla McClellan, Dan Tucholsky, Matt Deppe, Gary Langenwalter, and Lori Schanche

Members Absent:

Staff Present: Heather Richards – Planning Director

1. Call to Order

Chair Winfield called the meeting to order at 6:30 p.m.

2. Citizen Comments

None

3. Minutes

- **July 7, 2022**

Commissioner McClellan moved to approve the July 7, 2022 minutes. The motion was seconded by Commissioner Tucholsky and passed 7-0-1 with Commissioner Schanche abstaining.

4. Action Items:

A. Short-Term Rental (STR 7-22)

Request: Request for approval of a permit to use the existing dwelling as a Short-Term Rental

Location: 790 NW 21st Street - Tax Lot R4417AC 02344

Applicant: Emily (Joyce) LaGow

Planning Director Richards said this hearing was continued from September with the oral testimony closed and written record open for seven days to allow the applicant to provide written rebuttal, which the applicant did submit. Staff recommended denial of the application based on the criteria for parking for five guest rooms and availability of the emergency contact.

There was discussion regarding definition of a guest room, parking requirement, and criteria that were not met.

Commissioner Langenwalter suggested adding two conditions, that the applicant provide a contact that was available 24 hours before the permit was issued and the permit would be revoked if more than four cars were parked at the house at any time.

Commissioner Deppe did not think they should assign intentions, and was inclined to take the applicant at their word. He did not think the applicant had time to comply.

There was discussion regarding staff capacity, compliance with the rules, and how the applicant did not correct the application after the hearing was continued.

Based on the findings of fact and conclusionary findings, Commissioner McClellan MOVED to DENY short-term rental (STR 7-22); SECONDED by Commissioner Langenwalter. The motion PASSED 7-1 with Commissioner Deppe opposed.

City Attorney Kabeiseman gave options for denial of short term rental applications that were doing business without a permit.

5. Work Session Discussion

Long Range Planning Project Advisory Committees

- Fox Ridge Road Area Plan
- Transportation System Plan Update
- Housing Needs Analysis / Economic Opportunity Analysis Update

Planning Director Richards said staff was working on long range planning and as part of the process had created project advisory committees. She asked for Planning Commissioner volunteers to be on these committees.

Chair Winfield and Commissioner Langenwalter volunteered for the Fox Ridge Road Area Plan, Commissioner Rankin and Schanche volunteered for the Transportation System Plan update, and Commissioner Deppe volunteered for the Housing Needs Analysis

6. Commissioner Comments

None

7. Staff Comments

Planning Director Richards discussed staff vacancies.

City Attorney Kabeiseman reviewed what constituted ex parte contacts.

8. Adjournment

Chair Winfield adjourned the meeting at 7:19 p.m.



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

503-434-7311
www.mcminnvilleoregon.gov

EXHIBIT 2 - STAFF REPORT

DATE: October 6, 2022
TO: Planning Commission
FROM: Heather Richards, Community Development Director and
Adam Tate, Associate Planner
SUBJECT: Short-Term Rental STR 7-22, 790 NW 21st Street, Tax Lot R4417-AC-02344

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

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

Report in Brief:

This is a continuation of the Planning Commission decision regarding an application for a Short-Term Rental (STR 7-22) to operate a short-term rental at 790 NW 21st Street.

On September 1, 2022, the Planning Commission hosted a public hearing on STR 7-22. At that meeting, the Planning Commission voted to close the public hearing and the applicant requested that the record remain open for seven days for their response to the public testimony. The Planning Commission elected to keep the record open to 5:00 PM, September 9, 2022.

Emily LaGow, the applicant for STR 7-22, provided a response to the Planning Commission questions on September 9, 2022, which is attached to this staff report.

Background:

Subject Property & Request

The subject property is located at 790 NW 21st Street. The property is zoned R-1. A Short-Term Rental is a permitted use in the R-1 zone as specified in Section 17.15.010(P), subject to compliance with the referenced standards in Section 17.12.010(P), and subject to the procedures in specified in Section 17.72 of the Zoning Ordinance. **See Figure 1 for Vicinity Map, Figure 2 for Zoning Map, Figure 3 for Applicant's Site Plan. See Figure 4 for map of Short-Term Rentals with 200' buffer shown.** The application submittal includes additional materials including a floorplan diagram, photos, and information from the neighborhood meeting. Those additional materials are included in **Attachment 1**.

Attachments:

Decision Document with Attachments

The application states that “the homeowner intends to rent their four (4) bedroom, three (3) bath home on a short-term basis. The rental will be made available for guest use year-round and will be professionally managed and maintained by iTrip Vacations management company.”

Procedural Facts: Applications for Short-Term Rentals are processed according to the procedures for a “Director’s Review with Notification” as specified in Sections 17.72.090 and 17.72.110 of the Zoning Ordinance. This process includes mailed notice to surrounding property owners and provides a 14-day comment period from the date the notice is mailed during which comments may be submitted, and during which a person who has received notice may request a public hearing. If a public hearing is requested, the Planning Commission becomes the decision-maker, and the public hearing is held by the Planning Commission following the procedures in Section 17.72.120 of the Zoning Ordinance.

The procedures for a Short-Term Rental application require the property owner to hold a neighborhood meeting prior to the submittal of an application, consistent with the requirements of Section 17.72.095 of the Zoning Ordinance. At the time an application is submitted, the application submittal must include the items specified in Section 17.72.085(G), providing evidence of compliance with the requirements for the Neighborhood Meeting.

This application (STR 7-22) was received on June 10, 2022, reviewed for completeness, and deemed complete on June 28, 2022. On July 4, 2022, a nearby property owner and resident notified the Planning Department that the property was operating as a short-term rental without a permit. The applicant was notified and requested to have a public hearing before the Planning Commission. The request for a hearing makes the Planning Commission, rather than the Planning Director, the decision-maker. However, the same standards and criteria apply to the application. The matter is now before the Planning Commission. A request for a public hearing is different from an appeal of a Planning Director’s decision since a hearing is requested before a decision is issued by the Planning Director. The Planning Commission hearing date was set for September 1, 2022, and notice of the Planning Commission hearing was mailed to property owners on August 3, 2022, in accordance with Section 17.72.120 of the Zoning Ordinance.

The application went to a public hearing of the Planning Commission because it was found to be operating as a short-term rental before its application was approved. A neighbor emailed the Planning Director about the situation, and the matter was put into compliance by code enforcement. The applicant was made aware of the situation and given two options; to either withdraw the application or come before a public hearing of the Planning Commission to make their case. The applicant chose the latter option which will be reviewed at the September 1st public hearing.

The applicant stated that this issue arose due to the property management company accidentally listing the property for a short-term rental basis after it had to move guests from another nearby short-term rental to this property due to an emergency situation.

The decision of the Planning Commission is the final decision unless appealed to City Council. If appealed, the City Council would then be the final local decision-maker, and the same criteria and standards would continue to apply. The City Council’s decision can also be appealed to the Oregon Land Use Board of Appeals (LUBA).

The Planning Commission public hearing is conducted in accordance with quasi-judicial hearing procedures specified in Section 17.72.130 of the Zoning Ordinance, and the application is subject to the 120-day processing timeline.

Quasi-judicial procedures and decision-making are conducted in accordance with the procedures specified in Chapter 17.72 of the Zoning Ordinance.

Attachments:

Decision Document with Attachments

If the application meets the applicable standards, it must be approved. If the application would comply with the criteria and standards with conditions of approval, it may only include those conditions which are necessary to comply with the applicable criteria and standards. If it doesn't meet the applicable criteria and standards, it must be denied. The Planning Commission is required to make findings regarding how the application does or doesn't meet the applicable standards. The burden of proof is on the applicant.

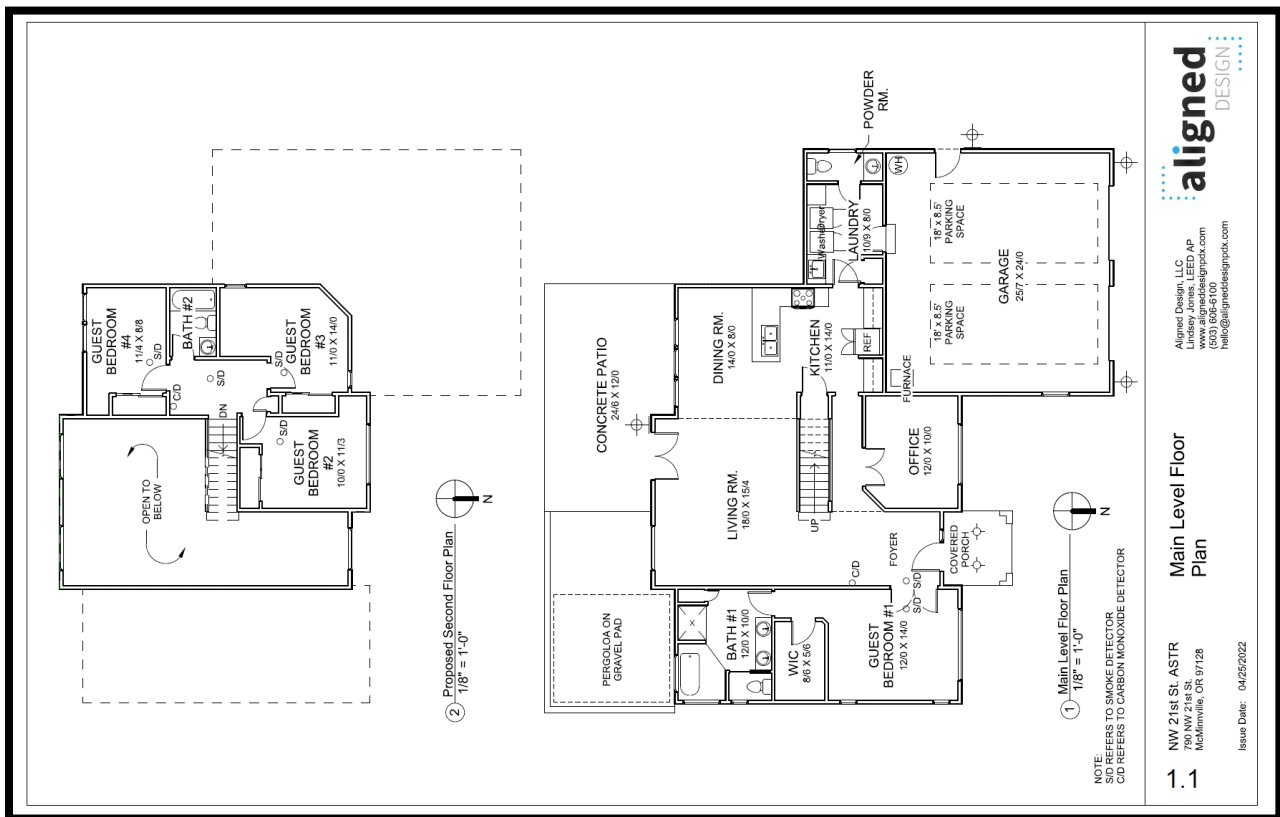
In accordance with state law, the application must be reviewed based on the standards in effect at the time of application.

The Planning Commission hosted the public hearing on September 1, 2022. The purpose of the hearing was to hear testimony to determine whether the Short-Term Rental application complied with the applicable standards specified in the Zoning Ordinance.

Discussion

During the course of the public hearing the Planning Commission had questions about the following items. The applicant chose to exercise their right for a seven-day period to respond to the concerns and provided an email response on September 9, 2022.

Section 17.12.010(P)(3) – One parking space is required for each guest room of the short-term rental to ensure on-street parking is not unduly impacted. The application indicated that the home was a “four (4) bedroom, three (3) bath home”, and provided a floor plan that indicated the same. Please see below.



Aligned Design, LLC
Lindsay Anne, LEED AP
www.aligneddesignprk.com
(503) 836-0100
lanae@aligneddesignprk.com

Main Level Floor Plan




NW 21st St. ASTR
790 NW 21st St.
McMinnville, OR 97128

Issue Date: 04/25/2022

However it was disclosed at the public hearing that there are actually five guest rooms in the house offered in the rental listing. Below is a screenshot of the listing with an infographic that indicates four bedrooms, but the narrative states that “this incredible five-bedroom retreat”, and further detail in the listing describes two bedrooms on the main floor and three bedrooms on the second floor.

Screenshot from ITrip Vacations, Baker Creek Retreat, September 30, 2022:

Exquisite Wine Country Escape, New Décor Throughout, Patio & Fire Table, 1.5 Miles to McMinnville
Baker Creek Retreat

 4 Bedrooms
  2.5 Bathrooms
  Sleeps 10

Sleeping Arrangements
Bedroom 1 (main floor): King
Bedroom 2 (main floor): Queen
Bedroom 3 (Second floor): Queen
Bedroom 4 (Second floor): Queen
Bedroom 5 (Second floor): Bunk Twin (2)

Nestled in the heart of wine country within the Willamette Valley, this incredible five bedroom retreat is the perfect option for your family or small group visiting the area. Sitting a couple blocks away from Michelbook Country Club and just over a mile to downtown McMinnville, The Baker Creek Retreat is a fantastic option for you to explore everything that this area of the Pacific Northwest has to offer.

As you enter, the foyer opens up to the entire home. You will find the open floor plan combining the living, dining, and kitchen layout, making it perfect for groups to enjoy together. One of the many great features is the two main level bedrooms and laundry on this floor.

Ascending upstairs you will find another three exquisitely finished bedrooms including the bunk room, equipped with a mounted big screen TV and gaming console. Another full bath accompanies these bedrooms as well.

In the backyard, you will find a gazebo that covers some plush outdoor seating and a fire table. In addition, there are more Adirondack chairs, some giant Jenga, and a treehouse overlooking the manicured lawn.

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements:

Bedroom 1 (main floor): King bed

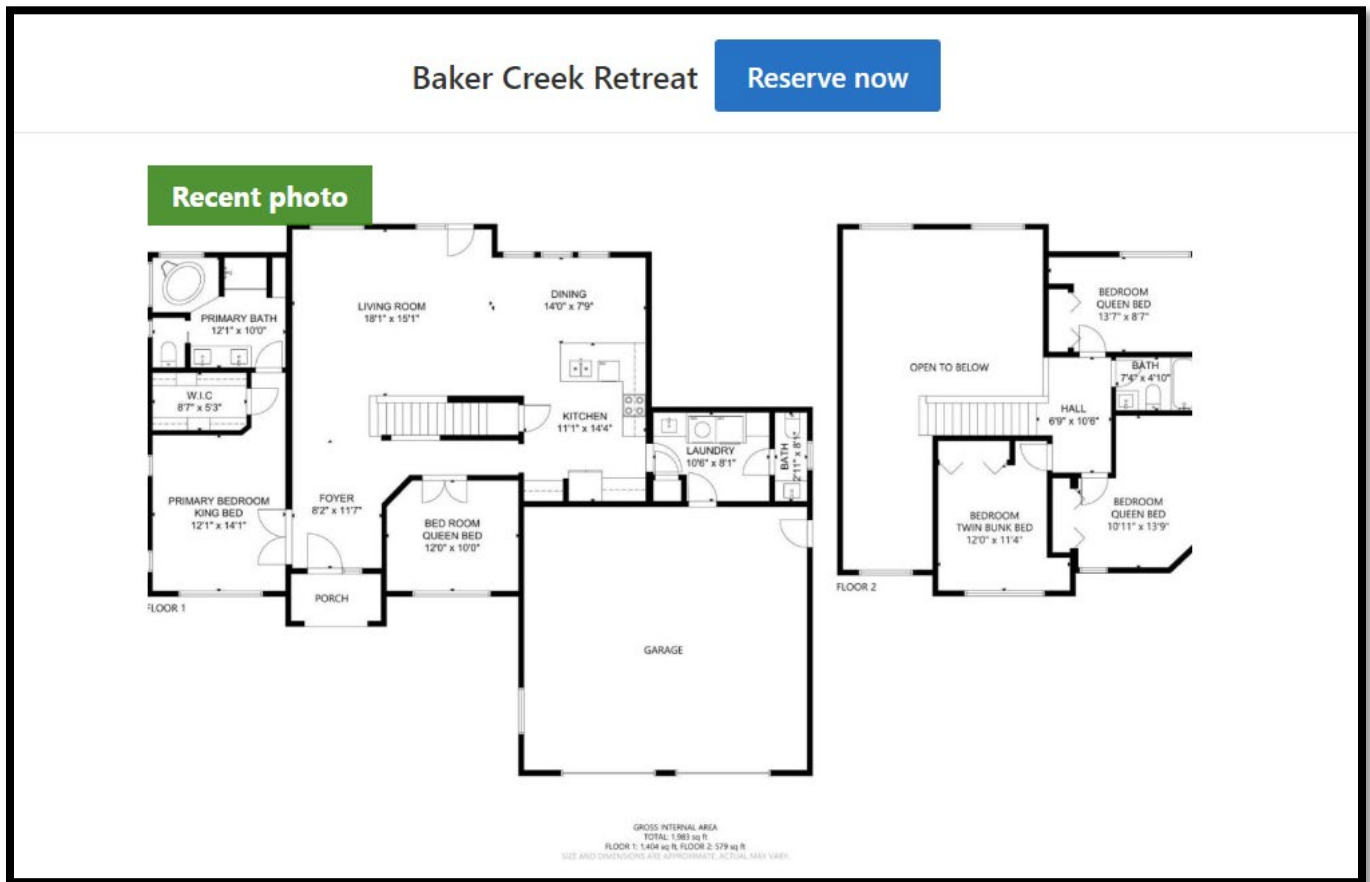
Bedroom 2 (main floor): Queen bed

Bedroom 3 (Second floor): Queen bed

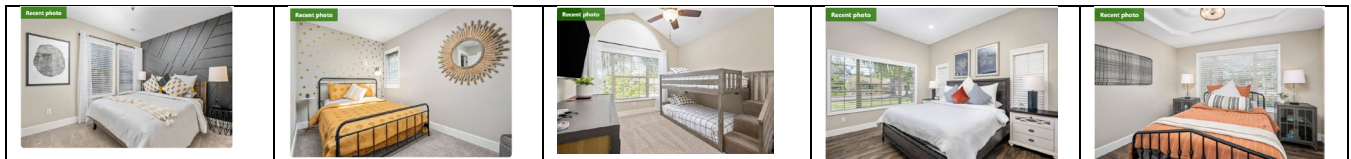
Bedroom 4 (Second floor): Queen bed

Bedroom 5 (Second floor): Twin bunk bed

A floorplan on Booking.com shows five bedrooms. (Screenshot, September 30, 2022):



Photos of five bedrooms on booking.com (Screenshot, September 30, 2022):



The Planning Commission wanted clarification on how many bedrooms there were in the property and why there was a discrepancy.

Response from the applicant:

Q. One parking spot per advertised bedroom?

R. We will reduce the number of available bedrooms across all listings and house rules to 4 bedrooms/8 people maximum. We will ask that cars be parked in the garage as well as the driveway so that we don't have cars blocking the sidewalk. The House Rules and Listings will reflect this consistently.

Section 17.12.010(P)(7) – A person living within the 97128 zip code needs to be available to respond to issues at the property. It was not clear to the Planning Commission if the person listed on the application was that person or if it was the management company which is based in Portland.

Response from the applicant:

- Q. *Has the applicant come up with a responsible person? Who is available at 11:00 at night? Was Erika alerted that she is the contact? Prove to us that someone is available. Why the two different names/email address for Erika?*
- R. *The code states: "That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to an emergency or complaint related to the vacation home rental." This statement does not specify whether the contact be a property manager, someone who can make "executive decisions," or a housecleaner. The spirit of the discussion on 9/1/22 indicates that the city would like a property manager, or business owner, or the property owner, to be available, but with respect, this seems like a discussion suited toward a change to the code, vs. a debate over the qualifications of the person that has been identified in this application to be the contact.*

Therefore, our responsible person is Erika Correa. She lives within the geographic area of 97128, works for the property manager, iTrip, and has agreed to this responsibility. She does provide cleaning and inspection services of the home. The phone number and email listed on the application are hers. In addition, iTrip has provided her with an Avachato number (www.avachato.com) that we will also list in the House Rules. An Avachato number allows us to automatically forward any call via text to her number to someone else in McMinnville in a pinch if she sick, travelling or unavailable for some other temporary reason. Her number will be dedicated to this property, so she knows when it rings, there is a complaint or an emergency. She also knows that if she gets a call or text and cannot resolve it immediately, she will contact upper management immediately for resolution. We kindly ask that the neighbors not test her so she can give her attention to emergencies only. We will make her available to the Planning Commission if they'd like to call and speak with her.

In addition, again within the spirit of the 9/1/22 discussion to have a "more responsible person be available," the applicant found a property manager: Wild Haven at 619 NE 3rd St, McMinnville, OR 97128. Michele Bertagna is identified as a Property Manager. Wild Haven would make Ms. Bertagna available for emergencies. However:

- *Applicant is under contract with iTrip with termination allowed with 60 days' notice. Applicant is unable to switch to the new property manager in time for the 9/9 deadline for written feedback to the Commission.*
- *There is no guarantee that Ms. Bertagna will be available 24/7 either as she has other clients, sleeps, gets sick, and presumably takes vacations periodically. The solution we have provided above ensures that Erika (or her phone, set to forward to an iTrip contact in McMinnville) will be available for calls at any time day or night to a local contact.*
- *Per a brief discussion with Ms. Bertagna on Thursday, 9/8, it is the applicant's understanding that this alternative property management company does not immediately offer the call forwarding or monitoring services offered by iTrip (i.e., a decibel meter; likely these services could be added in time). However,*

iTrip offers a more comprehensive set of services now to manage the STR to code overall, help ensure the neighbors aren't disturbed and that issues get resolved quickly.

Additional response from the applicant:

Q. Testimony that came in that no one answered the 24/7 hotline and that it ends at 11PM. Opportunity to respond to that?

R. From 11:00 pm to 7:00 AM the calls go to a call center. Depending on the region, the call center contacts the appropriate manager or whomever else depending on the issue. If for any reason the person they try to reach can't be reached, it escalates up to the next person all the way to the two owners of the company.

Applicable Standards and Issues – Staff Review

Use and development of properties in the R-1 zone are subject to the applicable standards of the zone and general provisions of the Zoning Ordinance. No modifications to the site or the exterior of the existing single-family dwelling are proposed at this time, so the only applicable standards for the proposed short-term rental are those listed in Section 17.12.010(P) for use of the property for a Short-Term Rental.

These standards and associated staff review are summarized below. The specific findings regarding the applicable standards are addressed in the Decision Document.

Summary of Findings Regarding Consistency with Applicable Standards

Standard	Summary of Findings
17.12.010. Permitted Uses:	
(P) Short-term rentals, subject to the provisions of Section 17.12.010(P).	Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.
17.12.010(P)	
1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.	Satisfied. The map provided as Figure 4 shows no other short-term rental within 200 feet.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.	Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling. As an ongoing condition of approval, the structure shall retain the characteristics of a residence.

<p>3. That a minimum of one off-street parking space be provided for each guest room.</p>	<p>Not Satisfied. The application stated that there were four guest rooms and four off-street parking spaces. During the due diligence of the public hearing it was learned that there are five guest rooms. The applicant does not have a provision for five off-street parking spaces. Advertisements online show the house furnished and advertised as five guest rooms.</p>
<p>4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.</p>	<p>Satisfied with Conditions. No signage is proposed at this time.</p> <p>As an ongoing condition of approval, any signage shall comply with this standard.</p>
<p>5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.</p>	<p>Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.</p>
<p>6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.</p>	<p>Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application.</p> <p>As an ongoing condition of approval, the structure shall remain in compliance with this standard.</p>
<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Not Clear. The property owner in their rebuttal provided conflicting information. One response states that Erika Correa will be available 24 hours per day seven days a week, and another response indicates that the short term rental will be managed with a call service from 11 PM to 7 AM.</p>

<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Not Applicable.</p> <p>Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.</p>

CONCLUSION & RECOMMENDATION:	<p>The proposed Short-Term Rental application is problematic in three primary ways:</p> <ol style="list-style-type: none">1) The property was operated as a short-term rental without a permit. The management company, ITrip placed a family from another rental into the property over the 4th of July weekend when the air conditioning went out on the other rental.2) The application indicated that there were four guest rooms and the property had the required four off-street parking spaces. With due diligence, it was learned that there were five guest rooms and the applicant was going to rely on the management company to limit short-term rentals to four guest rooms and allow long-term rentals to be rented with five guest rooms.3) Testimony was provided that the applicant's local contact was not available after 11 PM. The rebuttal from the applicant is confusing. <p>The permit criteria are not met with the application. Staff recommends a denial.</p>
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Staff Recommendation:

Based on the new information that was uncovered at the public hearing, staff is recommending denial of the permit application.

Figure 1. Vicinity Map



Figure 2. Zoning Map

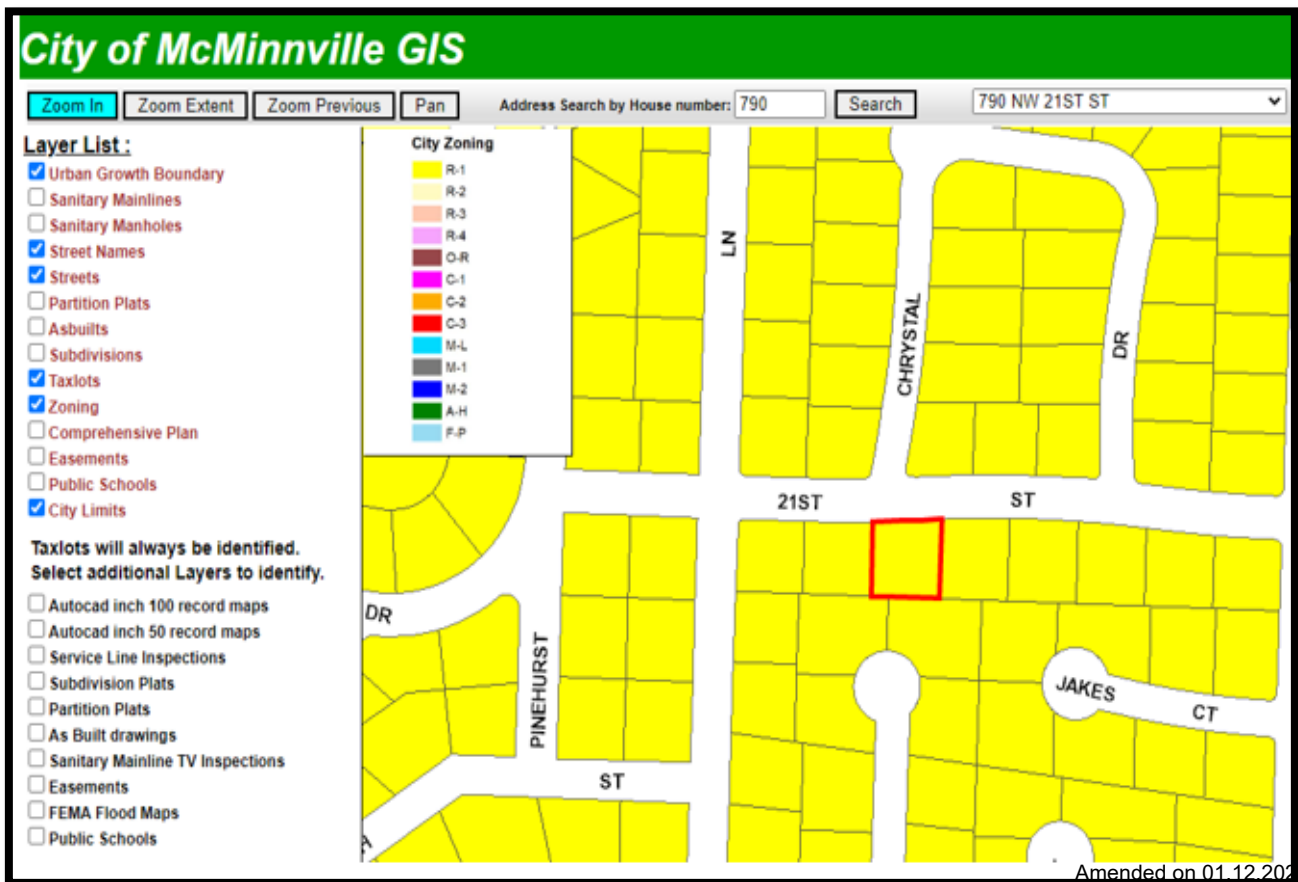


Figure 3. Applicant's Site Plan

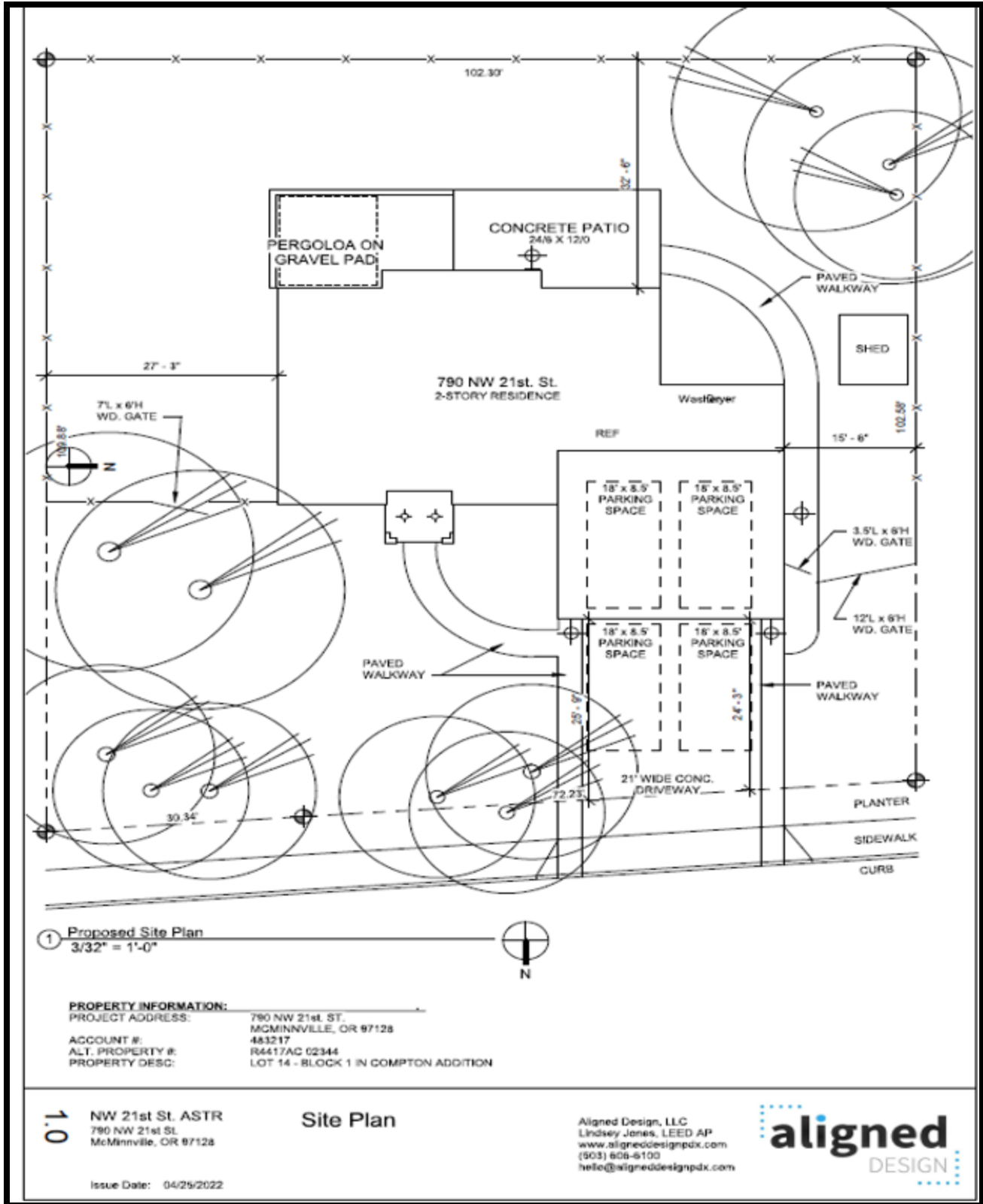


Figure 4. Map of Short-Term Rentals with 200-Foot Buffer



AT



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 SHORT-TERM RENTAL AT 790 NW 21st STREET

DOCKET: STR 7-22
REQUEST: Application to permit a short-term rental.
LOCATION: 790 NW 21st St. Tax Lot: R4417-AC-02344
ZONING: R-1 (Single-Family Residential)
APPLICANT: Emily (Joyce) LaGow
STAFF: Heather Richards, Community Development Director
Adam Tate, Associate Planner

DATE DEEMED COMPLETE: July 11, 2022

DECISION MAKING BODY & ACTION: The McMinnville Planning Commission makes the final decision unless the Planning Commission’s decision is appealed to the City Council.

DECISION DATE & LOCATION: September 1, 2022, Hybrid Public Hearing. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 879 8953 9440
October 6, 2022, Hybrid Public Meeting. Kent Taylor Civic Hall, 200 NE Second Street. Zoom Meeting, Meeting ID: 834 6597 3462

PROCEDURE: The application is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. This short-term rental was found to be operating without a permit and referred to code compliance. The application will now be heard before a public hearing and reviewed by the Planning Commission. in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.

CRITERIA: The applicable criteria and standards for a Short-Term Rental are specified in Section 17.12.010(P) of the Zoning Ordinance.

APPEAL: As specified in Section 17.72.180 of the Zoning Ordinance, the Planning Commission’s decision may be appealed to the City Council within 15 calendar days of the date the written notice of decision is mailed. The City’s final decision

is subject to the 120-day processing timeline, including resolution of any local appeal.

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are **SATISFIED / NOT SATISFIED** and **APPROVES / APPROVES WITH CONDITIONS / DENIES** the Short-Term Rental permit for the property at 790 NW 21st Street (STR 7-22).

////////////////////////////////////
DECISION: **APPROVAL** **APPROVAL WITH CONDITONS** **DENIAL**
////////////////////////////////////

Planning Commission: _____
Sidonie Winfield, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

-
- Attachments :
Attachment 1 – Application and Attachments
Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
Attachment 3 – Public Testimony Received

I. APPLICATION SUMMARY:

Subject Property & Request

The subject property is located at 790 NW 21st Street. The property is zoned R-1. A Short-Term Rental is a permitted use in the R-1 zone as specified in Section 17.15.010(P), subject to compliance with the referenced standards in Section 17.12.010(P), and subject to the procedures specified in Section 17.72 of the Zoning Ordinance. **See Figure 1 for Vicinity Map, Figure 2 for Zoning Map, Figure 3 for Applicant’s Site Plan. See Figure 4 for map of Short-Term Rentals with 200’ buffer shown.** The application submittal includes additional materials including a floorplan diagram, photos, and information from the neighborhood meeting. Those additional materials are included in **Attachment 1**.

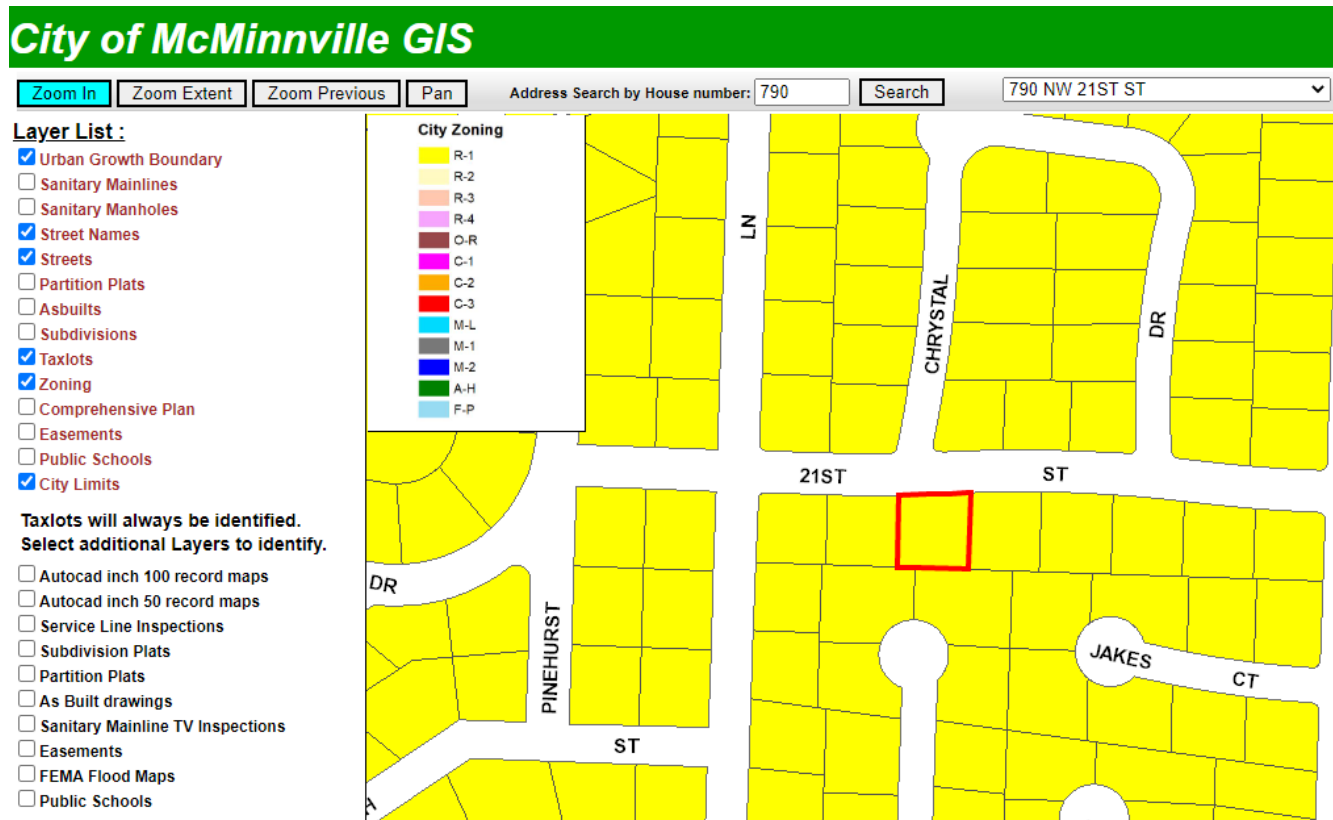
Figure 1. Vicinity Map



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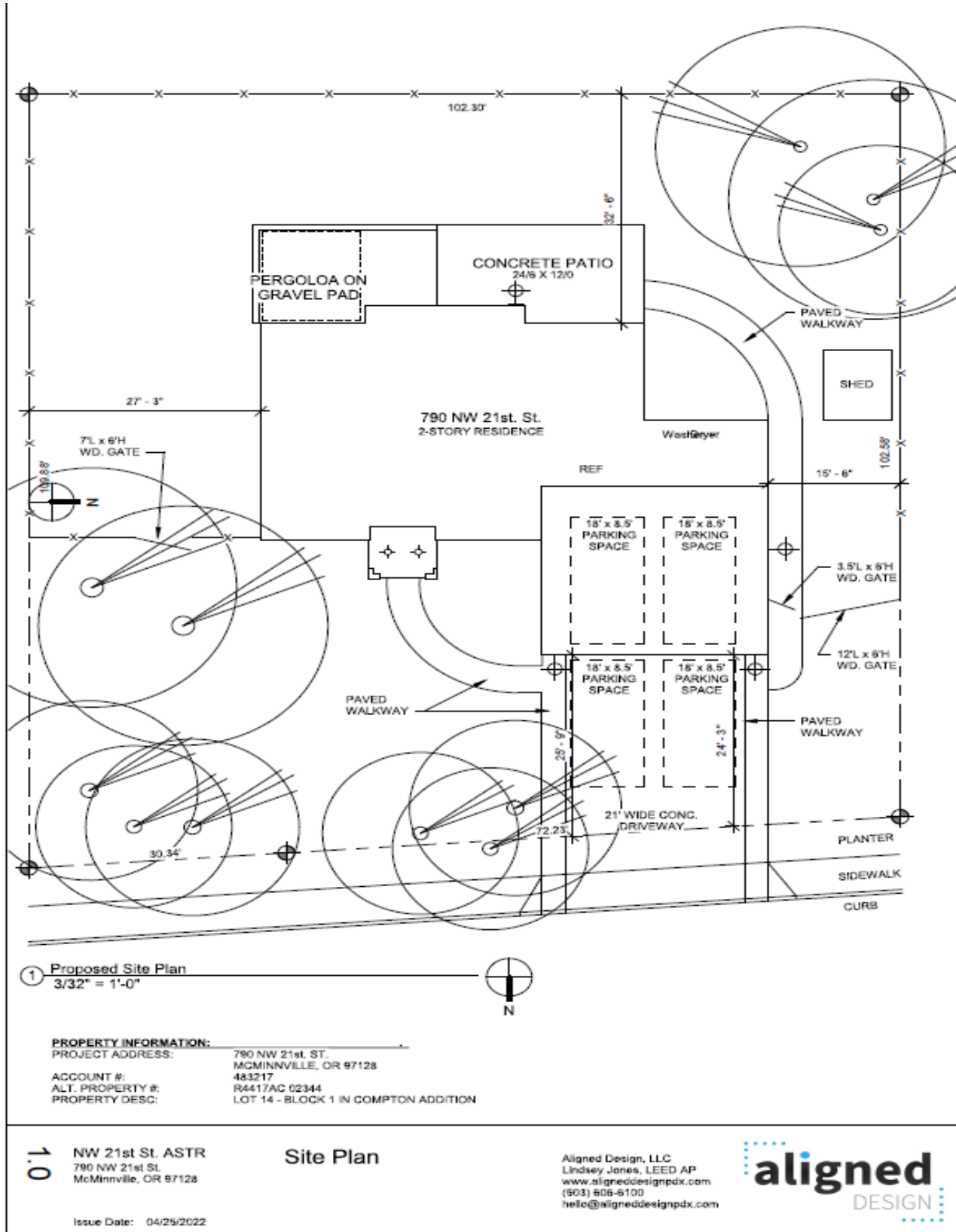
Figure 2. Zoning Map



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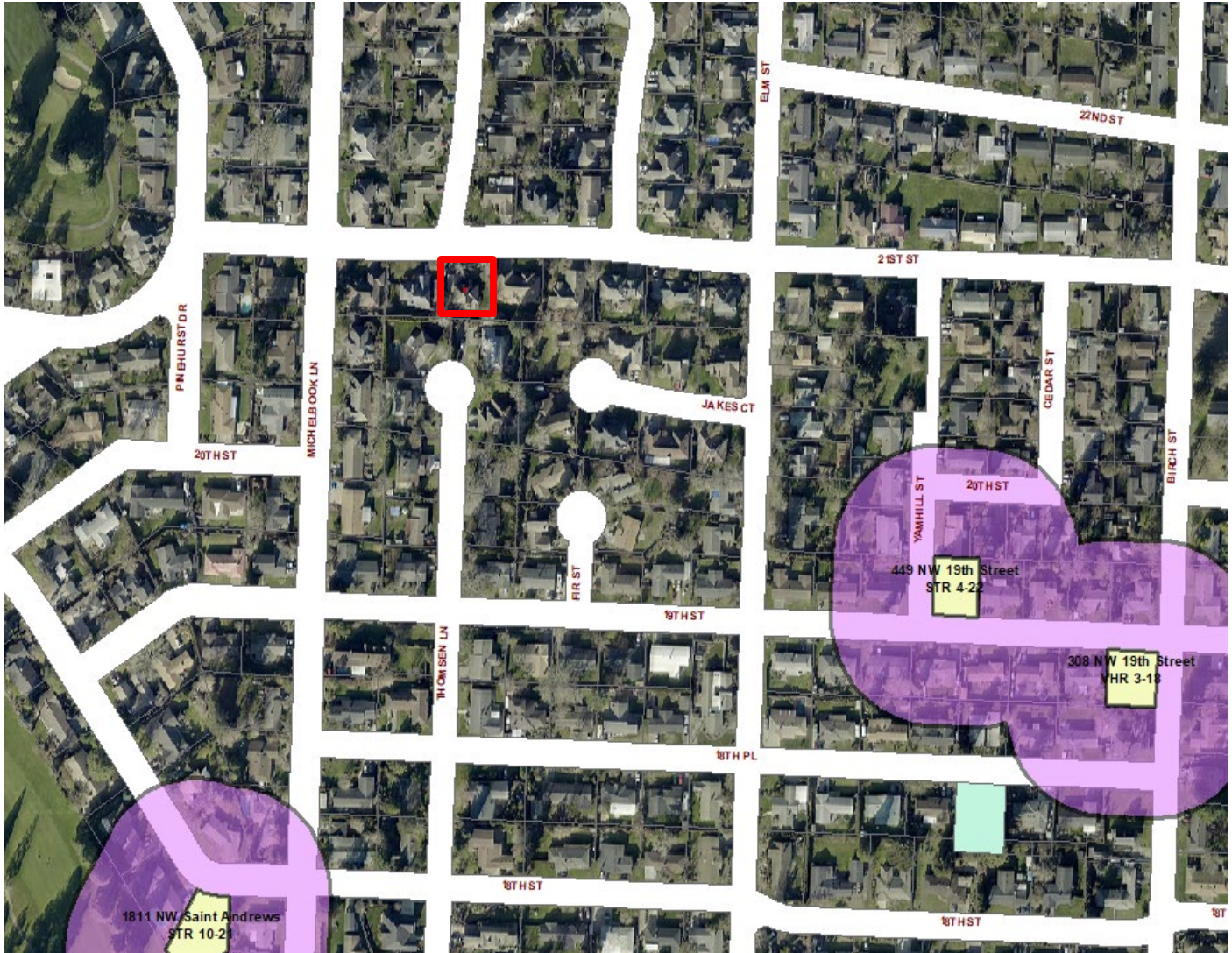
Figure 3. Applicant's Site Plan



Attachments:

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Figure 4. Map of Short-Term Rentals with 200-Foot Buffer



Summary of Applicable Standards and Issues

Use and development of properties in the R-1 zone are subject to the applicable standards of the zone and general provisions of the Zoning Ordinance. No modifications to the site or existing single-family dwelling are proposed at this time, so the only applicable standards for the proposed short-term rental are those listed in Section 17.12.010(P) for use of the property for a Short-Term Rental.

The standards and associated findings are summarized below. The specific findings regarding the applicable standards are addressed in Section VII of this Decision Document. As a Type II land-use application, the criteria need to be clear and objective.

The table below illustrates how the application either complies or does not comply with applicable criteria.

Summary of Findings Regarding Consistency with Applicable Standards

Standard	Summary of Findings
----------	---------------------

Attachments :

- Attachment 1 – Application and Attachments
- Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
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17.12.010. Permitted Uses:	
(P) Short-term rentals, subject to the provisions of Section 17.12.010(P).	Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.
17.12.010(P)	
1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.	Satisfied. The map provided as Figure 4 shows no other short-term rental within 200 feet.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.	Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling. As an ongoing condition of approval, the structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.	Not Satisfied. The application stated that there were four guest rooms and four off-street parking spaces. During the due diligence of the public hearing it was learned that there are five guest rooms. The applicant does not have a provision for five off-street parking spaces. Advertisements online show the house furnished and advertised as five guest rooms.
4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.	Satisfied with Conditions. No signage is proposed at this time. As an ongoing condition of approval, any signage shall comply with this standard.
5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.	Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.
6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.	Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application. As an ongoing condition of approval, the structure shall remain in compliance with this standard.

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<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Not Clear. The property owner in their rebuttal provided conflicting information. One response states that Erika Correa will be available 24 hours per day seven days a week, and another response indicates that the short term rental will be managed with a call service from 11 PM to 7 AM.</p>
<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Not Applicable.</p> <p>Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.</p> <p>If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints, and will be listed as a condition of approval for this application.</p>

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**Summary of Findings Regarding Consistency with Applicable Standards
(Table on next page)**

Standard	Summary of Findings
<p>17.12.010. Permitted Uses: (P) Short-term rentals, subject to the provisions of Section 17.12.010(P).</p>	<p>Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.</p>
<p>17.12.010(P)</p>	
<p>1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.</p>	<p>Satisfied. The map provided as Figure 4 shows no other short-term rental within 200 feet.</p>
<p>2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.</p>	<p>Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling. As an ongoing condition of approval, the structure shall retain the characteristics of a residence.</p>
<p>3. That a minimum of one off-street parking space be provided for each guest room.</p>	<p>Not Satisfied. The application stated that there were four guest rooms and four off-street parking spaces. During the due diligence of the public hearing it was learned that there are five guest rooms. The applicant does not have a provision for five off-street parking spaces. Advertisements online show the house furnished and advertised as five guest rooms.</p>
<p>4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.</p>	<p>Satisfied with Conditions. No signage is proposed at this time. As an ongoing condition of approval, any signage shall comply with this standard.</p>
<p>5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.</p>	<p>Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.</p>
<p>6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.</p>	<p>Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application. As an ongoing condition of approval, the structure shall remain in compliance with this standard.</p>

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<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Not Clear. The property owner in their rebuttal provided conflicting information. One response states that Erika Correa will be available 24 hours per day seven days a week, and another response indicates that the short term rental will be managed with a call service from 11 PM to 7 AM.</p>
<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Not Applicable.</p> <p>Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.</p> <p>If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints, and will be listed as a condition of approval for this application.</p>

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II. CONDITIONS: (If the Planning Commission elects to approve the application, these conditions of approval will apply.)

1. That five (5) off-street parking spaces (paved or of a hardscape surface) are required for the use of the Short Term Rental, per the five (5) guest rooms provided, as indicated on the application submitted June 10, 2022.
2. That 10-year Lithium battery-powered smoke alarms and CO2 alarms must be installed in accordance with Sections R314 and R315 of the Building Code. For this one-story building, smoke alarms shall be installed in each sleeping room and outside each separate sleeping area within 21 feet of any door to a sleeping room, measured along a path of travel. One CO2 alarm is required.
3. That prior to use of the subject property for vacation home rental purposes, the applicant shall register with the McMinnville Finance Department as a transient lodging provider. Local Transient Lodging Tax shall be collected and remitted to the City as provided in McMinnville Ordinance No. 4974.
4. That, as this use is required to be occupied as a single-family residence, occupancy of the vacation home rental shall be limited at all times to no more than five unrelated persons, or one or more individuals related by blood, marriage, adoption, or legal guardianship, or other duly authorized custodial relationship.
5. That all other requirements of Section 17.12.010(P) of the Zoning Ordinance referencing vacation home rental use shall be complied with throughout the time this property is used for such purpose, which are outlined below.
 - A. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.
 - B. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
 - C. That a minimum of one off-street parking space be provided for each guest room.
 - D. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
 - E. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.
 - F. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
 - G. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
 - H. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership,

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the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:

- a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
- b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
- I. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
- J. Complaints on conditions “A” through “I” above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

III. ATTACHMENTS:

- 1. STR 7-22 Application and Attachments (on file with the Planning Department)
- 2. Public Testimony:

IV. COMMENTS:

Public Comments

- 1. Email received July 4, 2022, from Mark Pitts, notifying the Planning Director that the short-term rental was operating before their permit was approved.
- 2. Email received on August 29, 2022, from Mark Pitts
- 3. Email received on August 30, 2022 from Kelli Grinch
- 4. Email received from Jay Post on August 30, 2022
- 5. Email received from Kathy Loving on September 1, 2022

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

- 1. The applicant mailed notice of a neighborhood meeting dated April 27, 2022, and held a neighborhood meeting on May 25, 2022.
- 2. The applicant submitted the Short-Term Rental application (STR 7-22) on June 10, 2022.
- 3. On July 4, 2022, a local resident reported to the Planning Director that the property was operating as a short-term rental before their application was approved, and provided an Airbnb listing showing the property for rent.

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4. On July 5, 2022, the property was put into code compliance and the property owner was notified that they must stop current short-term rental operations and given the option to either withdraw their permit or have it go before a public hearing of the Planning Commission.
5. On July 11, 2022, the applicant informed the Planning Director that they wanted to move forward with the application and the application was deemed complete.
6. The hearing date was set for September 1, 2022. On August 3, 2022, notice of the application and the September 1, 2022, 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.
7. 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, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

No comments were received from any agencies.

8. Notice of the application and the September 1, 2022, Planning Commission public hearing was published in the News Register on Friday, August 26, in accordance with Section 17.72.120 of the Zoning Ordinance.
9. On September 1, 2022, the Planning Commission held a duly noticed public hearing to consider the application. The public hearing was closed after hearing testimony on September 1, 2022.
10. On October 6, 2022, the Planning Commission deliberated and rendered a decision.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 790 NW 21st St. Tax Lot R4417-AC-02344
2. **Size:** Approximately 0.2489 acres
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-1 (Single-Family Residential)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Single-family dwelling
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None identified
8. **Other Features:**
 - a. **Slopes:** The site is generally flat.
 - b. **Easements:** No public easements identified

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9. **Utilities:** The property is served with basic municipal services, including water, sewer, power, and franchise utilities.
10. **Transportation:** NW 21st Street is classified as a local residential street in the McMinnville TSP. Local streets have a 50-foot right-of-way.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria and standards for the application.

The applicable standards for a Short-Term Rental are specified in Section 17.12.010 (O) of the Zoning Ordinance. Development standards for the R-1 Zone are provided in Chapter 17.12 of the Zoning Ordinance; however, the proposed short-term rental will be located within the existing single-family dwelling, and no new development is proposed at this time.

McMinnville Zoning Ordinance

The following Sections of Title 17, Zoning Ordinance, of the McMinnville Municipal Code provide criteria and standards applicable to the request:

Section 17.12.010 lists permitted uses in the R-1 Zone. Subsection (P) provides the following:

- P. Short-term rental, subject to the provisions of Section 17.72.110

FINDING: SATISFIED WITH CONDITIONS. The proposed use described in the application is single-family home used for a short-term rental. These are both permitted uses.

Section 17.12.010(P) provides the following:

- P. Short-term rental, subject to the provisions of Section 17.72.110 and the following standards.

Section 17.72.110. Applications – Director’s Review with Notification.

FINDING: SATISFIED. Section 17.72.110 provides the applicable procedural requirements. As addressed in Section V of this Decision Document, the application has been processed in accordance with the applicable procedures.

Standards in 17.12.010(P):

1. Short-term rentals shall not be located within 200 feet of another short-term rental, or on the same property as another short-term rental.

FINDING: SATISFIED. There is no other short-term rental within 200 feet of another short-term rental. There is not another short-term rental on the subject property. See **Figure 4** for a map of short-term rentals.

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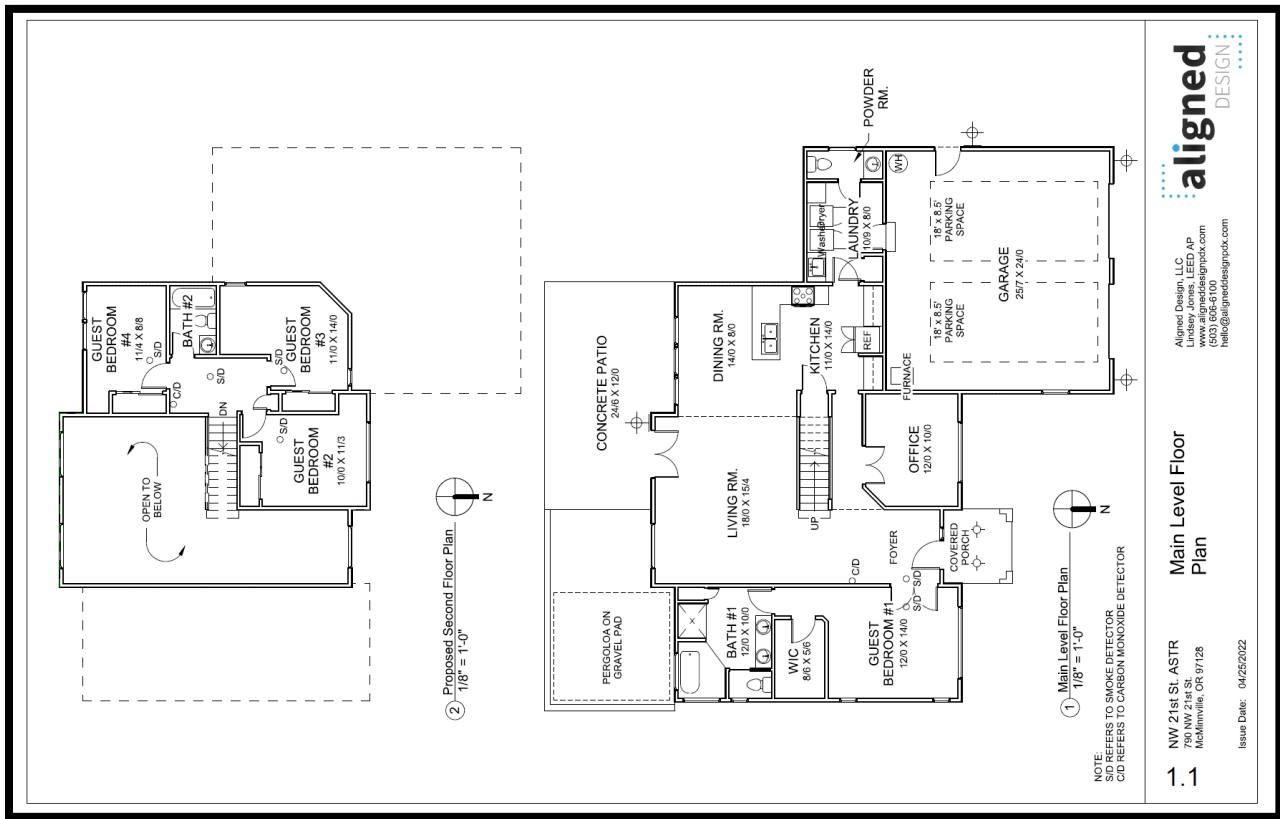
- Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.

FINDING: SATISFIED WITH CONDITIONS. The existing use in which the proposed short-term rental is proposed is a single-family dwelling. No outward modifications to the residence are proposed at this time.

- That a minimum of one off-street parking space be provided for each guest room.

FINDING: NOT SATISFIED. The application indicated that the home was a “four (4) bedroom, three (3) bath home”, and provided a floor plan that indicated the same. Please see below. As such, the applicant provided a site plan with four off-street parking spaces. Based on testimony at the public hearing and more research it has been determined that the property has five guestrooms and the applicant does not have room for five off-street parking spaces on the site plan.

Floor plan provided with the application illustrating four bedrooms:



However it was disclosed at the public hearing that there are actually five guest rooms in the house offered in the rental listing. Below is a screenshot of the listing with an infographic that indicates four bedrooms, but the narrative states that “this incredible five-bedroom retreat”, and further detail in the listing describes two bedrooms on the main floor and three bedrooms on the second floor.

- Attachments :
- Attachment 1 – Application and Attachments
 - Attachment 2 – Email from Mark Pitts (Operating w/out a Permit)
 - Attachment 3 – Public Testimony Received

Screenshot from ITrip Vacations, Baker Creek Retreat, September 30, 2022:

Exquisite Wine Country Escape, New Décor Throughout, Patio & Fire Table, 1.5 Miles to McMinnville

Baker Creek Retreat

\$4,256 - \$11,032 / month in McMinnville csnw@itrip.net

4 Bedrooms 2.5 Bathrooms Sleeps 10

Favorite Share Availability

Nestled in the heart of wine country within the Willamette Valley, this incredible five bedroom retreat is the perfect option for your family or small group visiting the area. Sitting a couple blocks away from Michelbook Country Club and just over a mile to downtown McMinnville, The Baker Creek Retreat is a fantastic option for you to explore everything that this area of the Pacific Northwest has to offer.

As you enter, the foyer opens up to the entire home. You will find the open floor plan combining the living, dining, and kitchen layout, making it perfect for groups to enjoy together. One of the many great features is the two main level bedrooms and laundry on this floor.

Ascending upstairs you will find another three exquisitely finished bedrooms including the bunk room, equipped with a mounted big screen TV and gaming console. Another full bath accompanies these bedrooms as well.

In the backyard, you will find a gazebo that covers some plush outdoor seating and a fire table. In addition, there are more Adirondack chairs, some giant Jenga, and a treehouse overlooking the manicured lawn.

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements	
Bedroom 1 (main floor):	King
Bedroom 2 (main floor):	Queen
Bedroom 3 (Second floor):	Queen
Bedroom 4 (Second floor):	Queen
Bedroom 5 (Second floor):	Bunk Twin (2)

Every bit of the décor and furnishing was procured to create that perfect blend of style and comfort for your stay.

Please don't hesitate to reach out if you have any questions at all.

Sleeping Arrangements:

Bedroom 1 (main floor): King bed

Bedroom 2 (main floor): Queen bed

Bedroom 3 (Second floor): Queen bed

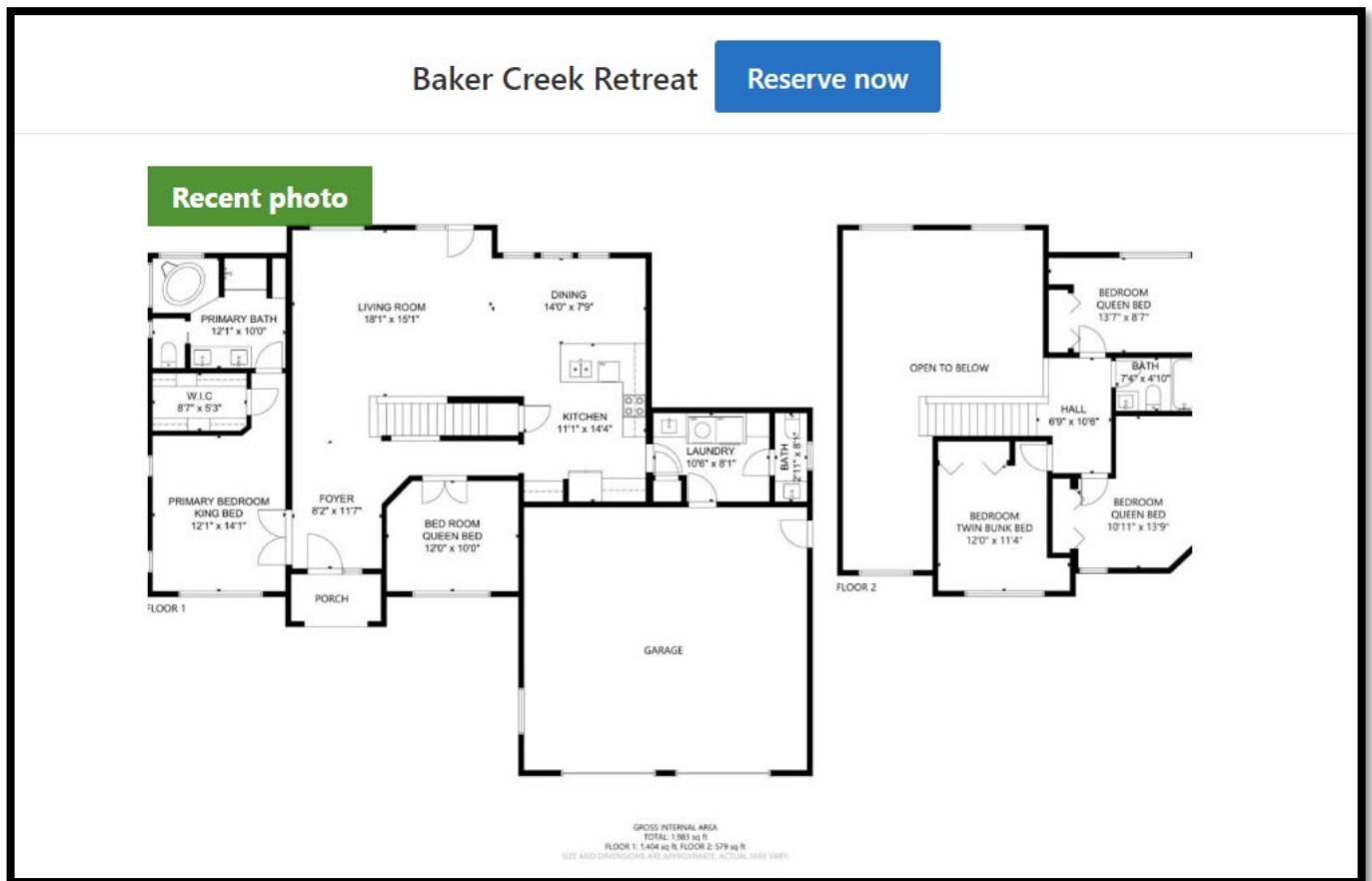
Bedroom 4 (Second floor): Queen bed

Bedroom 5 (Second floor): Twin bunk bed

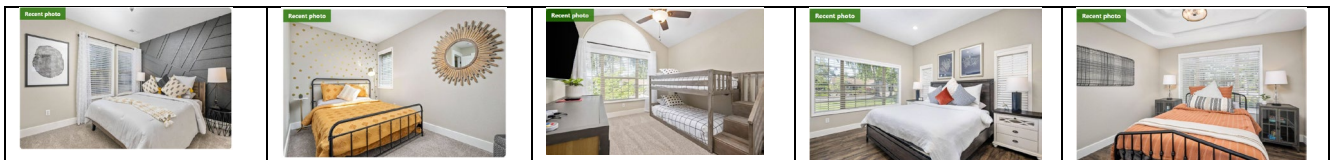
Attachments :

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A floorplan on Booking.com shows five bedrooms. (Screenshot, September 30, 2022):



Photos of five bedrooms on booking.com (Screenshot, September 30, 2022):



- That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.

FINDING: SATISFIED WITH CONDITIONS. The application doesn't indicate any proposed signage at this time. As an ongoing condition of approval, any future signage shall comply with this requirement.

Attachments:

- Attachment 1 – Application and Attachments
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5. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.

FINDING: SATISFIED WITH CONDITIONS. This provision is an on-going requirement for the operation of the short-term rental and is included as a condition of approval.

6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.

FINDING: SATISFIED WITH CONDITIONS. Subsection (2)(d) of Ordinance No. 3997 specifies that, for a lodging house, that smoke detectors are required “in all corridors or areas giving access to rooms used for sleeping purposes, and in all sleeping rooms. Where sleeping rooms are on an upper level, an additional detector shall be placed at the center of the ceiling directly above the stairway.”

The application identifies the location of smoke detectors consistent with this requirement, with a smoke detector in each guest room and the hallway, for a total of six smoke detectors and carbon monoxide detectors. This is a two-story single-family dwelling.

The application demonstrates compliance with this standard. As an ongoing condition of approval, the structure shall remain in compliance with this standard.

7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.

FINDING: NOT SATISFIED. The property owner does not live within the geographic area of the 97128 zip code. On the application, the applicant provided the contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental. The contact information and residence location are provided in Section 5 of the application form submitted by the applicant. The location of the residence is within the City of McMinnville and the geographic area of the 97128 zip code.

However, at the public hearing, it was disclosed that the number provided went to a call service from 11 PM to 7 AM. The applicant was asked to respond to that issue in a rebuttal report. A response was provided via email from Emily LaGow on September 9, 2022. The response from the applicant provided conflicting information.

Response from the applicant:

Q. Has the applicant come up with a responsible person? Who is available at 11:00 at night? Was Erika alerted that she is the contact? Prove to us that someone is available. Why the two different names/email address for Erika?

Attachments :

Attachment 1 – Application and Attachments

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R. The code states: "That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to an emergency or complaint related to the vacation home rental." This statement does not specify whether the contact be a property manager, someone who can make "executive decisions," or a housecleaner. The spirit of the discussion on 9/1/22 indicates that the city would like a property manager, or business owner, or the property owner, to be available, but with respect, this seems like a discussion suited toward a change to the code, vs. a debate over the qualifications of the person that has been identified in this application to be the contact.

Therefore, our responsible person is Erika Correa. She lives within the geographic area of 97128, works for the property manager, iTrip, and has agreed to this responsibility. She does provide cleaning and inspection services of the home. The phone number and email listed on the application are hers. In addition, iTrip has provided her with an Avachato number (www.avachato.com) that we will also list in the House Rules. An Avachato number allows us to automatically forward any call via text to her number to someone else in McMinnville in a pinch if she sick, travelling or unavailable for some other temporary reason. Her number will be dedicated to this property, so she knows when it rings, there is a complaint or an emergency. She also knows that if she gets a call or text and cannot resolve it immediately, she will contact upper management immediately for resolution. We kindly ask that the neighbors not test her so she can give her attention to emergencies only. We will make her available to the Planning Commission if they'd like to call and speak with her.

In addition, again within the spirit of the 9/1/22 discussion to have a "more responsible person be available," the applicant found a property manager: Wild Haven at 619 NE 3rd St, McMinnville, OR 97128. Michele Bertagna is identified as a Property Manager. Wild Haven would make Ms. Bertagna available for emergencies. However:

- Applicant is under contract with iTrip with termination allowed with 60 days' notice. Applicant is unable to switch to the new property manager in time for the 9/9 deadline for written feedback to the Commission.
- There is no guarantee that Ms. Bertagna will be available 24/7 either as she has other clients, sleeps, gets sick, and presumably takes vacations periodically. The solution we have provided above ensures that Erika (or her phone, set to forward to an iTrip contact in McMinnville) will be available for calls at any time day or night to a local contact.
- Per a brief discussion with Ms. Bertagna on Thursday, 9/8, it is the applicant's understanding that this alternative property management company does not immediately offer the call forwarding or monitoring services offered by iTrip (i.e., a decibel meter; likely these services could be added in time). However, iTrip offers a more comprehensive set of services now to manage the STR to code overall, help ensure the neighbors aren't disturbed and that issues get resolved quickly.

Additional response from the applicant:

Attachments :

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Q. *Testimony that came in that no one answered the 24/7 hotline and that it ends at 11PM. Opportunity to respond to that?*

R. *From 11:00 pm to 7:00 AM the calls go to a call center. Depending on the region, the call center contacts the appropriate manager or whomever else depending on the issue. If for any reason the person they try to reach can't be reached, it escalates up to the next person all the way to the two owners of the company.*

8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short-term rental permit for the subject property will become void. The use of the subject property as a short-term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:

- a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
- b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.

FINDING: SATISFIED WITH CONDITIONS. The applicant is the current property owner at the time of application.

This code provision is an ongoing requirement for the operation of the short-term rental and is included as a condition of approval.

9. Permits must be renewed annually. Failure to renew the short-term rental permit annually will result in the permit becoming void, and the use of the subject property as a short-term rental will again be subject to the application and review procedures in Section 17.72.110.

FINDING: SATISFIED WITH CONDITIONS. This code provision is an ongoing requirement for the operation of the short-term rental, included as a condition of approval.

10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinances. If the short-term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

FINDING: NOT APPLICABLE: Although the applicant operated the short-term rental without a permit. This provision is for those short-term rentals that achieve a permit but violate one of the conditions above.

AT

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- Attachment 3 – Public Testimony Received

From: [LaGow, Emily](#)
To: [Heather Richards](#)
Cc: [Melissa Wright](#); [Corey Tigner](#); [Ryan Tigner](#)
Subject: McMinnville Planning Commission, STR 7-22, Written Responses due 9/9
Date: Friday, September 9, 2022 1:45:42 PM

This message originated outside of the City of McMinnville.

Hi Heather! See below for the responses to the Commission's & neighbors' questions from the Planning Commission meeting on 9/1/22. Please let me know if anything is unclear. Thank you!!

~*~*

Commissioners: Thank you for continued consideration for the application STR 7-22. Per your request from the 9/1/22 meeting, below are the written responses to your questions. I will be in attendance on 10/6 to provide any needed clarification.

Warm Regards,
Emily LaGow

- Q. Once the permit is achieved, will applicant go to STR?
- R. Yes, but will give preference to LTR applications.

- Q. One parking spot per advertised bedroom?
- R. We will reduce the number of available bedrooms across all listings and house rules to 4 bedrooms/8 people maximum. We will ask that cars be parked in the garage as well as the driveway so that we don't have cars blocking the sidewalk. The House Rules and Listings will reflect this consistently.

- Q. Has the applicant come up with a responsible person? Who is available at 11:00 at night? Was Erika alerted that she is the contact? Prove to us that someone is available. Why the two different names/email address for Erika?
- R. The code states: "That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to an emergency or complaint related to the vacation home rental." This statement does not specify whether the contact be a property manager, someone who can make "executive decisions," or a housecleaner. The spirit of the discussion on 9/1/22 indicates that the city would like a property manager, or business owner, or the property owner, to be available, but with respect, this seems like a discussion suited toward a change to the code, vs. a debate over the qualifications of the person that has been identified in this application to be the contact.

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In addition, again within the spirit of the 9/1/22 discussion to have a "more responsible person be available," the applicant found a property manager: Wild Haven at [619 NE 3rd St, McMinnville, OR 97128](https://www.wildhaven.com). Michele Bertagna is identified as a Property Manager. Wild Haven would make Ms. Bertagna available for emergencies. However:

- o Applicant is under contract with iTrip with termination allowed with 60 days' notice. Applicant is unable to switch to the new property manager in time for the 9/9 deadline for written feedback to the Commission.
- o There is no guarantee that Ms. Bertagna will be available 24/7 either as she has other clients, sleeps, gets sick, and presumably takes vacations periodically. The solution we have provided above ensures that Erika (or her phone, set to forward to an iTrip contact in McMinnville) will be available for calls at any time day or night to a local contact.
- o Per a brief discussion with Ms. Bertagna on Thursday, 9/8, it is the applicant's understanding that this alternative property management company does not immediately offer the call forwarding or monitoring services offered by iTrip (i.e., a decibel meter; likely these services could be added in time). However, iTrip offers a more comprehensive set of services now to manage the STR to code overall, help ensure the neighbors aren't disturbed and that issues get resolved quickly.

Q. For July 4. Why didn't iTrip contact the property owner?

R. The customer service rep was trying to place a guest that was having an a/c issue at a house. They saw that there was an opening at Emily's house but in their haste to help didn't realize it was 30+ day rental. The guest moved over on Saturday during the holiday weekend and we didn't realize what had happened until Sunday, and we worked with the City of McMinnville first thing Monday morning letting them know what happened and they verified that the listing was set back to 30+ days.

Q. How long does it take to list a rental w/in your iTrip organization?

R. Most of the time the fastest is 10 days to 2 weeks. In that time we'd make sure

paperwork is done, questionnaire filled out, get pictures scheduled which are about a week out. Wait for them to come back which is another five or so business days, build the listing and set it live. Within those two weeks we are putting together the guest book, doing final walkthroughs and addressing any final cleaning needs, and anything else that would be needed to be completed before the first guest arrives.

- Q. Why is this property in front of iTrip if we don't have the permit yet?
- R. Applicant wanted to have all administrative & prep work done with iTrip so that they would be ready to go live once the permit was approved. In addition, permits can take weeks and months at times to be approved, so finding tenants for 30+ day stays while this process takes place helps supplement income.
- Q. Testimony that came in that no one answered the 24/7 hotline and that it ends at 11PM. Opportunity to respond to that?
- R. From 11:00 pm to 7:00 AM the calls go to a call center. Depending on the region, the call center contacts the appropriate manager or whomever else depending on the issue. If for any reason the person they try to reach can't be reached, it escalates up to the next person all the way to the two owners of the company.
- Q. Why did the system flip [the listing] from an extended stay to a STR stay on July 4?
- R. It appears that the system tried to 'help' us since we were pushing through a sub 30 day booking. We have already talked to the development team to see we can add additional warnings and notifications before doing so.
- Q. iTrip states that the STR listing turned off on Sunday. Testimony that it continued on for two weeks. Is it just two people disagreeing?
- R. We believe so, yes. On Monday morning Corey spoke with someone at the City of McMinnville and explained the situation and asked what the best path moving forward would be. They did verify at the time that it was no longer available to book under 30 days.
- Q. Do I allow pets?
- R. Yes, this was confusing as you uncovered a misalignment between iTrip's listings and the Applicant's preferences. All Listings and House Rules will stipulate no pets for LTR & STR, in accordance with Applicant's preferences.



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

www.mcminnvilleoregon.gov

MINUTES

September 1, 2022
Planning Commission
Regular Meeting

6:30 pm
Zoom Online Meeting
McMinnville, Oregon

Members Present: Gary Langenwalter, Sylla McClellan, Brian Randall, Matt Deppe, Beth Rankin, Lori Schanche, Dan Tucholsky, and Sidonie Winfield

Members Absent:

Staff Present: Heather Richards – Planning Director, Tom Schauer – Senior Planner, and Adam Tate – Associate Planner

1. Call to Order

Chair Winfield called the meeting to order at 6:30 p.m.

2. Citizen Comments

None

3. Approval of Minutes

- **June 2, 2022**
- **June 16, 2022**
- **July 21, 2022**

Commissioner Tucholsky moved to approve the June 2, June 16, and July 21, 2022 minutes. The motion was seconded by Commissioner Langenwalter and passed 8-0.

4. Public Hearings:

A. Quasi-Judicial Hearing: Short-Term Rental (STR 7-22)

Request: Request for approval of a permit to use the existing dwelling as a Short-Term Rental.

Location: 790 NW 21st Street (Tax Lot R4417AC 02344)

Application: Emily (Joyce) LaGow

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application.

Chair Winfield said she was acquainted with people in the neighborhood, but it would not affect her decision.

Chair Winfield 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.

Commissioners Schanche and McClellan had visited the site.

Staff Report: Associate Planner Tate presented the staff report. This was a request to approve a permit to use the existing dwelling at 790 NW 21st Street as a short term rental. He discussed the subject site, applicant's site plan, project summary, applicable review criteria, summary of findings, testimony received, and recommended conditions. The applicant stated the property was operating as a short term rental before the application was approved, which was a mistake by the property management company. Staff recommended approval of the application.

Questions: Commissioner Langenwaller asked for clarification on how many days a guest would be allowed to stay. Planning Director Richards said prior to permit approval, the applicant was renting the house out for 30-plus days, but once they got their permit, they planned to use it as a short term rental and rent it for less than 30 days.

Commissioner Deppe asked about the parking. Planning Director Richards said they were supposed to provide one off street parking space per guest room. Anyone was allowed to park on the public street.

Commissioner Schanche asked about a local contact person. Planning Director Richards said they had a local address in the application.

Applicant's Testimony: Emily LaGow read a statement discussing her background, management of the house, code violation on July 4, 2022, parking, and benefits of the rental to the community.

Commissioner Tucholsky asked about the number of bedrooms that would be rented. Ms. LaGow said there would be four bedrooms, with a maximum of eight guests. She would amend the parking rules that they could not park on the street.

Commissioner Schanche asked why the property owner was not contacted about the rental on July 4 and if the management company was local. Corey Tigner, iTrip Vacations, said they were located in Portland. He explained a family was in a different home where the air conditioning had gone out and they moved the family to this home unaware that it had not received approval yet.

Chair Winfield asked why it was in the rental pool when it had not been approved yet. Mr. Tigner said it was in the 30-plus day rental pool. His company had 24 hour phone support to answer calls at any time.

Melissa Wright, property manager, clarified the listing was live for a 30-plus day rental, which was a long term rental situation and was listed as 5 bedroom. This would shift when it went down to a short term rental and would be listed as 4 bedrooms.

Chair Winfield asked about letters mailed to the neighbors. Ms. Wright said letters were mailed to the addresses the City provided.

Chair Winfield asked who the local emergency contact would be. She was concerned about the public testimony that there was not a local emergency contact. Mr. Tigner said that person was listed in the paperwork.

Public Testimony:

Proponents: Emily Smith, Beaverton resident, had decorated this property and spoke about the integrity of the management company. She thought they were responsive at all hours.

Opponents: Mark Fitz, McMinnville resident, said it was a requirement to have a local contact who could make decisions that needed to be made. He said the house was still being advertised without approval. He thought the application should be denied.

Commissioner McClellan had also looked them up, and the house was listed as a long term rental currently.

Nick Grinich, McMinnville resident, agreed about the need for a local contact. He discussed the July 4 incident and how the applicant failed to get the permit before advertising the property. He thought it was willfully operated as a short term rental without a permit and the application should be denied.

Commissioner Langenwaller asked how long the property had been advertised as a short term rental. Planning Director Richards said she had tried it on July 4, and she was able to book it as a short term rental for the next weekend. She had recently tried it again, and it was no longer being advertised as a short term rental.

Kelly Grinich, McMinnville resident, said for two weeks after July 4 she was able to book the house as a short term rental.

Rebuttal: Ms. LaGow said there would be someone on call 24 hours a day, 7 days a week. Ms. Wright asked if they tested the local contact as part of the process and if a listing could exist before the permit, but they could not accept guests into the home.

Planning Director Richards said they did not test local contacts. There had been complaints from neighbors and the neighbors raised the issue that they tried to contact somebody and that person was not available. They did not look at all the listings, but if they got a complaint, they did tests within the system. In this case, they received a complaint and she was able to book the house for two nights when it did not have a short term permit.

Mr. Tigner said the July 4 incident was a combination of factors and rare circumstance. Once they found out about it, they removed it.

Commissioner Tucholsky said there was testimony that it was up for two weeks. Mr. Tigner said they did not go far enough in the booking system. If they had, they would have found it was not available.

There was discussion regarding short term rental code update, upcoming short term rental applications, and options for Commission action.

Chair Winfield closed the public hearing.

The applicant did not waive the 7 day period for submitting final written arguments. The applicant would have until September 9 at 5 p.m. to submit their arguments. The Commission would deliberate and make a decision on this agenda item on October 6, 2022.

B. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 2-20) and Zone Change, including Planned Development Overlay Designation (ZC 3-20)

(Continued from June 2, 2022 PC Meeting)

Applicant has requested a continuance to October 20, 2022

Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-2 (General Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for approximately 37.7 acres of a 90.4-acre property.

The 37.7 acres includes 4.25 acres intended for right-of-way dedication for a future frontage road. The application also shows a portion of the area subject to the map amendment intended for a north-south extension of Cumulus Avenue and future east-west street connectivity.

The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.

Location: 3310 SE Three Mile Lane, more specifically described at Tax Lot 700, Section 26, T.4S., R 4 W., W.M.

Application: Kimco McMinnville LLC, c/o Michael Strahs

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Langenwalter MOVED to CONTINUE the hearing for CPA 2-20/ZC 3-20 to October 20, 2022. The motion was seconded by Commissioner McClellan and PASSED 8-0.

C. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 1-21) and Zone Change, including Planned Development Overlay Designation (ZC 2-21)

(Continued from June 2, 2022 PC Meeting)

Applicant has requested a continuance to October 20, 2022

Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-2 (General Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for a property of approximately 8 acres.

The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.

Location: 3330 SE Three Mile Lane, more specifically described at Tax Lot 600, Section 26, T.4S., R 4 W., W.M.

Applicant: Ken Sandblast, Westlake Consultants, Inc. Representing property owner 3330 TML, c/o Bryan Hays

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Tucholsky MOVED to CONTINUE the hearing for CPA 1-21/ZC 2-21 to October 20, 2022. The motion was seconded by Commissioner Rankin and PASSED 8-0.

D. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 2-21) and Zone Change, including Planned Development Overlay Designation (ZC 3-21)

(Continued from June 2, 2022 PC Meeting)

Applicant has requested a continuance to October 20, 2022

Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-L (Limited Light Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for approximately 21.1 acres of an 89.9-acre property, plus an additional 1.5 acres of the 89.9-acre property proposed to be dedicated for right-of-way at the time of development.

The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.

Location: Three Mile Lane and Cumulus Avenue, more specifically described at Tax Lot 100, Section 27, T.4S., R 4 W., W.M.

Applicant: Ken Sandblast, Westlake Consultants, Inc. representing property owner DRS Land, LLC c/o Dan Bansen

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Deppe MOVED to CONTINUE the hearing for CPA 2-21/ZC 3-21 to October 20, 2022. The motion was seconded by Commissioner Tucholsky and PASSED 8-0.

E. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 1-20) and Zone Change (ZC 1-20)

(Continued from July 21, 2022 PC Meeting).

Applicant has requested a continuance to February 16, 2023

Request: An application for a Comprehensive Plan Map Amendment from Residential to Commercial and a Zone Change from County EF-80 to City C-3 (General Commercial) for approximately 1.2 acres of a 50.15-acre property.

The 50.15 acre parcel is within McMinnville's Urban Growth Boundary (UGB), and it is split by City limits, with approximately 9.5 acres inside City limits and approximately 40.5 acres outside City limits. The proposed map amendment would apply to the northerly 1.2-acre portion of the 9.5 acres within City limits.

The 9.5-acre portion of the property inside City limits has a combination of Comprehensive Plan Map designations and zoning designations: Commercial/C-3 on the front (approximately 7.3 acres), Residential/County EF-80 on the rear (approximately 1.2 acres), and a portion of Floodplain/F-P along the east and north boundaries (approximately 1 acre). The proposed amendment would change the 1.2 acres from Residential/County EF-80 to Commercial/C-3, so all of the nonfloodplain portion inside City limits would then be Commercial/C-3.

The unincorporated portion of the property within the UGB and outside City limits is approximately 40.5 acres. It is within the Floodplain Comprehensive Plan Map designation. It has County EF-80 zoning, with the entirety also being within the County's Floodplain Overlay Districts. The proposal would not change the Comprehensive Plan designation or county zoning of this unincorporated portion of the parcel.

Location: 3225 NE Highway 99 West, more specifically described at Tax Lot 1500, Section 10, T.4S., R 4 W., W.M.

Applicant: Cascade Steel Rolling Mills, c/o Jennifer Hudson representing property owner White Top Properties LLC

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Rankin MOVED to CONTINUE the hearing for CPA 1-20/ZC 1-20 to February 16, 2023. The motion was seconded by Commissioner Tucholsky and PASSED 8-0.

5. Action Items

None

6. Commissioner Comments

None

7. Staff Comments

Planning Director Richards discussed the reasons for the continued public hearings. Senior Planner Bilodeau had left the City for a different job. She announced the American Planning Association Conference on October 27-29 if any Commissioner wanted to attend. She then discussed upcoming meetings.

8. Adjournment

Chair Winfield adjourned the meeting at 9:15 p.m.

Heather Richards
Secretary

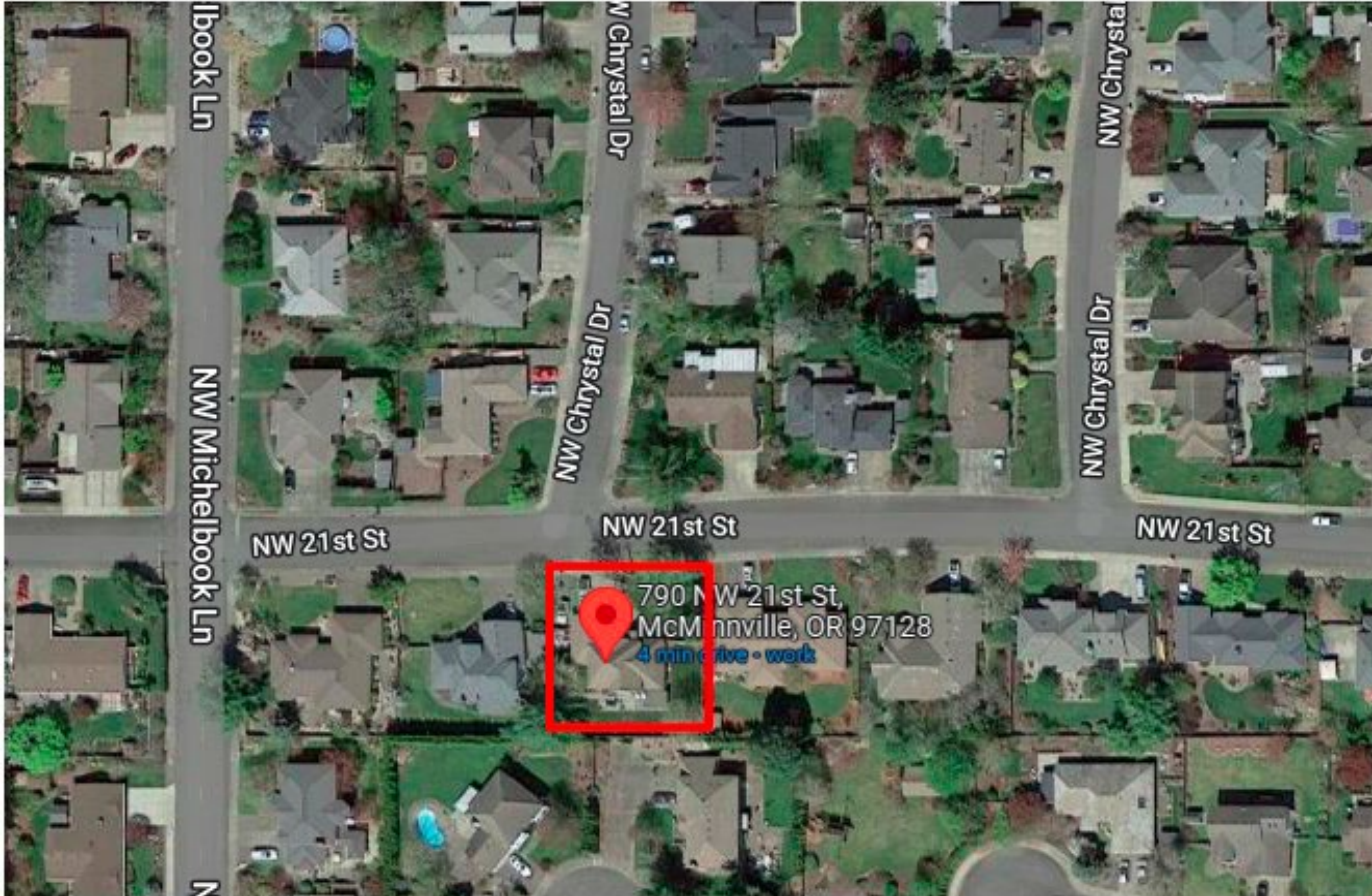
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Planning Commission Public Hearing September 1, 2022

STR 7-22 (Short-Term Rental) for 790 NW 21st Street

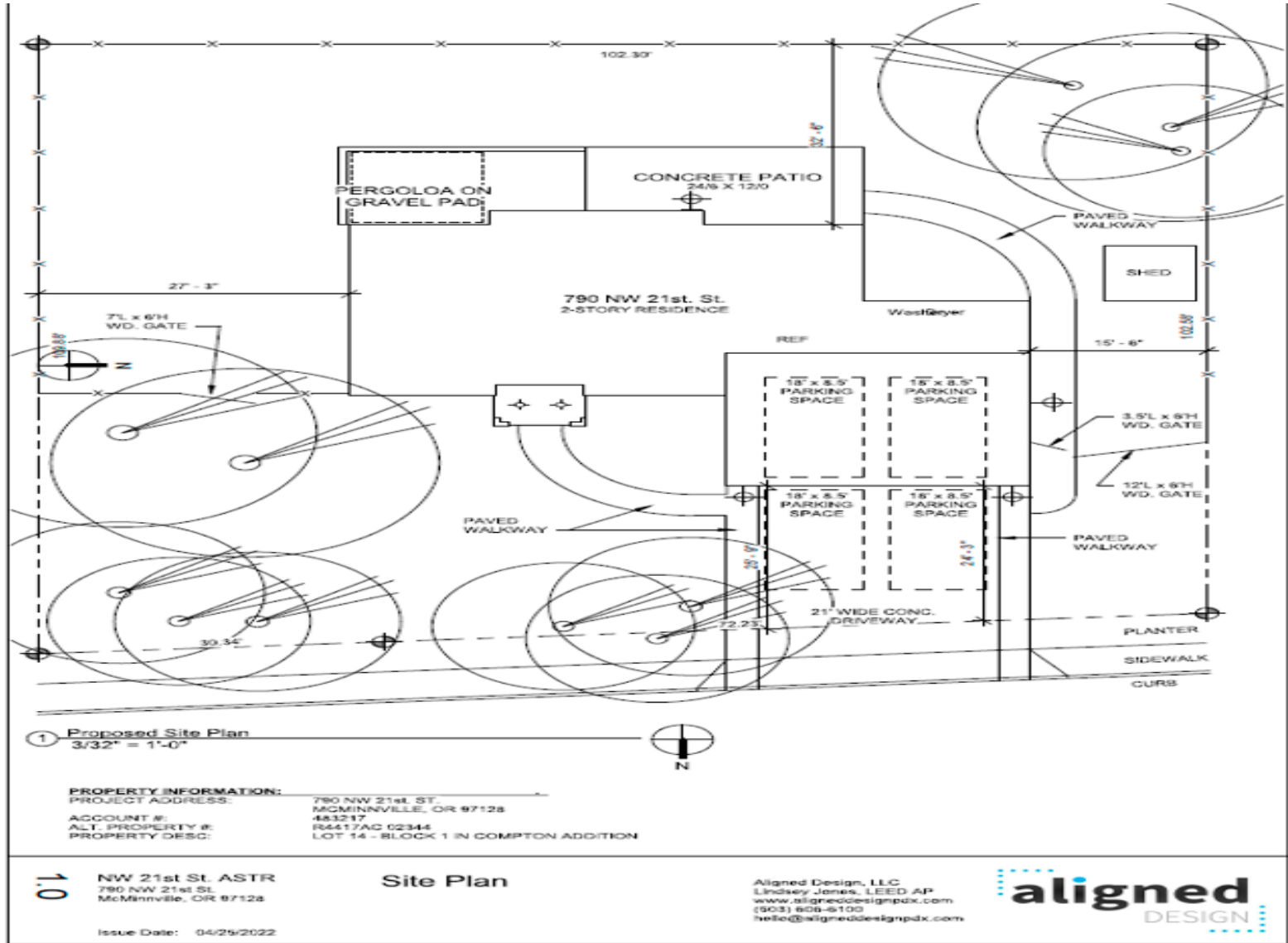


Subject Site

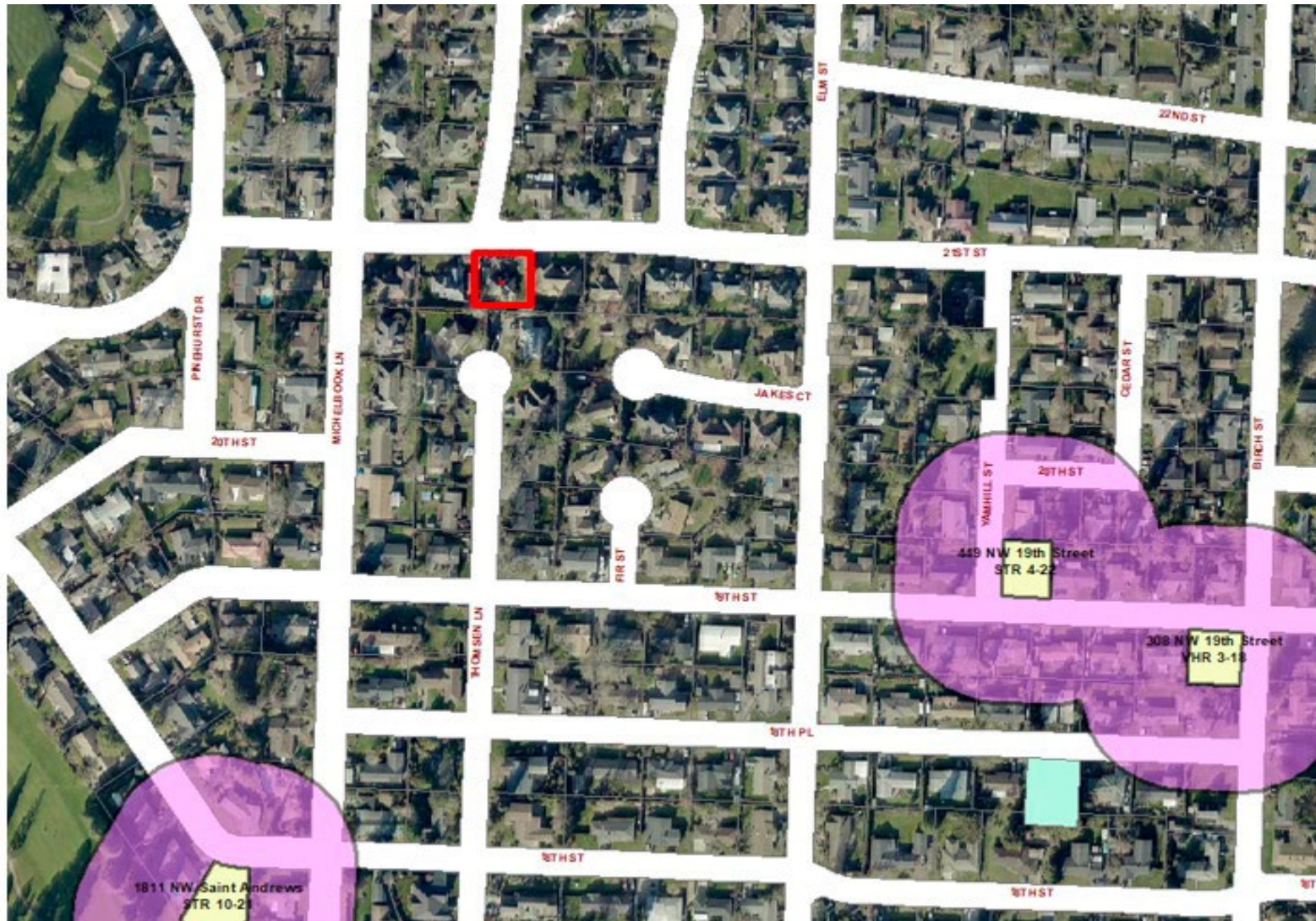


10,842
SF Lot

Applicant's Site Plan



Short-Term Rentals with 200-foot buffer



Project Summary

- The property is located at 790 NW 21st Street, which is classified as a local street in the TSP. It is in an R-1 Zone. Short-term rentals are permitted in the R-1 zone as specified in Section 17.12.010 (O) of the MMC.
- After applying for a short-term rental, but before the application was reviewed and approved, the property was found to be operating as a short-term rental illegally and put into code compliance.
- The Applicant was given the option to withdraw the application or request a public hearing before the Planning Commission. The applicant requested the public hearing.
- Nearby property owners were notified, and several sent in comments to the Planning Department about this short-term rental application.

Project Summary

❑ Applicant and their property management company claim that the property was indeed operating as a short-term rental before the application was approved, but that it was a mistake by the property management company.

❑ This text for context is from Code Compliance Officer Nic Miles:

“I spoke with Corey, who owns the property management company (iTrip Vacations). He explained that over the holiday weekend, some guests staying in another short-term rental managed by his company were having AC issues. The guests contacted customer service and were moved to this property. He agreed that this was an error and that the house should not have been made available to the guests who had AC issues in their original location. Corey described it as a communication issue between customer service and the team managing that property working toward final approval with the City, combined with the holiday weekend making it hard for their internal teams to communicate with each other. He said the listings were setup to only accept 30+ day reservations, but he suspected that by letting guests stay over the holiday weekend the booking system somehow got reset and was allowing potential guests to select shorter stays. They have since adjusted both the VRBO and AirBNB listings to only allow for 30+ day reservations until they have an STR permit from the City. Corey can be reached at 503-799-7341.”

Today's Consideration

Does the application meet the criterion test for a short-term rental?

Applicable Review Criteria

Comprehensive Plan

17.12.010 (O) Permitted Uses in the R-1 Zone

17.72.080 Legislative or Quasi-Judicial Hearings

17.72.120 Application (Director's Decision) for which a Public Hearing is Requested (Short Term Rental)

Criteria Standards & Summary of Findings

17.12.010 Permitted Uses

(P) Short-term rentals, subject to the provisions of Section 17.12.010(P).

Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.

17.12.010 (P)

1. Short term rentals shall not be located within 200 feet of another short-term rental, or on the same property as another short-term rental.

Satisfied. The map provided as Figure 5 shows no other short-term rental within 200 feet.

2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.

Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling.

As an ongoing condition of approval, the structure shall retain the characteristics of a residence.

3. That a minimum of one off-street parking space be provided for each guest room.

Satisfied with Conditions. The application complies with this requirement at the time of application. The short-term rental will have four guest rooms and four parking spaces.

As an ongoing condition of approval, the structure shall retain the minimum required parking spaces, to be available for guest use.

Criteria Standards & Summary of Findings

Continued

4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.

Satisfied with Conditions. No signage is proposed at this time.
As an ongoing condition of approval, any signage shall comply with this standard.

5. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.

Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.

6. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.

Satisfied with Conditions. The applicant's building diagram shows the location of smoke detectors that comply with this requirement at the time of application.

As an ongoing condition of approval, the structure shall remain in compliance with this standard.

Criteria Standards & Summary of Findings

Continued

7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.

Satisfied with Conditions. The property owner has provided the contact information of a person living within the area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.

As an ongoing condition of approval, this requirement shall continue to apply.

8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short-term rental permit for the subject property will become void. The use of the subject property as a short-term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:

- a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
- b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.

Satisfied with Conditions. The permit is issued to the current property owner at the time of application. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.

Criteria Standards & Summary of Findings

Continued

9. Permits must be renewed annually. Failure to renew the short-term rental permit annually will result in the permit becoming void, and the use of the subject property as a short-term rental will again be subject to the application and review procedures in Section 17.72.110.

Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.

10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short-term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

Unsatisfied.

The violation of this condition has led to this public hearing, as the use of the property as a short-term rental began before the application was reviewed and approved for such use violating Standard 8. Additionally, guests of the short-term rental parked in the street violating Standard 3.

If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints and will be listed as a condition of approval for this application.

Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Wastewater Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

No comments were received.

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was provided in the News Register on Friday, August 26, 2022.

Comments: Testimony Received

City of McMinnville Residents	Date Received	Address
Mark Pitts	08.29.2022	Not provided
Kelli Grinich	08.30.2022	708 NW 21 st St.
Jay Post	08.30.2022	2038 NW Michelbook Lane
Kathy Loving	09.01.2022	Not provided

Recommended Conditions

1. That four (4) off-street parking spaces (paved or of a hardscape surface) are required for the use of the Short-Term Rental, per the four (4) guest rooms provided, as indicated on the application submitted June 10, 2022.
2. That 10-year Lithium battery-powered smoke alarms and CO2 alarms must be installed in accordance with Sections R314 and R315 of the Building Code. For this one-story building, smoke alarms shall be installed in each sleeping room and outside each separate sleeping area within 21 feet of any door to a sleeping room, measured along a path of travel. One carbon monoxide alarm is required.
3. That prior to use of the subject property for vacation home rental purposes, the applicant shall register with the McMinnville Finance Department as a transient lodging provider. Local Transient Lodging Tax shall be collected and remitted to the City as provided in McMinnville Ordinance No. 4974.
4. That, as this use is required to be occupied as a single-family residence, occupancy of the vacation home rental shall be limited at all times to no more than five unrelated persons, or one or more individuals related by blood, marriage, adoption, or legal guardianship, or other duly authorized custodial relationship.

Recommended Conditions Cont.

5. That all other requirements of Section 17.12.010(P) of the Zoning Ordinance referencing vacation home rental use shall be complied with throughout the time this property is used for such purpose, which are outlined below.
 - A. Short term rentals shall not be located within 200 feet of another short-term rental, or on the same property as another short-term rental.
 - B. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
 - C. That a minimum of one off-street parking space be provided for each guest room.
 - D. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.

Recommended Conditions Cont.

E. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.

F. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.

G. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.

H. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short-term rental permit for the subject property will become void. The use of the subject property as a short-term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:

Recommended Conditions Cont.

- a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
- b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.

- I. Permits must be renewed annually. Failure to renew the short-term rental permit annually will result in the permit becoming void, and the use of the subject property as a short-term rental will again be subject to the application and review procedures in Section 17.72.110.

- J. Complaints on conditions “A” through “I” above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short-term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

Staff Recommendation

Staff has reviewed the proposals for consistency with the applicable criteria. Absent any new evidence or findings to the contrary presented during the hearing, staff finds that, subject to the recommended conditions specified in the attached Decision Documents, all applicable criteria are satisfied.

Staff RECOMMENDS APPROVAL of the application, subject to the conditions specified in the attached Decision Document.

Planning Commission Public Hearing September 1, 2022

STR 7-22 (Short-Term Rental) for 790 NW 21st Street





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

503-434-7311

www.mcminnvilleoregon.gov

EXHIBIT 4 - STAFF REPORT

DATE: September 1, 2022
TO: Planning Commission
FROM: Adam Tate, Associate Planner
SUBJECT: Short-Term Rental STR 7-22, 790 NW 21st Street, Tax Lot R4417-AC-02344

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

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

Report in Brief:

This proceeding is a quasi-judicial public hearing of the Planning Commission to consider an application for a Short-Term Rental (STR 7-22) to operate a short-term rental at 790 NW 21st Street.

Applications for Short-Term Rentals are processed according to the procedures for a “Director’s Review with Notification” as specified in Sections 17.72.090 and 17.72.110 of the Zoning Ordinance. This process includes mailed notice to surrounding property owners and provides a 14-day comment period from the date the notice is mailed during which comments may be submitted, and during which a person who has received notice may request a public hearing. If a public hearing is requested, the Planning Commission becomes the decision-maker, and the public hearing is held by the Planning Commission following the procedures in Section 17.72.120 of the Zoning Ordinance.

The procedures for a Short-Term Rental application require the property owner to hold a neighborhood meeting prior to submittal of an application, consistent with the requirements of Section 17.72.095 of the Zoning Ordinance. At the time an application is submitted, the application submittal must include the items specified in Section 17.72.085(G), providing evidence of compliance with the requirements for the Neighborhood Meeting.

This application (STR 7-22) was received on June 10, 2022, reviewed for completeness, and deemed complete on June 28, 2022. On July 4, 2022, a nearby property owner and resident notified the Planning Department that the property was operating as a short-term rental without a permit. The applicant was notified and requested to have a public hearing before the Planning Commission. The request for hearing makes the Planning Commission, rather than the Planning Director, the decision-maker. However, the same standards and criteria apply to the application. The matter is now before the Planning Commission.

Attachments:

Attachment A. Decision Document with Attachments

- *Attachment 1: STR 6-21 Application*
- *Attachment 2: Public Testimony*

A request for a public hearing is different than an appeal of a Planning Director's decision, since a hearing is requested before a decision is issued by the Planning Director. The Planning Commission hearing date was set for September 1, 2022, and notice of the Planning Commission hearing was mailed to property owners on August 3, 2022, in accordance with Section 17.72.120 of the Zoning Ordinance.

The decision of the Planning Commission is the final decision, unless appealed to City Council. If appealed, the City Council would then be the final local decision-maker, and the same criteria and standards would continue to apply. The City Council's decision can also be appealed to the Oregon Land Use Board of Appeals (LUBA).

The Planning Commission public hearing is conducted in accordance with quasi-judicial hearing procedures specified in Section 17.72.130 of the Zoning Ordinance, and the application is subject to the 120-day processing timeline.

Background:

Quasi-judicial procedures and decision-making are conducted in accordance with the procedures specified in Chapter 17.72 of the Zoning Ordinance.

The purpose of this hearing is to determine whether the Short-Term Rental application complies with the applicable standards specified in the Zoning Ordinance. The hearing is not a referendum on the regulations and standards that apply to short-term rentals.

If the application meets the applicable standards, it must be approved. If the application would comply with the criteria and standards with conditions of approval, it may only include those conditions which are necessary to comply with the applicable criteria and standards. If it doesn't meet the applicable criteria and standards, it must be denied. The Planning Commission is required to make findings regarding how the application does or doesn't meet the applicable standards. The burden of proof is on the applicant.

In accordance with state law, the application must be reviewed based on the standards in effect at the time of application.

Subject Property & Request

The subject property is located at 790 NW 21st Street. The property is zoned R-1. A Short-Term Rental is a permitted use in the R-1 zone as specified in Section 17.15.010(P), subject to compliance with the referenced standards in Section 17.12.010(P), and subject to the procedures in specified in Section 17.72 of the Zoning Ordinance. **See Figure 1 for Vicinity Map, Figure 2 for Zoning Map, Figure 3 for Applicant's Site Plan. See Figure 4 for map of Short-Term Rentals with 200' buffer shown.** The application submittal includes additional materials including a floorplan diagram, photos, and information from the neighborhood meeting. Those additional materials are included in **Attachment 1**.

The application has come before a public hearing of the Planning Commission because it was found to be operating as a short-term rental before its application was approved. A neighbor emailed the Planning Director of the situation, and the matter was put into compliance by code enforcement. The applicant was made aware of the situation and given two options; to either withdraw the application, or come before a public hearing of the Planning Commission to make their case. The applicant chose the latter option that will be reviewed at the September 1st public hearing.

The applicant states that this issue arose due to the property management company accidentally listing the property for short-term rental basis after it had to move guests from another nearby short-term rental to this property due to an emergency situation.

Attachments:

Attachment A. Decision Document with Attachments

This text is from Code Compliance Officer Nic Miles:

“I spoke with Corey, who owns the property management company (iTrip Vacations). He explained that over the holiday weekend, some guests staying in another short term rental managed by his company were having AC issues. The guests contacted customer service and were moved to this property.”

“He agreed that this was an error and that the house should not have been made available to the guests who had AC issues in their original location. Corey described it as a communication issue between customer service and the team managing that property working toward final approval with the City, combined with the holiday weekend making it hard for their internal teams to communicate with each other.”

“He said the listings were setup to only accept 30+ day reservations, but he suspected that by letting guests stay over the holiday weekend the booking system somehow got reset and was allowing potential guests to select shorter stays. They have since adjusted both the VRBO and AirBNB listings to only allow for 30+ day reservations until they have an STR permit from the City. Corey can be reached at 503-799-7341.”

The application states that, “the homeowner intends to rent their four (4) bedroom, three (3) bath home on a short-term basis. The rental will be made available for guest use year round and will be professionally managed and maintained by iTrip Vacations management company.” This is a permitted use, and the property can be used as such, as long as the permit for a short-term rental remains current, subject to the applicable standards. The home has four guest rooms for the short-term rental, with a maximum of eight guests. Four parking spaces are proposed, with two to be provided in the driveway, and two to be provided in the garage.

Discussion

Applicable Standards and Issues

Use and development of properties in the R-1 zone are subject to the applicable standards of the zone and general provisions of the Zoning Ordinance. No modifications to the site or the exterior of the existing single-family dwelling are proposed at this time, so the only applicable standards for the proposed short-term rental are those listed in Section 17.12.010(P) for use of the property for a Short-Term Rental.

These standards and associated findings are summarized below. The specific findings regarding the applicable standards are addressed in the Decision Document.

Summary of Findings Regarding Consistency with Applicable Standards

Standard	Summary of Findings
17.12.010. Permitted Uses:	
(P) Short-term rentals, subject to the provisions of Section 17.12.010(P).	Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.
17.12.010(P)	
1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.	Satisfied. The map provided as Figure 4 shows no other short-term rental within 200 feet.

<p>2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.</p>	<p>Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling.</p> <p>As an ongoing condition of approval, the structure shall retain the characteristics of a residence.</p>
<p>3. That a minimum of one off-street parking space be provided for each guest room.</p>	<p>Satisfied with Conditions. The application complies with this requirement at the time of application. The short-term rental will have four guest rooms and four parking spaces.</p> <p>As an ongoing condition of approval, the structure shall retain the minimum required parking spaces, to be available for guest use.</p>
<p>4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.</p>	<p>Satisfied with Conditions. No signage is proposed at this time.</p> <p>As an ongoing condition of approval, any signage shall comply with this standard.</p>
<p>5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.</p>	<p>Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.</p>
<p>6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.</p>	<p>Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application.</p> <p>As an ongoing condition of approval, the structure shall remain in compliance with this standard.</p>
<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Satisfied with Conditions. The property owner has provided the contact information of a person living within the area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.</p> <p>As an ongoing condition of approval, this requirement shall continue to apply.</p>

<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Unsatisfied.</p> <p>The violation of this condition has led to this public hearing, as the use of the property as a short-term rental began before the application was reviewed and approved for such use violating Standard 8. Additionally, guests of the short-term rental parked in the street violating Standard 3.</p> <p>If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints, and will be listed as a condition of approval for this application.</p>

CONCLUSION & RECOMMENDATION:	<p>The proposed Short-Term Rental is a permitted use of the subject property. The submitted application demonstrates the proposal complies with the applicable standards.</p> <p>With conditions of approval and ongoing compliance with these standards, the proposal complies with all applicable standards for a short-term rental.</p> <p>Therefore, staff recommends approval with conditions as proposed in the submitted application, subject to the conditions of the Decision Document.</p>
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Public Comments

Public comments received are listed below and in the Decision Document, and they are attached as Exhibit 2 to the Decision Document. The following comments were received:

- Email received July 4, 2022, from Mark Pitts informing the Planning Department that the short-term rental at the property was operating without a permit.

Subsequent mailed notice was provided for the requested Planning Commission public hearing. As of the August 25, 2022, date of this staff report, no additional written public comments were submitted following the date that notice was mailed.

Additional written public comments received after the date of this staff report will be entered into the public record and provided to the Planning Commission. Any oral testimony presented at the Planning Commission public hearing will also be part of the record and reflected in the meeting minutes.

As of the date of this staff report, none of the written public testimony submitted contends that a short-term rental is not a permitted use of the property per Section 17.15.010(P) or that the proposed short-term rental as described in the application fails to comply with any of the applicable standards listed in Section 17.12.010(P)(1)-(10).

Agency Comments

Notice of the proposal was sent to affected agencies and departments. Any comments received are provided in the Decision Document attached as Attachment 2.

Planning Commission Options (for Quasi-Judicial Hearing):

- 1) **APPROVE** the application as proposed by the applicant with the conditions recommended in the attached Decision Document, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the denial, specifying which criteria or standards are not satisfied, or specifying how the applicant has failed to meet the burden of proof to demonstrate all criteria or standards are satisfied, in the motion to deny.

Staff Recommendation:

Attachments:
Attachment A. Decision Document with Attachments

Staff has reviewed the proposal for consistency with the applicable criteria and standards. Absent any new evidence to the contrary presented after this staff report or during the public hearing, staff finds that, subject to the recommended conditions specified in the attached Decision Document, the application submitted by the applicant and the record contain evidence that demonstrates that, subject to the conditions of approval in the Decision Document, the application complies with the applicable standards for a short-term rental and that the applicant has met the burden of proof.

Staff **RECOMMENDS APPROVAL** of the application, subject to the conditions specified in the attached Decision Document.

Suggested Motion:

BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, THE MATERIALS SUBMITTED BY THE APPLICANT, AND EVIDENCE IN THE RECORD, I MOVE THAT THE PLANNING COMMISSION APPROVE THE DECISION DOCUMENT AND APPROVE SHORT-TERM RENTAL APPLICATION STR 7-22 SUBJECT TO THE CONDITIONS SPECIFIED IN THE DECISION DOCUMENT.

Attachments:

Attachment A. Decision Document with Attachments

Figure 1. Vicinity Map



Figure 2. Zoning Map

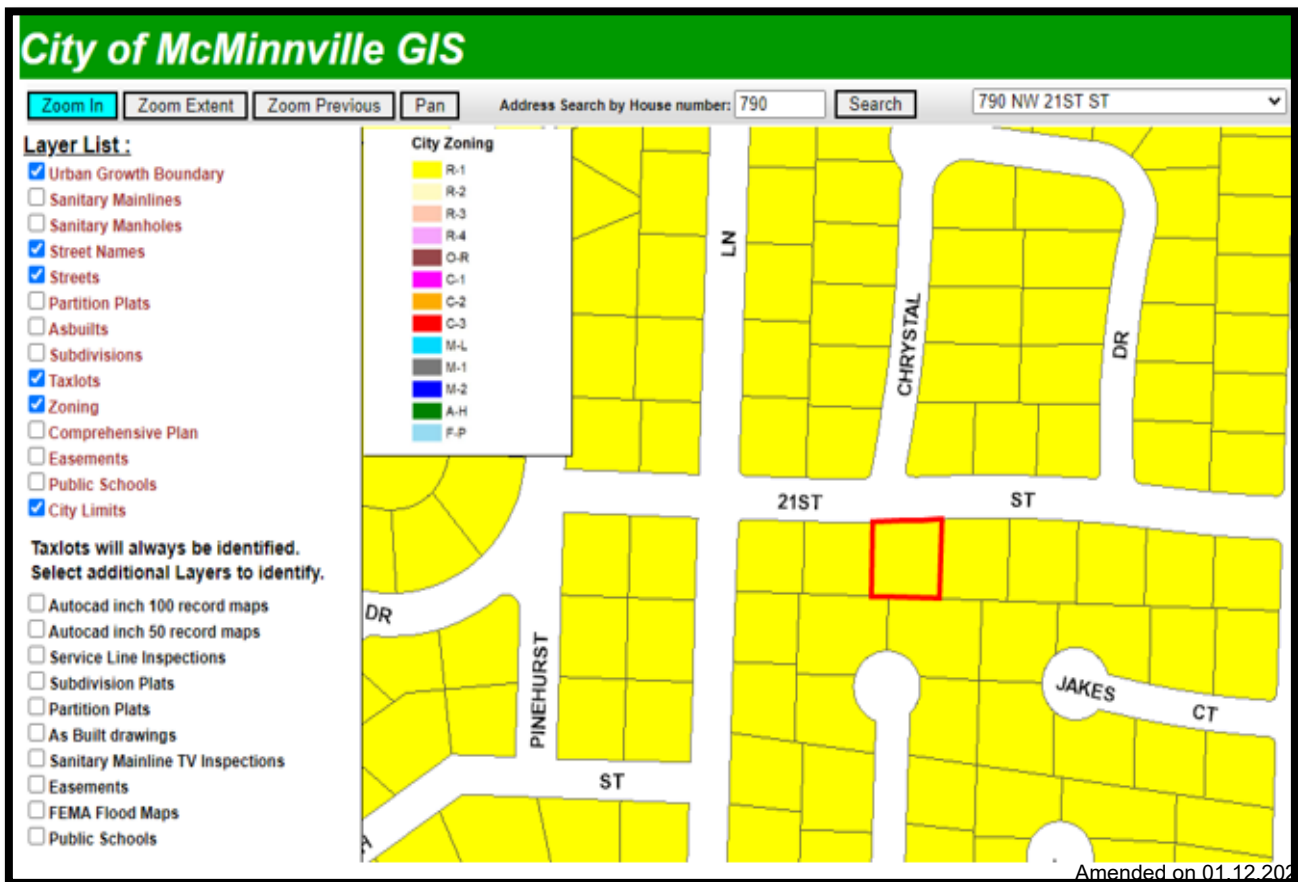


Figure 3. Applicant's Site Plan

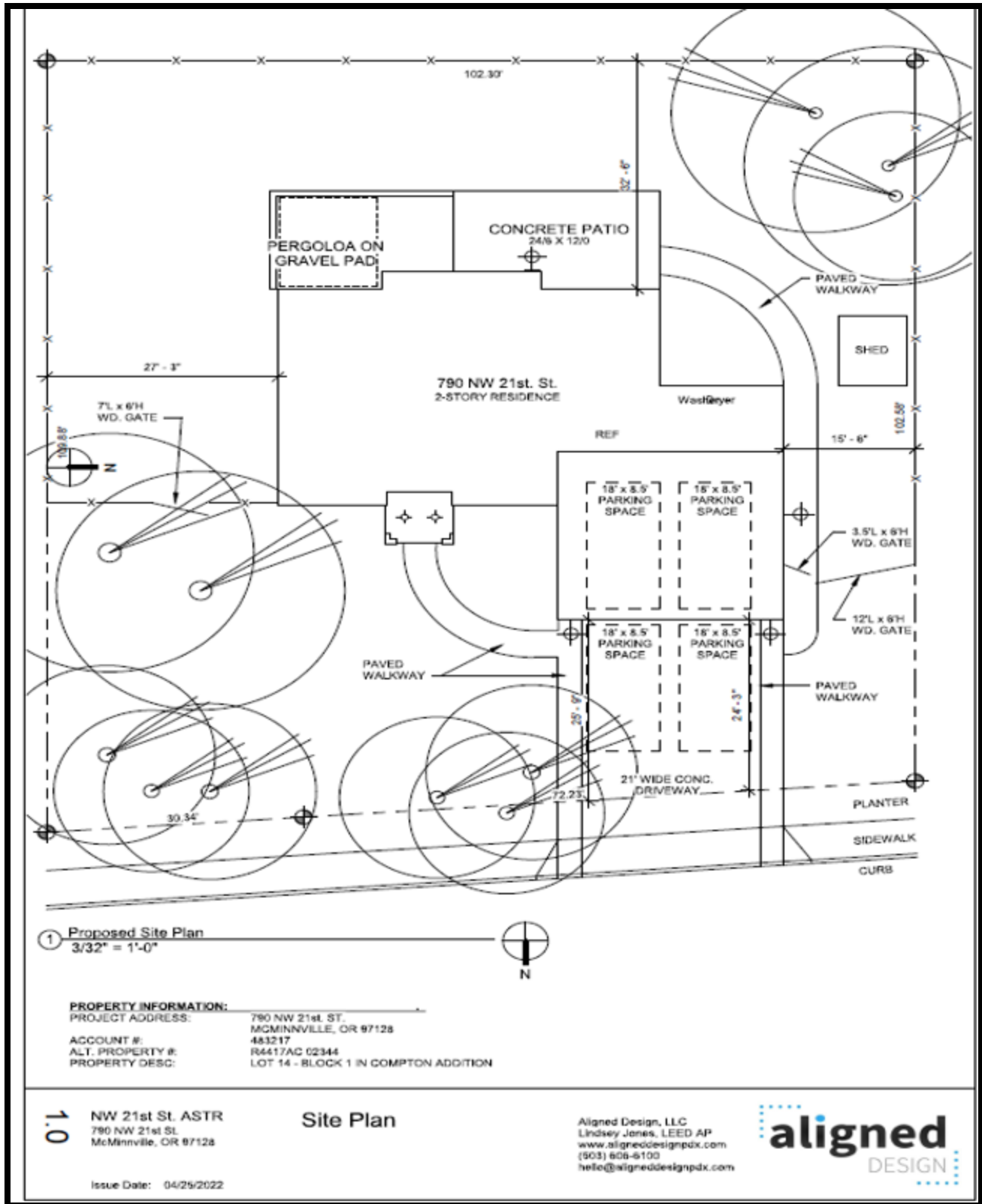


Figure 4. Map of Short-Term Rentals with 200-Foot Buffer



AT



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

503-434-7311

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DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A SHORT-TERM RENTAL AT 790 NW 21st STREET

DOCKET: STR 7-22
REQUEST: Application to permit a short-term rental.
LOCATION: 790 NW 21st St. Tax Lot: R4417-AC-02344
ZONING: R-1 (Single-Family Residential)
APPLICANT: Emily (Joyce) LaGow
STAFF: Adam Tate, Associate Planner

DATE DEEMED COMPLETE: June 28, 2022

DECISION MAKING BODY & ACTION: The McMinnville Planning Commission makes the final decision unless the Planning Commission’s decision is appealed to the City Council.

DECISION DATE & LOCATION: Zoom Online Meeting (for 9-1-2022 hearing):
<https://mcminnvilleoregon.zoom.us/j/87989539440?pwd=QXJqOUeWk0ZOUdJUL0FwMTZicDZ5Zz09>

Meeting ID: 879 8953 9440 Passcode: 134488

The public may also join the Zoom meeting by phone by using the phone number and meeting ID below:

Phone: +1 253 215 8782 Meeting ID: 879 8953 9440

PROCEDURE: The application is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. This short-term rental was found to be operating without a permit and referred to code compliance. The application will now be heard before a public hearing and reviewed by the Planning Commission. in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.

CRITERIA: The applicable criteria and standards for a Short-Term Rental are specified in Section 17.12.010(P) of the Zoning Ordinance.

APPEAL: As specified in Section 17.72.180 of the Zoning Ordinance, the Planning Commission’s decision may be appealed to the City Council within 15 calendar

Attachments:
Attachment 1 – Application and Attachments

days of the date the written notice of decision is mailed. The City’s final decision is subject to the 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, Public Works Department, Wastewater Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas. Their comments are provided in this document.

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are satisfied with conditions and **APPROVES** the Short-Term Rental application (STR 7-22), **subject to the conditions of approval provided in Section II of this document.**

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

Planning Commission: _____
Sidonie Winfield, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

I. APPLICATION SUMMARY:

Subject Property & Request

The subject property is located at 790 NW 21st Street. The property is zoned R-1. A Short-Term Rental is a permitted use in the R-1 zone as specified in Section 17.15.010(P), subject to compliance with the referenced standards in Section 17.12.010(P), and subject to the procedures specified in Section 17.72 of the Zoning Ordinance. **See Figure 1 for Vicinity Map, Figure 2 for Zoning Map, Figure 3 for Applicant's Site Plan. See Figure 4 for map of Short-Term Rentals with 200' buffer shown.** The application submittal includes additional materials including a floorplan diagram, photos, and information from the neighborhood meeting. Those additional materials are included in **Attachment 1**.

The application has come before a public hearing of the Planning Commission because it was found to be operating as a short-term rental before its application was approved. A neighbor emailed the Planning Director of the situation, and the matter was put into compliance by code enforcement. The applicant was made aware of the situation and given two options; to either withdraw the application, or come before a public hearing of the Planning Commission to make their case. The applicant chose the latter option that will be reviewed at the September 1st public hearing.

The applicant states that this issue arose due to the property management company accidentally listing the property for short-term rental basis after it had to move guests from another nearby short-term rental to this property due to an emergency situation.

This text is from Code Compliance Officer Nic Miles: "I spoke with Corey, who owns the property management company (iTrip Vacations). He explained that over the holiday weekend, some guests staying in another short term rental managed by his company were having AC issues. The guests contacted customer service and were moved to this property."

"He agreed that this was an error and that the house should not have been made available to the guests who had AC issues in their original location. Corey described it as a communication issue between customer service and the team managing that property working toward final approval with the City, combined with the holiday weekend making it hard for their internal teams to communicate with each other."

"He said the listings were setup to only accept 30+ day reservations, but he suspected that by letting guests stay over the holiday weekend the booking system somehow got reset and was allowing potential guests to select shorter stays. They have since adjusted both the VRBO and AirBNB listings to only allow for 30+ day reservations until they have an STR permit from the City. Corey can be reached at 503-799-7341."

The application states that, "the homeowner intends to rent their four (4) bedroom, three (3) bath home on a short-term basis. The rental will be made available for guest use year round and will be professionally managed and maintained by iTrip Vacations management company." This is a permitted use, and the property can be used as such, as long as the permit for a short-term rental remains current, subject to the applicable standards. The home has four guest rooms for the short-term rental, with a maximum of eight guests. Four parking spaces are proposed, with two to be provided in the driveway, and two to be provided in the garage.

Attachments :

Attachment 1 – Application and Attachments

Attachment 2 – Email from Mark Pitts

Figure 1. Vicinity Map



Figure 2. Zoning Map

City of McMinnville GIS

Zoom In | Zoom Extent | Zoom Previous | Pan | Address Search by House number: 790 | Search | 790 NW 21ST ST

Layer List:

- Urban Growth Boundary
- Sanitary Mainlines
- Sanitary Manholes
- Street Names
- Streets
- Partition Plats
- Asbuilts
- Subdivisions
- Taxlots
- Zoning
- Comprehensive Plan
- Easements
- Public Schools
- City Limits

Taxlots will always be identified. Select additional Layers to identify.

- Autocad inch 100 record maps
- Autocad inch 50 record maps
- Service Line Inspections
- Subdivision Plats
- Partition Plats
- As Built drawings
- Sanitary Mainline TV Inspections
- Easements
- FEMA Flood Maps
- Public Schools

City Zoning Legend:

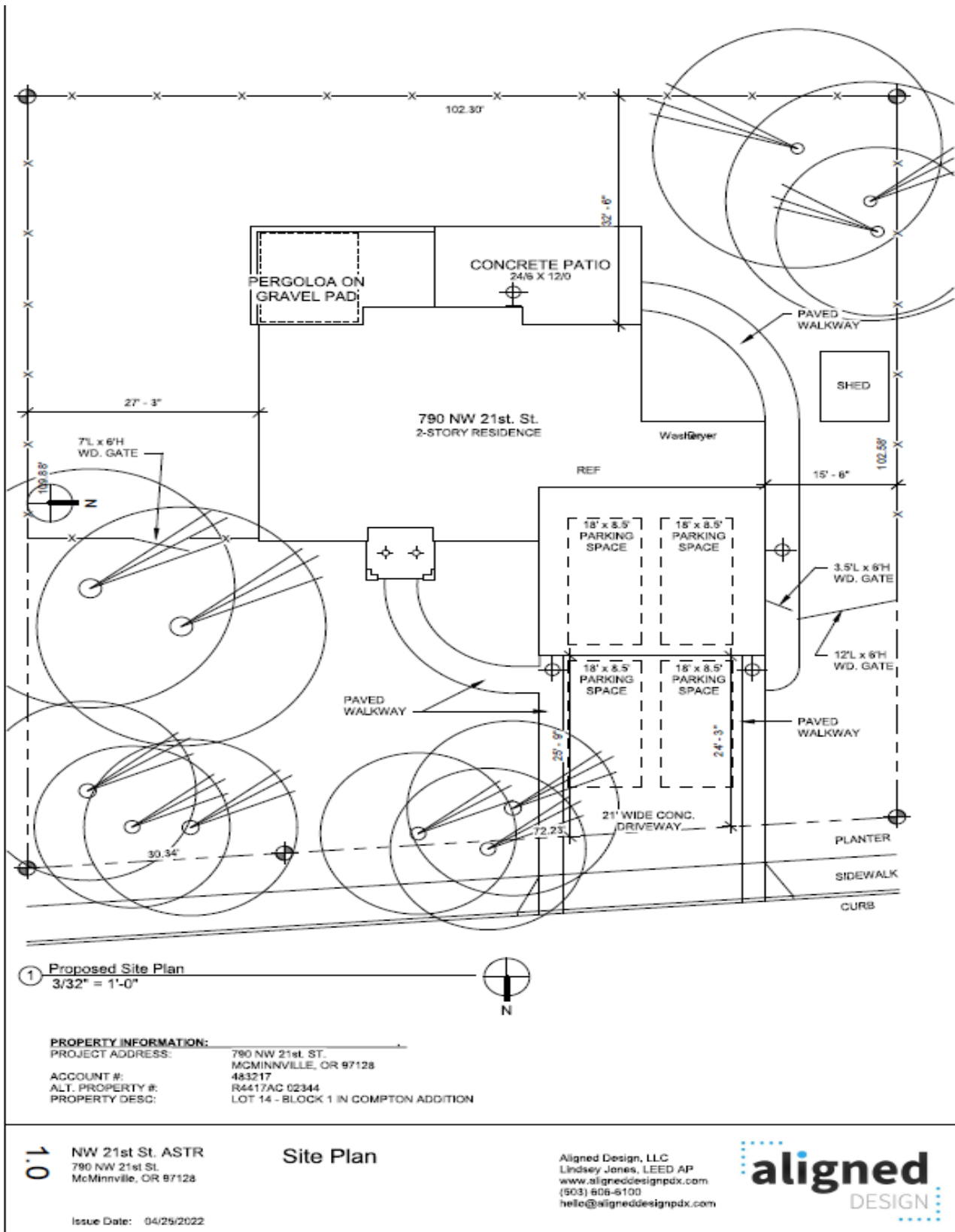
- R-1 (Yellow)
- R-2 (Light Yellow)
- R-3 (Light Orange)
- R-4 (Light Purple)
- O-R (Dark Purple)
- C-1 (Magenta)
- C-2 (Red)
- C-3 (Orange)
- M-L (Cyan)
- M-1 (Grey)
- M-2 (Blue)
- A-H (Green)
- F-P (Light Blue)

Attachments :

Attachment 1 – Application and Attachments

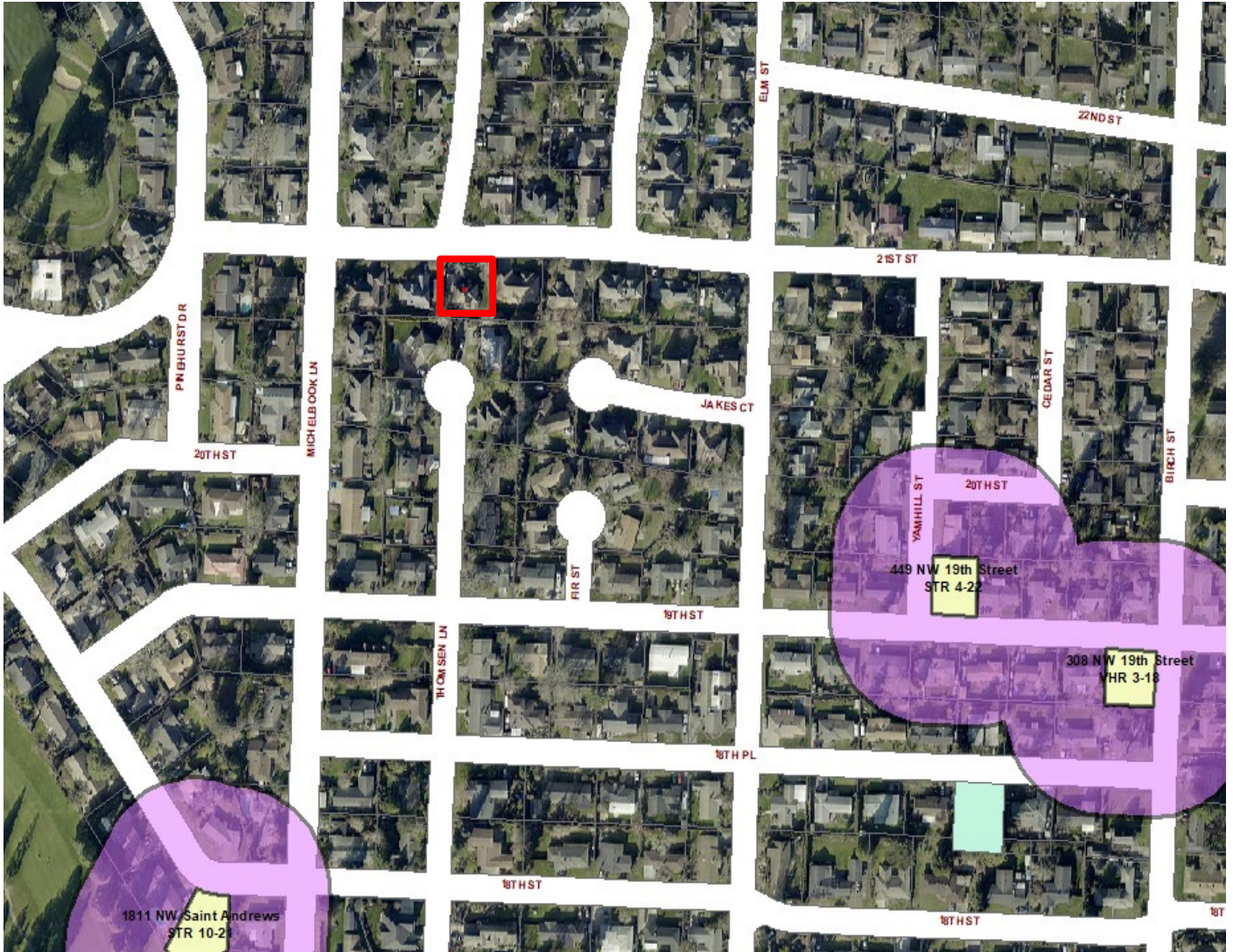
Attachment 2 – Email from Mark Pitts

Figure 3. Applicant's Site Plan



Attachments:
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Figure 4. Map of Short-Term Rentals with 200-Foot Buffer



Summary of Applicable Standards and Issues

Use and development of properties in the R-1 zone are subject to the applicable standards of the zone and general provisions of the Zoning Ordinance. No modifications to the site or existing single-family dwelling are proposed at this time, so the only applicable standards for the proposed short-term rental are those listed in Section 17.12.010(P) for use of the property for a Short-Term Rental.

The standards and associated findings are summarized below. The specific findings regarding the applicable standards are addressed in Section VII of this Decision Document. As a Type II land-use application, the criteria need to be clear and objective.

The table below illustrates how the application either complies or does not comply with applicable criteria.

- Attachments :
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**Summary of Findings Regarding Consistency with Applicable Standards
(Table on next page)**

Standard	Summary of Findings
<p>17.12.010. Permitted Uses: (P) Short-term rentals, subject to the provisions of Section 17.12.010(P).</p>	<p>Satisfied. The proposed short-term rental use is listed as a permitted use of the subject R-1 zoned property.</p>
<p>17.12.010(P)</p>	
<p>1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.</p>	<p>Satisfied. The map provided as Figure 5 shows no other short-term rental within 200 feet.</p>
<p>2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.</p>	<p>Satisfied with Conditions. The application complies with this requirement at the time of application. The existing structure is a single-family dwelling.</p> <p>As an ongoing condition of approval, the structure shall retain the characteristics of a residence.</p>
<p>3. That a minimum of one off-street parking space be provided for each guest room.</p>	<p>Satisfied with Conditions. The application complies with this requirement at the time of application. The short-term rental will have four guest rooms and four parking spaces.</p> <p>As an ongoing condition of approval, the structure shall retain the minimum required parking spaces, to be available for guest use.</p>
<p>4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.</p>	<p>Satisfied with Conditions. No signage is proposed at this time.</p> <p>As an ongoing condition of approval, any signage shall comply with this standard.</p>
<p>5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.</p>	<p>Satisfied with Conditions. As an ongoing condition of approval, the short-term rental use shall comply with this requirement.</p>
<p>6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.</p>	<p>Satisfied with Conditions. The applicant’s building diagram shows the location of smoke detectors that comply with this requirement at the time of application.</p> <p>As an ongoing condition of approval, the structure shall remain in compliance with this standard.</p>

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<p>7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.</p>	<p>Satisfied with Conditions. The property owner has provided the contact information of a person living within the area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental.</p> <p>As an ongoing condition of approval, this requirement shall continue to apply.</p>
<p>8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:</p> <p>a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or</p> <p>b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.</p>	<p>Satisfied with Conditions. The permit is issued to the current property owner at the time of application.</p> <p>This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.</p>	<p>Satisfied with Conditions. This code provision remains an ongoing requirement for the use and operation of the property for a Short-Term Rental to remain in compliance with the ordinance.</p>
<p>10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the Zoning Ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.</p>	<p>Unsatisfied</p> <p>The violation of this condition has led to this public hearing, as the use of the property as a short-term rental began before the application was reviewed and approved for such use violating Standard 8. Additionally, guests of the short-term rental parked in the street violating Standard 3.</p> <p>If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints, and will be listed as a condition of approval for this application.</p>

Attachments :

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CONCLUSION:	<p>The proposed Short-Term Rental is a permitted use of the subject property. The submitted application demonstrates the proposal complies with the applicable standards.</p> <p>With the conditions of approval in Section II and ongoing compliance with these standards, the proposal complies with the applicable standards for a short-term rental, except for Section 17.12.010(P)(10).</p>
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II. CONDITIONS:

The application for the Short-Term Rental (STR 7-22), is **approved subject to the following conditions:**

1. That four (4) off-street parking spaces (paved or of a hardscape surface) are required for the use of the Short Term Rental, per the four (4) guest rooms provided, as indicated on the application submitted June 10, 2022.
2. That 10-year Lithium battery-powered smoke alarms and CO2 alarms must be installed in accordance with Sections R314 and R315 of the Building Code. For this one-story building, smoke alarms shall be installed in each sleeping room and outside each separate sleeping area within 21 feet of any door to a sleeping room, measured along a path of travel. On CO2 alarm is required.
3. That prior to use of the subject property for vacation home rental purposes, the applicant shall register with the McMinnville Finance Department as a transient lodging provider. Local Transient Lodging Tax shall be collected and remitted to the City as provided in McMinnville Ordinance No. 4974.
4. That, as this use is required to be occupied as a single-family residence, occupancy of the vacation home rental shall be limited at all times to no more than five unrelated persons, or one or more individuals related by blood, marriage, adoption, or legal guardianship, or other duly authorized custodial relationship.
5. That all other requirements of Section 17.12.010(P) of the Zoning Ordinance referencing vacation home rental use shall be complied with throughout the time this property is used for such purpose, which are outlined below.
 - A. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.
 - B. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
 - C. That a minimum of one off-street parking space be provided for each guest room.
 - D. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.

- E. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.
- F. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.
- G. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
- H. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:
 - a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
- I. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
- J. Complaints on conditions “A” through “I” above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

III. ATTACHMENTS:

- 1. STR 7-22 Application and Attachments (on file with the Planning Department)
- 2. Public Testimony:
 - a. Email received July 4, 2022, from Mark Pitts

IV. COMMENTS:

Agency Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Wastewater Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas. Comments are due by Wednesday, August 31, 2022, and will be provided to the Planning Commission at the public hearing. As of the date of this draft Decision Document being issued, no comments were received.

Attachments :

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Public Comments

1. Email received July 4, 2022, from Mark Pitts, notifying the Planning Director that the short-term rental was operating before their permit was approved.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant mailed notice of a neighborhood meeting dated April 27, 2022, and held a neighborhood meeting on May 25, 2022.
2. The applicant submitted the Short-Term Rental application (STR 7-22) on June 10, 2022.
3. The application was deemed complete on June 28, 2022.
4. 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, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

Comments received from agencies are addressed in Section IV of this Decision Document.

5. On July 4, 2022, a local resident reported to the Planning Director that the property was operating as a short-term rental before their application was approved, and provided an Airbnb listing showing the property for rent.
6. On July 5, 2022, the property was put into code compliance and the property owner was notified that they must stop current short-term rental operations and given the option to either withdraw their permit or have it go before a public hearing of the Planning Commission.
7. The hearing date was set for September 1, 2022. On August 3, 2022, notice of the application and the September 1, 2022, 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.
8. Notice of the application and the September 1, 2022, Planning Commission public hearing was published in the News Register on Friday, August 26, in accordance with Section 17.72.120 of the Zoning Ordinance.
9. On September 1, 2022, the Planning Commission held a duly noticed public hearing to consider the application.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 790 NW 21st St. Tax Lot R4417-AC-02344
2. **Size:** Approximately 0.2489 acres

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3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-1 (Single-Family Residential)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Single-family dwelling
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None identified
8. **Other Features:**
 - a. **Slopes:** The site is generally flat.
 - b. **Easements:** No public easements identified
9. **Utilities:** The property is served with basic municipal services, including water, sewer, power, and franchise utilities.
10. **Transportation:** NW 21st Street is classified as a local residential street in the McMinnville TSP. Local streets have a 50-foot right-of-way.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria and standards for the application.

The applicable standards for a Short-Term Rental are specified in Section 17.12.010 (O) of the Zoning Ordinance. Development standards for the R-1 Zone are provided in Chapter 17.12 of the Zoning Ordinance; however, the proposed short-term rental will be located within the existing single-family dwelling, and no new development is proposed at this time.

McMinnville Zoning Ordinance

The following Sections of Title 17, Zoning Ordinance, of the McMinnville Municipal Code provide criteria and standards applicable to the request:

Section 17.12.010 lists permitted uses in the R-1 Zone. Subsection (P) provides the following:

- P. Short term rental, subject to the provisions of Section 17.72.110

FINDING: SATISFIED WITH CONDITIONS. The proposed use described in the application is single-family home used for vacation rental. These are both permitted uses, and the home can be used for either of these uses as long as the property continues to comply with the requirements for a short-term rental described below and remains current with the applicable requirements, including the requirement for annual renewal of the permit.

Section 17.12.010(P) provides the following:

- P. Short-term rental, subject to the provisions of Section 17.72.110 and the following standards.

Attachments :

- Attachment 1 – Application and Attachments
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Section 17.72.110. Applications – Director’s Review with Notification.

FINDING: SATISFIED. Section 17.72.110 provides the applicable procedural requirements. As addressed in Section V of this Decision Document, the application has been processed in accordance with the applicable procedures.

Standards in 17.12.010(P):

1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.

FINDING: SATISFIED. There is no other short-term rental within 200 feet of another short term rental. There is not another short-term rental on the subject property. See **Figure 4** for a map of short-term rentals.

2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.

FINDING: SATISFIED WITH CONDITIONS. The existing use in which the proposed short-term rental is proposed is a single-family dwelling. No outward modifications to the residence are proposed at this time.

3. That a minimum of one off-street parking space be provided for each guest room.

FINDING: SATISFIED WITH CONDITIONS. The proposed short-term rental would have four guest rooms. Four parking spaces are proposed. Two parking spaces would be located within the garage, and two parking spaces would be located in the driveway. Required location of parking spaces for a short-term rental is the same requirement as applies to a single-family dwelling, and the proposed parking is consistent with this requirement. As an ongoing condition, the areas identified for the required parking shall remain available for use for parking.

4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.

FINDING: SATISFIED WITH CONDITIONS. The application doesn’t indicate any proposed signage at this time. As an ongoing condition of approval, any future signage shall comply with this requirement.

5. That the duration of each guest’s stay at the residence be limited to no more than 30 (thirty) consecutive days.

FINDING: SATISFIED WITH CONDITIONS. This provision is an on-going requirement for the operation of the short-term rental and is included as a condition of approval.

6. That smoke detectors be provided as per the requirements for “lodging houses” in Ordinance No. 3997.

FINDING: SATISFIED WITH CONDITIONS. Subsection (2)(d) of Ordinance No. 3997 specifies that, for a lodging house, that smoke detectors are required “in all

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corridors or areas giving access to rooms used for sleeping purposes, and in all sleeping rooms. Where sleeping rooms are on an upper level, an additional detector shall be placed at the center of the ceiling directly above the stairway.”

The application identifies the location of smoke detectors consistent with this requirement, with a smoke detector in each guest room and the hallway, for a total of six smoke detectors and carbon monoxide detectors. This is a two-story single-family dwelling.

The application demonstrates compliance with this standard. As an ongoing condition of approval, the structure shall remain in compliance with this standard.

7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.

FINDING: SATISFIED WITH CONDITIONS. The property owner does not live within the geographic area of the 97128 zip code; however, consistent with this requirement, the applicant has provided contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short-term rental. The contact information and residence location are provided in Section 5 of the application form submitted by the applicant. The location of the residence is within the City of McMinnville and the geographic area of the 97128 zip code.

As a condition of approval, this code provision is an on-going requirement for the operation of the short-term rental.

8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:
 - a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.

FINDING: SATISFIED WITH CONDITIONS. The applicant is the current property owner at the time of application.

This code provision is an ongoing requirement for the operation of the short-term rental and is included as a condition of approval.

9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.

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FINDING: SATISFIED WITH CONDITIONS. This code provision is an ongoing requirement for the operation of the short-term rental, included as a condition of approval.

10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinances. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

FINDING: UNSATISFIED The violation of this condition has led to this public hearing, as the use of the property as a short-term rental began before the application was reviewed and approved for such use violating Standard 8. Additionally, guests of the short-term rental parked in the street violating Standard 3.

If approved, this provision will continue to apply and be available as the mechanism for reviewing complaints, and will be listed as a condition of approval for this application.

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Attachment 1 – Application and Attachments

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COMMUNITY DEVELOPMENT
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

MEMORANDUM

DATE: 9/1/2022

TO: Planning Commission

FROM: Adam Tate, Associate Planner

SUBJECT: New Public Testimony Received for STR 7-22

Planning Commissioners

Following is the public testimony that has been received for the hearing for short-term rental application STR 7-22 that has come in since the staff report went to you on August 25th, 2022.

Public Testimony

Email from Mark Pitts on 08.29.2022
Email from Kelli Grinich on 08.30.2022
Email from Jay Post on 08.30.2022
Email from Kathy Loving on 09.01.2022

Memorandum

Date: September 1, 2022

Re: New Public Testimony Received for STR 7-22

Page 2

Mark Pitts

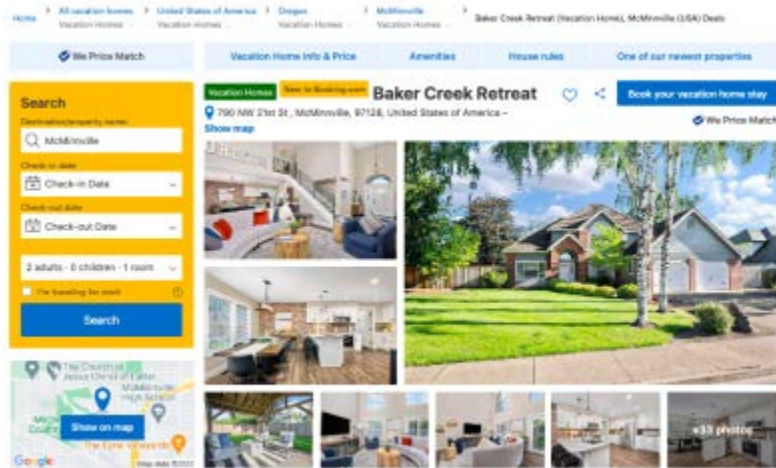
August 27, 2022

Objections to 790 NW 21st St. STR

Members of the Planning Commission:

I am writing to express my opposition to the short term rental application for the home at 790 NW 21st Street for the following reasons:

- First, the homeowner demonstrated a profound disrespect for this commission and the processes and policies of the city of McMinnville when--in early July-- after submitting her application for approval for a STR but long before this meeting--she was advertising the home on AirBnB and receiving paying guests without having received city approval or paying the required city taxes.
- Second, as of this writing on 8/27, with city approval not yet received, the home is STILL listed on multiple STR sites including Booking.com, USAStay and BedandBreakfast.eu demonstrating either a continued flaunting of city policy or the ineptitude of her management company--either one of which would support denial of her application.

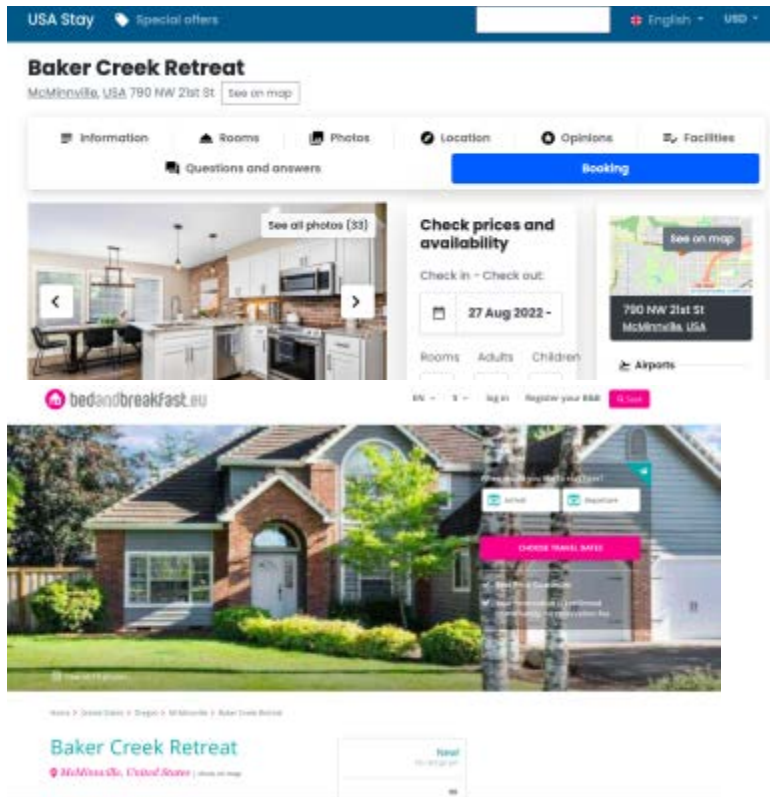


Memorandum

Date: September 1, 2022

Re: New Public Testimony Received for STR 7-22

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-
-
- Third, city policy item #7 requires either that the owner is a city resident OR that the owner make available “a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint...” At the required information meeting at McMenamin’s Pub, the owner’s representative said that a management company would meet that criterion. Two problems with that. First, the management company is not located in the 97128 zip code as required. Second, when neighbors called the management company during the meeting to inquire about their availability, the company volunteered that their help line closes down at 11PM--potentially just as concerns about noise and alcohol would be arising. When that was pointed out, there was some suggestion from the representative that the cleaners, who are local, could meet the zip code requirement, but when asked by neighbors later, the cleaners seemed bewildered by the suggestion they would handle “emergencies or complaints.”
- Fourth, just as points of information, when the immediate neighbors received the required legal notice that the home at 790 NW 21st was filing a STR application and an information meeting would be held, they duplicated the letter, circulated it to the extended neighborhood and as a result about 30 people came to the

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informational meeting at McMenamin's Pub. After that meeting, the neighborhood organized, contacted Zack Geary and Kelli Menke, our Council members, spoke twice at City Council twice and presented a petition with 50 signatures calling for a moratorium on STR's--all motivated by objection to this STR in our neighborhood. Our concerns about STR's in general include:

- They reduce the stock of single family housing at a time of high demand.
- Demand for STR's is moderate to low. The industry web site "AllTheRooms.com" indicates STR occupancy in McMinnville in 2021 was 45%, meaning high demand family homes were empty most of the time.
- Visit McMinnville indicated that hotel occupancy last year, before new hotels came online, was 60%.
- Given the high demand for single family housing and the much lower demand for STR's and hotel rooms, our neighborhood is at a loss to understand why the city currently has such an "STR-friendly" policy and is hopeful that the newly adopted moratorium will either be extended until real need for short-term lodging can be demonstrated or that a new policy can be keyed to demonstrable high demand targets.

With all of this information in mind, I and my neighbors would respectfully request that this application for STR at 790 NW 21st street be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark E. Pitts", followed by a vertical line.

Mark E. Pitts
For the Ad Hoc 21st Street STR Concern Team

Memorandum

Date: September 1, 2022

Re: New Public Testimony Received for STR 7-22

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Mark Pitts

August 27, 2022

Objections to 790 NW 21st St. STR: Neighborhood Petition

Petition to Deny 790 NW 21st Street STR Application

By this document, we the undersigned communicate our strong objection to the presence of a short-term rental in our neighborhood and petition the McMinnville City Planning Commission requesting the following:

- A meeting with representatives of the neighborhood prior to a decision on this application to make our case for:
- Outright denial of the application or, failing that,
- Delay of the application in light of the proposed August 1 moratorium on city granting new STR applications while the city reviews its 2022 STR policy and procedures.
 - For the following reasons:
- The sign required to be posted on the property was not properly displayed (hidden behind bushes) for half of the required posting time.
- Only 6 neighbors received mailed notification letters. This required concerned neighbors to duplicate and independently hand-delivered to other concerned neighbors to accomplish the notification process.
- 25+ people appeared at the requested meeting with the homeowner management representative who we were told would be prepared to answer our questions, and she had answers to some but not all of our questions.
- The designated management company, “itrip” has terrible ratings, averaging 1-2 stars.
- Itrip does not have anyone on call 24 hours. On-call service ends at 11pm, just as issues of noise and alcohol would likely be beginning.
- The representative said there are “layers of people” for backup emergency contact but gave no examples or names.
- We were not given the phone number neighbors would call with issues related to garbage, parking, or noise.
- The house cleaner cited as possible contact is not on call 24 hours and in fact there is NO local person on call 24 hours.

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- Finally, our understanding is that we should have received a hard copy of the owners STR application at the meeting but we did not receive a hard copy of anything. In fact, based on the wording of the notification letter, some people thought city representatives would be at the meeting.

PETITIONERS/NEIGHBORS OBJECTING TO THE APPLICATION:

SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	

SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	

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PETITIONERS/NEIGHBORS OBJECTING TO THE APPLICATION:

SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	

SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	
SIGNATURE	ADDRESS	
PRINTED NAME	EMAIL	

Memorandum

Date: September 1, 2022

Re: New Public Testimony Received for STR 7-22

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Kelli and Nick Grinich
708 NW 21st St.
McMinnville, OR 97128

August 29, 2022

A Letter for Thursday STR Hearing/Planning Commission

To Heather Richards:

Nick and I love our community and are stunned and saddened that the house on our street at 790 NW 21st street is attempting to be transformed by out of state homeowners to a Short Term Rental. This puts in the heart of our wonderful neighborhood, a hollow place, a place of no enduring connection. Everyone feels the vacant condition of the house, which is unsettling. It was with surprise that before the STR permit application was denied, or at least put off during the moratorium, we found, on the July 4th weekend, the driveway full, the street parking occupied and the house full of renters. Without a city permit.

How confusing.

I could rent the house any weekend in July on AirBNB. And we could be a party of 10. And there would be no security cameras on scene. And no mention of parking overload issues! The quasi-informational session held at McMenamins several weeks ago simply duped the neighbors with statements that weren't even true.

We know now that the owner wasn't supposed to rent the unit without a city permit. I can still rent it for next November though. I can give them my credit card to hold it.

We were told so many untruths.

Here are some questions:

Who specifically is the local contact?

What training does the local contact have? Have they taken first alert courses? Fire safety?

House maintenance workshops?

How do we know when problems are solved? Is there an official city contact person?

How is it legal that the "housekeeper" is on call 24/7? Is this even humanly possible?

What if they get sick?

What if they go away for the weekend?

What if they care for someone who is sick and cannot attend to calls?

What if they have been drinking, or are in some way incapacitated?

Who is their back up? What if they cannot be reached?

Who calls the fire dept, the police, the pest control, the garbage company? Who follows up?

Who tends the weekly trash? Overflowing garbage?

How is the outdoor noise managed? What are the limits?

They said the occupancy limit was 8. Now they rent illegally to 10 people. Where are cars going to park? This could be ten different people with ten cars. Who will monitor this when the

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policy is not followed (like recently with the street parking with the illegal renters)? Are neighbors to constantly police the STR?

What legal rights do the neighbors of the house have if response by the owner/agency is not achieved in a timely manner? Is there a fine? Who is watching and monitoring the efficacy of the on-call personnel?

Why is the city allowing a wonderful neighborhood home to become an STR? We know from hiring new doctors and employees through Nick's work that housing is always in shortage in McMinnville, especially a family home like this. This is a perfect home for a young family!! Kids can walk safely to Memorial. Making this house an STR robs a family of the opportunity to have an inner McMinnville home with no busy roads to cross between home and Memorial, Duniway and the City Pool and Library.

With new hotel units going up, why are the non-owner occupied STRs even allowed in McMinnville?

We have lived here for over two decades. It's a strange and not-good feeling to know that the owner of the house blatantly holds disregard for the City of McMinnville's STR policies, rules which they know because they have applied. One must assume that they hold the same entitled, careless attitude toward all of us as neighbors. Toward our children that play in the front yards. Toward our neighborhood walkers.

I see the writing on the wall. When the garbage overflows in the street, no one will come to clean it up. When the music is too loud, no one will be on sight to rein in the behavior. The sidewalks will not be shoveled during snow storms. The house will be vacant a huge majority of time, causing a hollow and noncontributory ghost in our neighborhood.

Our neighborhood is full of wonderful people who contribute to the strong fabric of McMinnville. These vacant and remote owners plan to make money on the house and not even pay a cent due to the city.

It simply doesn't seem right, nor sound housing policy for the City of McMinnville.

I don't write this lightly. Nick and I have stayed with our family in STRs in other places. But those were resort towns, the properties had owners nearby. There were rules that were followed such as fines for renters if music is heard by the neighbors. Mandatory garage parking occurs in the majority of our stays. They have never been in family neighborhoods.

About ten years ago we attended a talk by the founder of AirBNB in Boston at our son's college. The renting model was one of temperance. A room in a home.

It wasn't taking a full property out of the fabric of the city and rendering it independent of ordinance and law with no consequence. I hope that McMinnville can catch up with other major cities and come up with a reasonable plan, one that applies to the plethora of different

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companies and people who want to use STRs as their investment.

We don't want McMinnville to become a gross rural town, hanging its all on Wine Country, when the town is so much more complex and beautiful and well-rounded.

We would like to ask that this house permit be put on hold until the correct and legal processes are worked out.

Sincerely yours,

Kelli and Nick Grinich

Memorandum

Date: September 1, 2022

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Jay and Mollie Post
2038 NW Michelbook Lane
McMinnville, OR 97128

August 30, 2022

Dear Mr. Tate:

We have been residents in McMinnville at 2038 NW Michelbook Lane for 25 years. We're strongly in favor of the August 1 moratorium on short term rental applications, and we believe that McMinnville is direly in need of revision of current policies and procedures for short term rentals.

The current policy allows for far too many short term rental homes in close proximity to each other. This has the potential to do significant damage to the quality of life in our neighborhoods. Do we want do want adjacent homes to alternate between being empty and being occupied by a parade of vacationers, or do want our neighbors to be longer term residents who have a vested interest in McMinnville's present and future?

It's our opinion that an updated policy should allow for only a small number of widely spaced short term rentals. A larger number of these properties would adversely affect both the quality of life in our neighborhoods, and the occupancy rates of current and planned McMinnville hotels, motels, and B and B's.

Given the above concerns, we believe that a decision regarding the application for short term rental of the home on 21st Street should be deferred until the City Council has had an opportunity to review and revise the short term rental policies and procedures for our community.

In addition, we urge rejection of the STR application at 790 NW 21 St. The applicant displayed disrespect and disregard for our laws by advertising and short term renting the property prior to obtaining the required STR approval. In addition, it's never been clear who would be available 24/7 to respond to noise complaints or other issues at the property.

Thank you,

Mollie and Jay Post
2038 NW Michelbook Lane
McMinnville, OR 97128

Memorandum

Date: September 1, 2022

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Kathy Loving

September 1, 2022

Short Term Rental Permit for 790 NW 21st Street, McMinnville

I am writing to express my strong support to **DENY** the application for a short-term rental at 790 NW 21st Street, McMinnville, Oregon 97128. I live 2 houses to the east of this address and feel the current STR policies and procedures need to be fully revised. I previously sent a letter to City Councilor; Zach Geary as well as Kellie Menke expressing my concerns regarding this application and the current STR policy for the City of McMinnville. I asked them to include this application on the moratorium list until the Planning Department can revise the current STR policies.

The current STR-friendly policy makes the single-family housing problem worse. McMinnville families searching for single-family housing are not only competing with each other for the small supply of single-family homes for sale, but with investors (such as this applicant Emily (Joyce) LaGow) buying homes to make them short-term rentals, thus removing them from the pool of single-family housing options. In addition, investors are not interested in our community and the daily activities of our residents that make McMinnville livable. They are only interested in how many people they can move in and out of their STR's to increase their bottom line. I am interested in a family who calls McMinnville "home" and wants to develop roots and contribute to the livability of our neighborhood and community.

The current STR policy is not neighborhood friendly. If multiple houses go on sale in any McMinnville neighborhood, if houses are not immediately next to one another, the current policy will allow every second house which met code to be purchased and approved as a short-term rental, potentially decimating a traditional McMinnville neighborhood.

The current STR policy is a solution in search of a need. The STR industry website "[Alltherooms.com](https://www.alltherooms.com)" indicates May '21 – May '22 occupancy rate for McMinnville STR's was 35%. [VisitMcMinnville.com](https://www.visitmcminnville.com)

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indicates that the hotel occupancy rate was 63% for all of 2021 and was 59% for the first three months of 2022. Even allowing for the pandemic, there is no evidence of an urgent immediate need for more short-term rental properties, and yet the current policy has continued to approve additional unneeded short-term rental properties.

The current STR policy fails to live-up to the creative, quality-of-life-friendliness of other McMinnville City policies. It also fails to use creative STR strategies suggested in the policy literature such as the approval of STR's based on occupancy rate targets or multiple STR zones in cities allowing easier approval near tourist attractions and stricter standards in traditional residential areas. McMinnville demonstrates a commitment to quality of community life in residential areas in so many of its departments and policies but not when it comes to STR's.

My final reason for asking for denial of this application is that Ms. LaGow chose to not wait for approval of her request for a short-term rental at 790 NW 21st Street, McMinnville. She advertised this home on Airbnb (or a similar website) and rented it out for a weekend. We, as neighbors, saw cars sitting in the driveway and along the street in front of this house. It is my understanding that someone from the Planning Department went on Airbnb (or a similar website) and requested to rent this home and their request was approved by Ms. LaGow and/or her representatives. This is a total lack of regard for McMinnville's STR application policy. This alone should DENY this request. If Ms. LaGow has the nerve to rent without approval (thus avoiding local lodging taxes), why would she follow the rules as it relates to noise, a local contact person, garbage, parking, alcohol and all the other issues that may arise when there is not a local person to contact other than the McMinnville Police Department. We should not make a lax STR policy the responsibility of the McMinnville Police Department.

I hope I have expressed my desire for the Planning Department to **DENY** this application. The City of McMinnville's Planning Department should not reward those applicants who have a total disregard for the STR application process!

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Re: New Public Testimony Received for STR 7-22

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Thank you for your time.

Kathy Loving

From: [Heather Richards](#)
To: [Mark Pitts](#)
Cc: [Nic Miles](#); [Zack Geary](#); [Kellie Menke](#)
Subject: RE: 790 NW 21st Street
Date: Monday, July 4, 2022 4:05:00 PM
Attachments: [image003.png](#)

Thanks, Mark,

- A public hearing will be necessary if they want to continue with their application. And we will notify adjacent property owners of the hearing date and time.
- Nic is your contact for future infractions.

Have a great day!

Heather



**City of
McMinnville**

PLANNING

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

503-474-5107 (phone)
541-604-4152 (cell)

Heather.Richards@mcminnvilleoregon.gov

www.mcminnvilleoregon.gov

From: Mark Pitts <m49pitts@gmail.com>
Sent: Monday, July 4, 2022 2:53 PM

To: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>
Cc: Nic Miles <Nic.Miles@mcminnvilleoregon.gov>; Zack Geary <Zack.Geary@mcminnvilleoregon.gov>; Kellie Menke <Kellie.Menke@mcminnvilleoregon.gov>
Subject: RE: 790 NW 21st Street

This message originated outside of the City of McMinnville.

Hi Heather—thanks so much. I see you indicating a required public hearing. Is that correct? We'd like to be notified of when that hearing will take place so we can have some people there.

Is Nic the person to whom we should communicate further activity at the house in possible violation of an STR denial?

I know two council members are copied in. I'd express special appreciation for your action on a holiday. I've been telling our group and friends elsewhere, my personal experience is that local government is working just fine in McMinnville.

Thanks again.

Mark

On Jul 4, 2022, 2:43 PM -0700, Heather Richards <Heather.Richards@mcminnvilleoregon.gov>, wrote:

It also appears that they have bookings for the rest of July, August and September, which they will need to cancel until such time that they secure a permit to operate a STR if they are able to do so.

Have a great day!

Heather

<image001.png>-

Heather Richards, PCED

Planning Director

City of McMinnville

231 NE Fifth Street

McMinnville, OR 97128

503-474-5107 (phone)

541-604-4152 (cell)

Heather.Richards@mcminnvilleoregon.gov

www.mcminnvilleoregon.gov

From: Heather Richards

Sent: Monday, July 4, 2022 2:39 PM

To: Mark Pitts <m49pitts@gmail.com>

Cc: Nic Miles <Nic.Miles@mcminnvilleoregon.gov>

Subject: RE: 790 NW 21st Street

Thanks Mark. I just went online and confirmed that I could book it for this weekend. We will put this into code enforcement and let them know that they are operating without a permit.

Nic, this is a property that is operating without a STR permit, or, I am assuming, registration for the transient lodging tax. They have applied for a STR permit so clearly they understand they need a permit prior to operating the property as one. Can you put this into code enforcement?

Please let them know that since they are operating their short-term rental in violation of the city code, their application for a permit will go to a public hearing with the Planning Commission and city staff will be

recommending a denial of the application per Section 17.72.010 – Short Term Rentals (10). They have the option to withdraw their application prior to the public hearing if they want to do so.

They also have the right to prove that they are not operating it as a short-term rental right now. However, I went on the Air BnB listing today and submitted for a reservation for next week and it was accepted. Please see below.

<image005.png>

Have a great day!

Heather

<image006.png>-

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

503-474-5107 (phone)
541-604-4152 (cell)

Heather.Richards@mcminnvilleoregon.gov
www.mcminnvilleoregon.gov

From: Mark Pitts <m49pitts@gmail.com>

Sent: Monday, July 4, 2022 2:20 PM

To: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>

Cc: Zack Geary <Zack.Geary@mcminnvilleoregon.gov>; Kellie Menke

<Kellie.Menke@mcminnvilleoregon.gov>

Subject: Re: 790 NW 21st Street

Heather—it was even easier than that.

Here's the listing on Airbnb: Check out this home on Airbnb!

https://www.airbnb.com/rooms/662337515295689944?check_in=2022-11-14&check_out=2022-11-21&guests=1&adults=2&s=2&unique_share_id=3ce00850-e28d-487a-9052-3ff4b634f734

That seems to be a firm thumbing of the owners nose at the community. Thanks for following up with a denial.

Mark

Mark Pitts

Sent from my iPhone

Jeremiah 9:23-24

On Jul 4, 2022, 11:54 AM -0700, Heather Richards <Heather.Richards@mcminnvilleoregon.gov>, wrote:

Hi Mark,

Thanks for the email. Do you have proof that she is already renting it out as a str? If so, that is reason for denial but we will need something like an ad online showing she is actively advertising it and renting it out as a str - otherwise she could be letting family or friends use it

while she waits for her permit.

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

503-474-5107 (work)
541-604-4152 (cell)

Sent from my iPhone.

On Jul 4, 2022, at 9:27 AM, Mark Pitts <m49pitts@gmail.com> wrote:

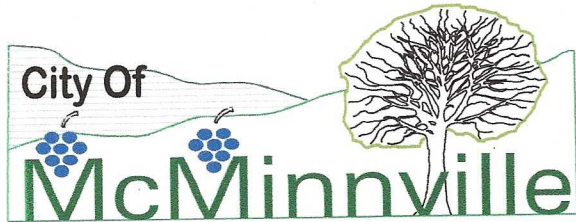
This message originated outside of the City of McMinnville.

Hi Heather—sorry to disturb your holiday but fyi: without approval of her application completed, the owner of 790 has started renting it out and at least one renter is parking on the street in violation of the STR policy (photo attached). Do city regulations include penalties for unapproved rentals? This doesn't seem to bode well for her respect for city policy and procedure.

We will plan to have 10-15 people at the July 12 meeting and to present our petition with 50 signatures supporting the moratorium and stricter STR policy. Thanks as always for your assistance and service.

Mark Pitts

<Image.jpeg>



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	_____

Short Term Rental Application

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other _____

Applicant Name Emily (Joyce) LaGow Phone 206-714-3791

Contact Name _____ Phone _____
(If different than above)

Address 3201 Esperanza Crossing 453

City, State, Zip Austin, TX 78758

Contact Email joycelagow@hotmail.com

Property Owner Information

Property Owner Name _____ Phone _____
(If different than above)

Contact Name _____ Phone _____

Address _____

City, State, Zip _____

Contact Email _____

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 790 NW 21ST ST, MCMINNVILLE, OR 97128

Assessor Map No. R4 R4417AC02344 Total Site Area Lot size: 0.25 Acres

Subdivision Compton Addition Block _____ Lot _____

Comprehensive Plan Designation _____ Zoning Designation R-1

The Director may approve, approve with conditions, or deny the application, based on the following criteria:

1. Short term rentals shall not be located within 200 feet of another short term rental, or on the same property as another short term rental.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.
4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
5. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.
6. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:
 - a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
 - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.

1. Please describe the residence and its proposed use. The homeowner intends to rent their four (4) bedroom, three (3) bath home on a short-term basis. The rental will be made available for guest use year round and will be professional managed and maintained by iTrip Vacations management company.

2. How many guest rooms will be provided? 4
What is the maximum number of guests that can be accommodated? 8

3. How many off-street parking spaces are available? 4
Are the parking spaces paved? Yes No

4. Are there smoke detectors in the residence? Yes No
If so, where are they located? Smoke detectors are provided in each bedroom and hallway, and carbon monoxide detectors are provided on each floor where a carbon monoxide source is located.

5. Does the property owner live within the city limits of McMinnville? Yes No
If no, please provide contact information of a person living within the city limits who shall be available to respond immediately to any emergency or complaint related to the vacation home rental:
Contact Name Erika Correa Phone 971-983-9324
Address 540 NE 26th Ct Phone _____
City, State, Zip McMinnville, OR 97128
Contact Email mariaponce352@yahoo.com

6. Has the applicant registered as a Transient Lodging Provider in order to collect, and pay, the Transient Lodging Tax imposed by the City of McMinnville on the rent charged to an occupant who occupies a provider's lodging for 30 successive days or less? Yes No

In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.**
- Digital photographs of the subject residence's exterior.
- Floor plan showing the size, function, and arrangement of interior rooms.
- Compliance of Neighborhood Meeting Requirements.
- Other information deemed necessary by the Planning Director to allow review of the applicant's proposal.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

Short Term Rental Information & Submittal Requirements



Planning Department
231 NE Fifth Street • McMinnville, OR 97128
(503) 434-7311 Office • (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Overview

In order to operate a vacation home rental in any of the residential zones of the City of McMinnville, a property owner must first submit an application and meet a specific set of standards as set forth in Section 17.12.010(O) (Permitted Uses) of the Zoning Ordinance, and also listed below. [Vacation home rentals located in commercial zones are exempt from these requirements; however, *all* such establishments are subject to the requirements of the *Transient Lodging Tax* program, which is administered by the City's Finance Department.]

Please note that occupancy of a vacation home rental in McMinnville is limited to a single family, as that term is defined by the McMinnville Zoning Ordinance.

Application Submittal


The following materials must be provided at the time of submittal, or the application will not be accepted for processing.

- A completed Short Term Rental application form.
- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.**
- Digital photographs of the subject residence's exterior.
- Floor plan showing the size, function, and arrangement of interior rooms.
- Compliance of Neighborhood Meeting Requirements
- Payment of the applicable review fee.

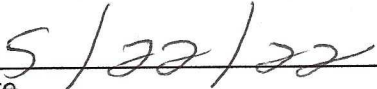
Review Process

An application for a vacation home rental permit is subject to review by the Planning Director as stated in Section 17.72.110 (Director's Review with Notification) of the Zoning Ordinance, after notification of the application has been provided to property owners within 100-feet of the subject site. The decision made by the Planning Director may be appealed to the Planning Commission as outlined in Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance.

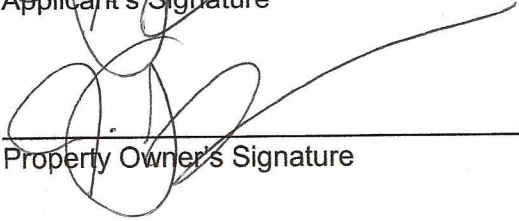
I hereby certify that the statements contained herein are in all respects true and correct to the best of my knowledge and belief.



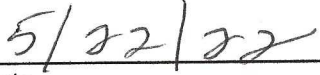
Applicant's Signature



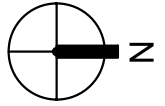
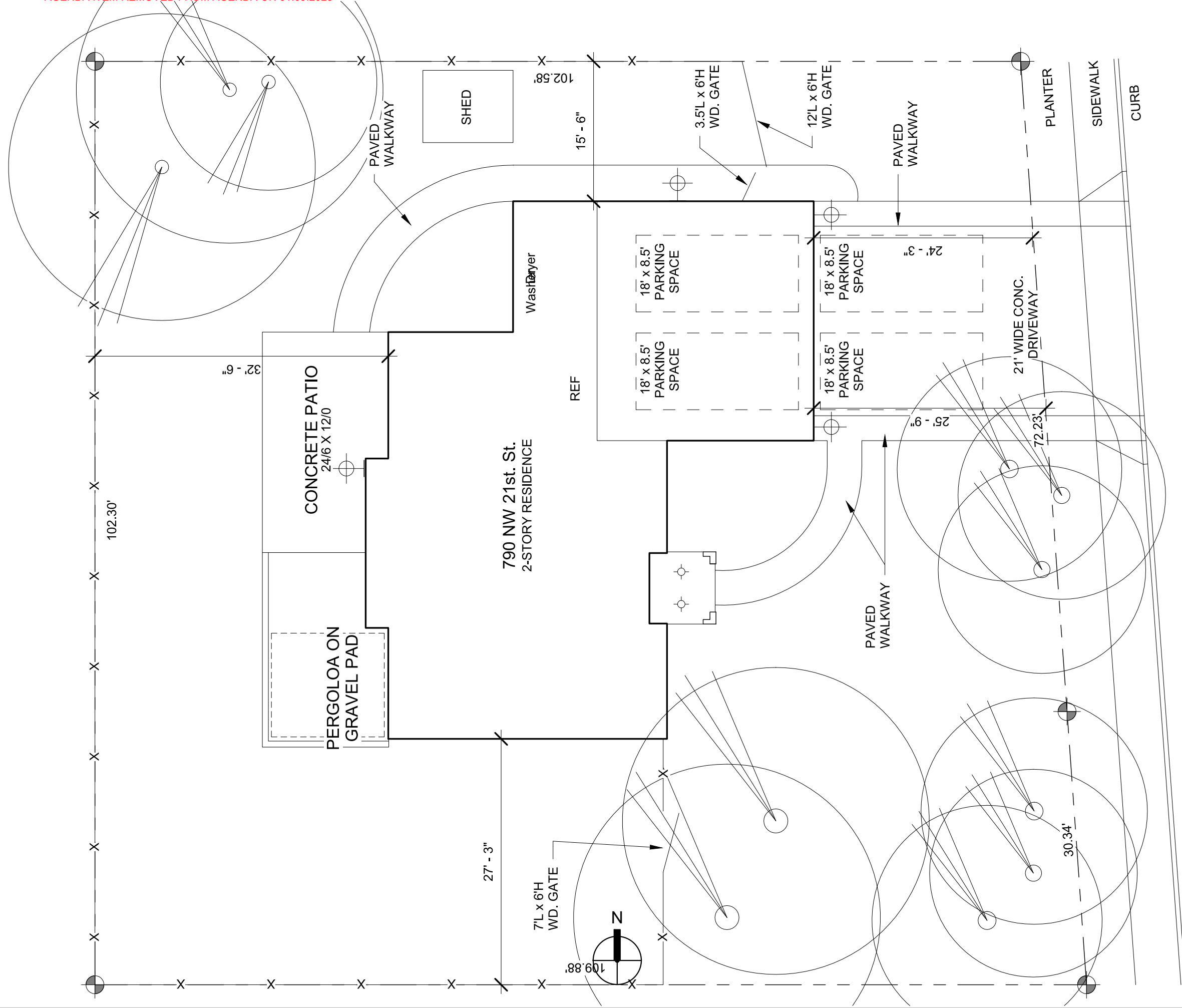
Date



Property Owner's Signature



Date



1 Proposed Site Plan
3/32" = 1'-0"

PROPERTY INFORMATION:
 PROJECT ADDRESS: 790 NW 21st. ST.
 MCMINNVILLE, OR 97128
 ACCOUNT #: 483217
 ALT. PROPERTY #: R4417AC 02344
 PROPERTY DESC: LOT 14 - BLOCK 1 IN COMPTON ADDITION

1.0

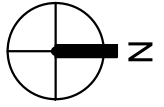
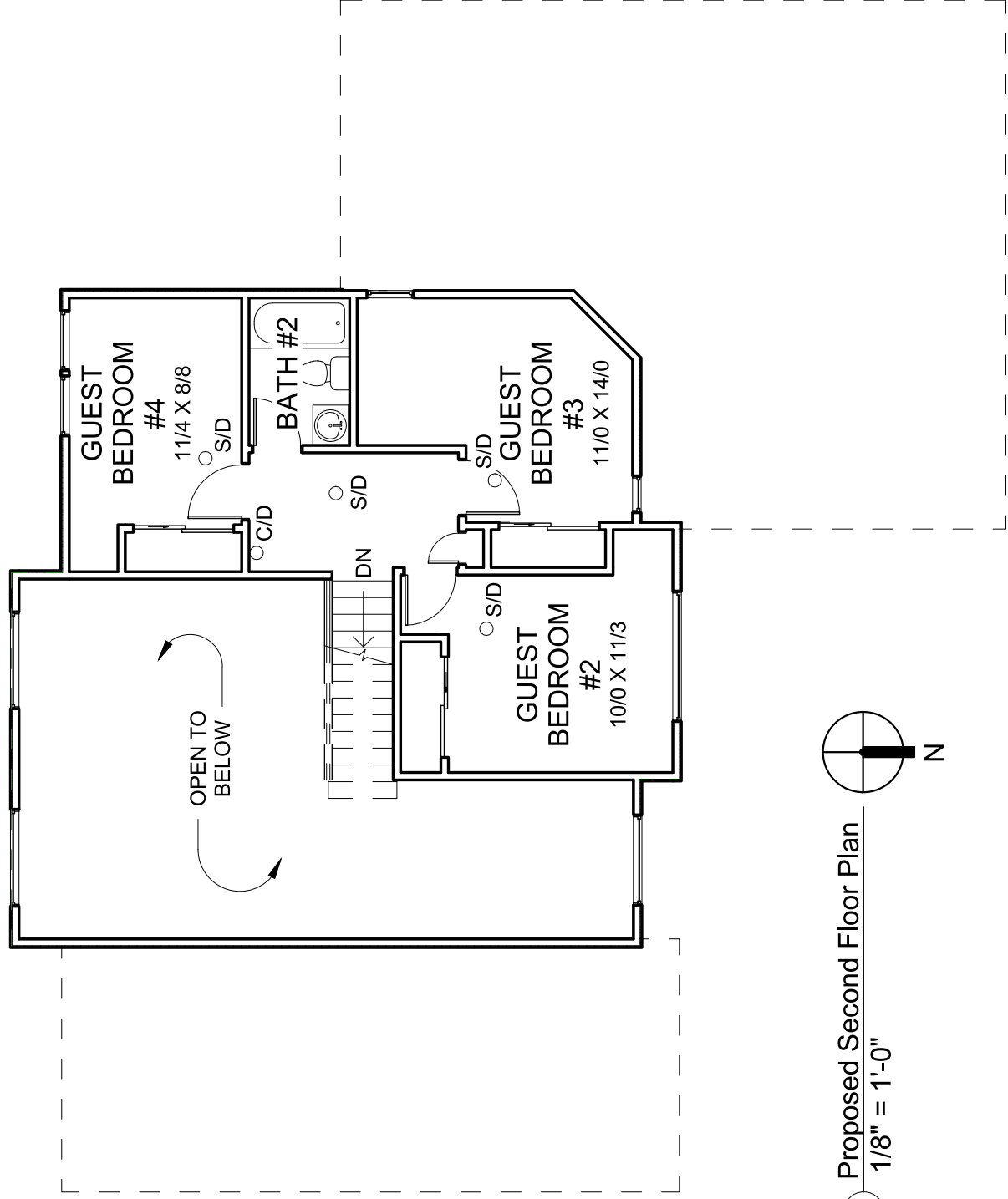
NW 21st St. ASTR
 790 NW 21st St.
 McMinnville, OR 97128

Site Plan

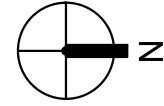
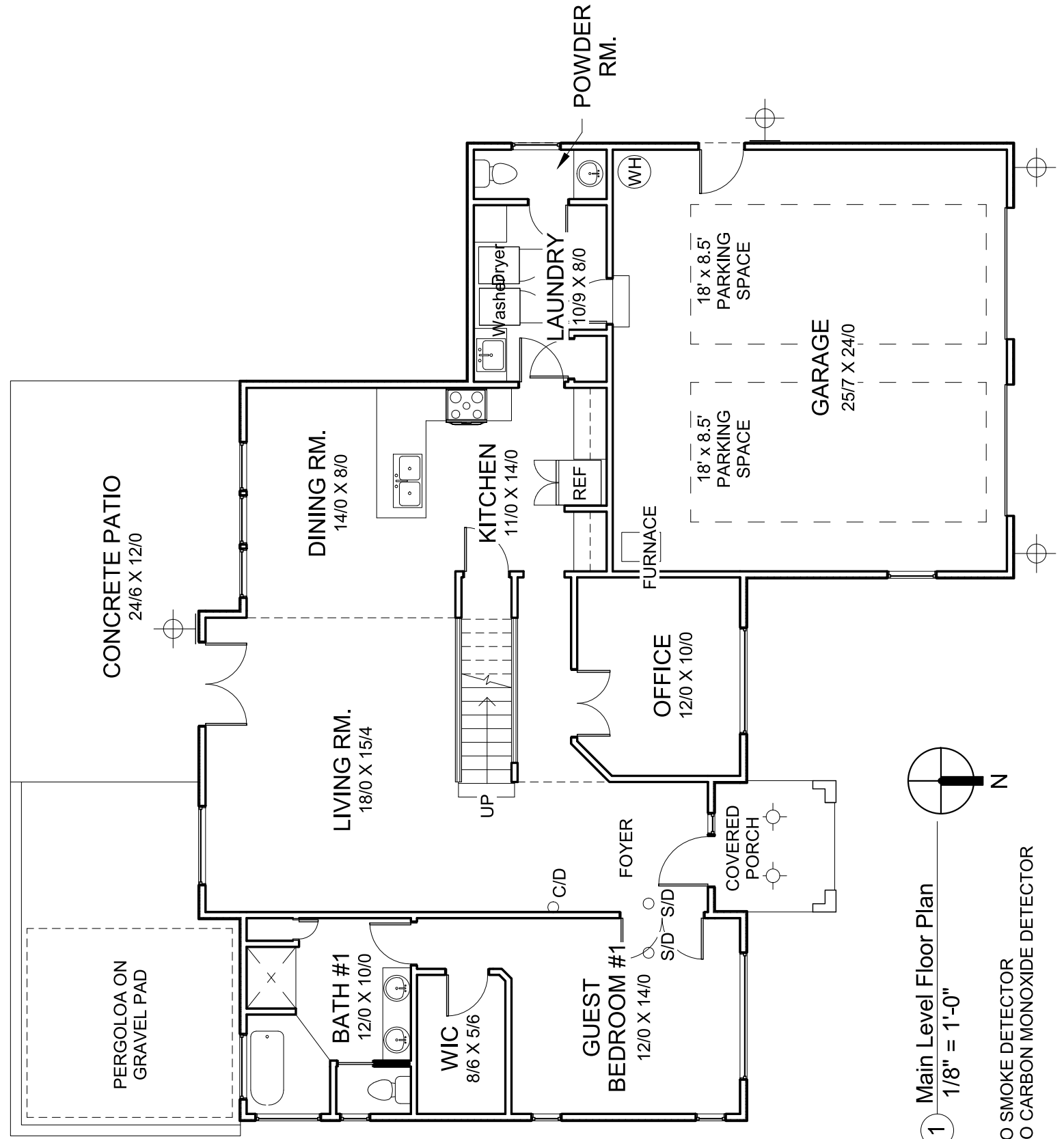
Issue Date: 04/25/2022



Aligned Design, LLC
 Lindsey Jones, LEED AP
 www.aligneddesignpdx.com
 (503) 606-6100
 hello@aligneddesignpdx.com



2 Proposed Second Floor Plan
 1/8" = 1'-0"



1 Main Level Floor Plan
 1/8" = 1'-0"

NOTE:
 S/D REFERS TO SMOKE DETECTOR
 C/D REFERS TO CARBON MONOXIDE DETECTOR



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Main Level Floor Plan

NW 21st St. ASTR
 790 NW 21st St.
 McMinnville, OR 97128

1.1

Issue Date: 04/25/2022

4522/4526 SE 41st Ave. - Type-B ASTR

HOUSE RULES

Check in time: 4pm.

Check out time: 11am.

We cannot accommodate early check-ins nor late check outs. Should any unauthorized persons occupy or use the Premises, Tenant shall vacate the premises immediately without any refund.

No key will be issued to anyone who is not an adult.

HAZARDOUS PRACTICES

Do not dismantle smoke detectors as they are there for your protection. Use the overhead stove fan when cooking to avoid accidental, activation of smoke detector alarm.

FAMILY RENTAL ONLY

Reservations made for teenagers or young single groups will not be honored without any accompanying adult staying in the unit at ALL times. We require at least one member of the party to be 25 (twenty-five) years of age! Any violators will be evicted according to local statutes with forfeiture of all monies.

FALSIFIED RESERVATION

Any reservation obtained under false pretense will be subject to forfeiture of reservation deposit, damage deposit, and/or balance of rental payment.

HOUSEKEEPING

There is **no daily maid service**. Linens and towels are included and not to be taken from the unit. An initial setup of trash liners, bathroom paper, soap is provided.

NONSMOKING UNIT

Smoking is strictly prohibited. Your damage deposit will be forfeited and you will incur an additional charge for carpet cleaning and deodorizing if any evidence of smoking is found.

4522/4526 SE 41st Ave. - Type-B ASTR

RULES AND REGULATIONS

1. Tenant agrees to leave the premises and its contents in the same condition, neat and tidy, as Tenant found the premises to be upon move-in, normal wear and tear expected. Beds should be stripped of linens and placed in a pile in each bedroom for housekeeping.
2. All dishes are to be washed and all garbage removed from the premises and placed in outside receptacles. Please place trash bins in front of house for pickup.
3. The maximum number of occupants shall not exceed eight (8) people.
4. Furnishings are not to be removed from the premises for use outside or in other properties.
5. "No pets" policy must be observed. Pets are not allowed on premises.
6. Smoking is not allowed in the unit.
7. Reservations are not made by or for a minor, defined as any person under the age of twenty-five.
8. Tenant and any guest of Tenant shall obey all laws of the state of the rental resides in, as well as local laws, at all times while they are on the premises. Failure to abide by the these laws, or the above rules, may cause tenant to be asked to vacate the premises and forfeit all rents and security/damage deposits.
9. Quiet Hours: 10pm-7am. There shall be no noise that can be heard outside the home between the hours of 10pm - 7am. If noise is an issue, you will get a written warning text message to the number that booked the reservation and/or a phone call. If noise does not stop, you will be fined or possibly evicted immediately.

SLEEPING CAPACITY/DISTURBANCES

Tenant and all other occupants will be required to vacate the premises and forfeit the rental fee and security deposit for any of the following: Occupancy exceeding the sleeping capacity of

4522/4526 SE 41st Ave. - Type-B ASTR

eight (8), using the premises for any illegal activity, causing damage to the premises rented or to any of the neighboring properties and **any other acts which interferes with neighbors' right to quiet enjoyment of their premises.**

Violations of our noise or maximum number of guests agreed to at the time of booking will result in possible fines or immediate eviction with all loss of all rents. Depending on severity if there is a noise situation we may call and issue a warning or proceed with a \$300 fine. If we cannot reach the guest that booked the property someone will show up to at a minimum issue a \$300 fine and/or evict the entire group immediately. Any delay will result in us involving the authorities and trespassing every person on the property as well as the loss of all rents.

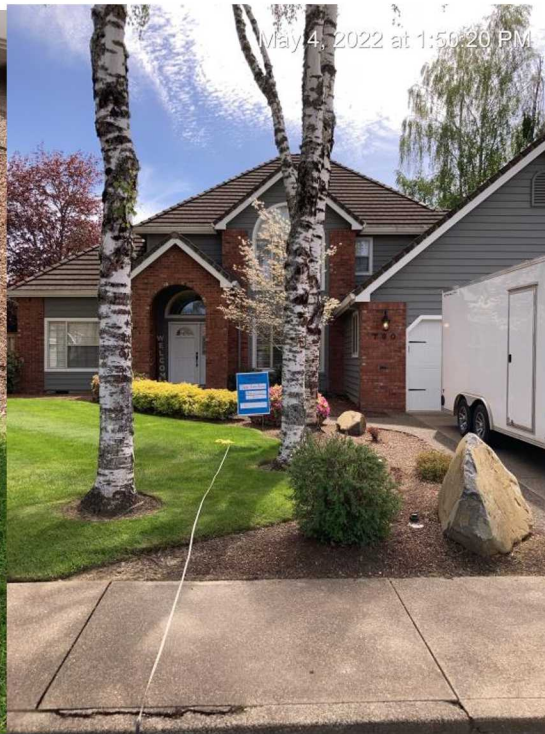
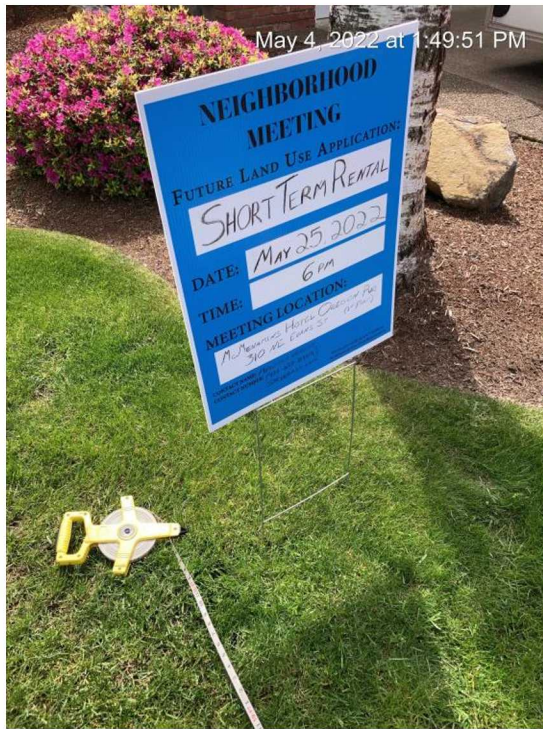
Additional fines or damages may be assessed after removal.

PARKING

A parking plan will be emailed to you 2 days before arrival. You can park in the garage and in the driveway. You may not park in front of other neighbors' homes.

Please remember that you are renting a private home. Please treat it with the same respect you would like shown in your own home.

790 NW 21st St.
McMinnville OR 97128



City of McMinnville
Phone: 503-434-7301
www.mcminnvilleoregon.gov



City of McMinnville

Transient Lodging Tax Registration Form

Date: 4-20-2022

Business Type: LLC

Establishment Name: BEAR CREEK RETREAT

Establishment Address: 790 NW 21st Street, McMinnville, OR 98128

Mailing Address, if different: 3201 Esperanza Crossing 453, Austin, TX 78758

Manager / Operator Name: iTrip Vacations

Owner, Corporation or Partnership Name, if different: Joyce Lagow / BECKETT PROPERTIES

Email Address: joycelagow@hotmail.com

Phone: 206-714-3791

Number of Rooms: 4

I declare, under penalty of making a false statement, that to the best of my knowledge, and belief, the statements herein are correct and true.

Signature [Handwritten Signature]

Title _____

Date 5/22/22

Mail your completed registration form to: **City of McMinnville
Finance Department
230 NE Second Street
McMinnville, OR 97128**

Or fax to: 503/435-5860



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

www.mcminnvilleoregon.gov

MINUTES

September 1, 2022
Planning Commission
Regular Meeting

6:30 pm
Zoom Online Meeting
McMinnville, Oregon

Members Present: Gary Langenwalter, Sylla McClellan, Brian Randall, Matt Deppe, Beth Rankin, Lori Schanche, Dan Tucholsky, and Sidonie Winfield

Members Absent:

Staff Present: Heather Richards – Planning Director, Tom Schauer – Senior Planner, and Adam Tate – Associate Planner

1. Call to Order

Chair Winfield called the meeting to order at 6:30 p.m.

2. Citizen Comments

None

3. Approval of Minutes

- June 2, 2022
- June 16, 2022
- July 21, 2022

Commissioner Tucholsky moved to approve the June 2, June 16, and July 21, 2022 minutes. The motion was seconded by Commissioner Langenwalter and passed 8-0.

4. Public Hearings:

A. Quasi-Judicial Hearing: Short-Term Rental (STR 7-22)

Request: Request for approval of a permit to use the existing dwelling as a Short-Term Rental.

Location: 790 NW 21st Street (Tax Lot R4417AC 02344)

Application: Emily (Joyce) LaGow

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application.

Chair Winfield said she was acquainted with people in the neighborhood, but it would not affect her decision.

Chair Winfield 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.

Commissioners Schanche and McClellan had visited the site.

Staff Report: Associate Planner Tate presented the staff report. This was a request to approve a permit to use the existing dwelling at 790 NW 21st Street as a short term rental. He discussed the subject site, applicant's site plan, project summary, applicable review criteria, summary of findings, testimony received, and recommended conditions. The applicant stated the property was operating as a short term rental before the application was approved, which was a mistake by the property management company. Staff recommended approval of the application.

Questions: Commissioner Langenwaller asked for clarification on how many days a guest would be allowed to stay. Planning Director Richards said prior to permit approval, the applicant was renting the house out for 30-plus days, but once they got their permit, they planned to use it as a short term rental and rent it for less than 30 days.

Commissioner Deppe asked about the parking. Planning Director Richards said they were supposed to provide one off street parking space per guest room. Anyone was allowed to park on the public street.

Commissioner Schanche asked about a local contact person. Planning Director Richards said they had a local address in the application.

Applicant's Testimony: Emily LaGow read a statement discussing her background, management of the house, code violation on July 4, 2022, parking, and benefits of the rental to the community.

Commissioner Tucholsky asked about the number of bedrooms that would be rented. Ms. LaGow said there would be four bedrooms, with a maximum of eight guests. She would amend the parking rules that they could not park on the street.

Commissioner Schanche asked why the property owner was not contacted about the rental on July 4 and if the management company was local. Corey Tigner, iTrip Vacations, said they were located in Portland. He explained a family was in a different home where the air conditioning had gone out and they moved the family to this home unaware that it had not received approval yet.

Chair Winfield asked why it was in the rental pool when it had not been approved yet. Mr. Tigner said it was in the 30-plus day rental pool. His company had 24 hour phone support to answer calls at any time.

Melissa Wright, property manager, clarified the listing was live for a 30-plus day rental, which was a long term rental situation and was listed as 5 bedroom. This would shift when it went down to a short term rental and would be listed as 4 bedrooms.

Chair Winfield asked about letters mailed to the neighbors. Ms. Wright said letters were mailed to the addresses the City provided.

Chair Winfield asked who the local emergency contact would be. She was concerned about the public testimony that there was not a local emergency contact. Mr. Tigner said that person was listed in the paperwork.

Public Testimony:

Proponents: Emily Smith, Beaverton resident, had decorated this property and spoke about the integrity of the management company. She thought they were responsive at all hours.

Opponents: Mark Fitz, McMinnville resident, said it was a requirement to have a local contact who could make decisions that needed to be made. He said the house was still being advertised without approval. He thought the application should be denied.

Commissioner McClellan had also looked them up, and the house was listed as a long term rental currently.

Nick Grinich, McMinnville resident, agreed about the need for a local contact. He discussed the July 4 incident and how the applicant failed to get the permit before advertising the property. He thought it was willfully operated as a short term rental without a permit and the application should be denied.

Commissioner Langenwalter asked how long the property had been advertised as a short term rental. Planning Director Richards said she had tried it on July 4, and she was able to book it as a short term rental for the next weekend. She had recently tried it again, and it was no longer being advertised as a short term rental.

Kelly Grinich, McMinnville resident, said for two weeks after July 4 she was able to book the house as a short term rental.

Rebuttal: Ms. LaGow said there would be someone on call 24 hours a day, 7 days a week. Ms. Wright asked if they tested the local contact as part of the process and if a listing could exist before the permit, but they could not accept guests into the home.

Planning Director Richards said they did not test local contacts. There had been complaints from neighbors and the neighbors raised the issue that they tried to contact somebody and that person was not available. They did not look at all the listings, but if they got a complaint, they did tests within the system. In this case, they received a complaint and she was able to book the house for two nights when it did not have a short term permit.

Mr. Tigner said the July 4 incident was a combination of factors and rare circumstance. Once they found out about it, they removed it.

Commissioner Tucholsky said there was testimony that it was up for two weeks. Mr. Tigner said they did not go far enough in the booking system. If they had, they would have found it was not available.

There was discussion regarding short term rental code update, upcoming short term rental applications, and options for Commission action.

Chair Winfield closed the public hearing.

The applicant did not waive the 7 day period for submitting final written arguments. The applicant would have until September 9 at 5 p.m. to submit their arguments. The Commission would deliberate and make a decision on this agenda item on October 6, 2022.

B. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 2-20) and Zone Change, including Planned Development Overlay Designation (ZC 3-20)

(Continued from June 2, 2022 PC Meeting)

Applicant has requested a continuance to October 20, 2022

Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-2 (General Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for approximately 37.7 acres of a 90.4-acre property.

The 37.7 acres includes 4.25 acres intended for right-of-way dedication for a future frontage road. The application also shows a portion of the area subject to the map amendment intended for a north-south extension of Cumulus Avenue and future east-west street connectivity.

The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.

Location: 3310 SE Three Mile Lane, more specifically described at Tax Lot 700, Section 26, T.4S., R 4 W., W.M.

Application: Kimco McMinnville LLC, c/o Michael Strahs

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Langenwalter MOVED to CONTINUE the hearing for CPA 2-20/ZC 3-20 to October 20, 2022. The motion was seconded by Commissioner McClellan and PASSED 8-0.

C. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 1-21) and Zone Change, including Planned Development Overlay Designation (ZC 2-21)

(Continued from June 2, 2022 PC Meeting)

Applicant has requested a continuance to October 20, 2022

Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-2 (General Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for a property of approximately 8 acres.

The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.

Location: 3330 SE Three Mile Lane, more specifically described at Tax Lot 600, Section 26, T.4S., R 4 W., W.M.

Applicant: Ken Sandblast, Westlake Consultants, Inc. Representing property owner 3330 TML, c/o Bryan Hays

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Tucholsky MOVED to CONTINUE the hearing for CPA 1-21/ZC 2-21 to October 20, 2022. The motion was seconded by Commissioner Rankin and PASSED 8-0.

D. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 2-21) and Zone Change, including Planned Development Overlay Designation (ZC 3-21)

(Continued from June 2, 2022 PC Meeting)

Applicant has requested a continuance to October 20, 2022

Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-L (Limited Light Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for approximately 21.1 acres of an 89.9-acre property, plus an additional 1.5 acres of the 89.9-acre property proposed to be dedicated for right-of-way at the time of development.

The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.

Location: Three Mile Lane and Cumulus Avenue, more specifically described at Tax Lot 100, Section 27, T.4S., R 4 W., W.M.

Applicant: Ken Sandblast, Westlake Consultants, Inc. representing property owner DRS Land, LLC c/o Dan Bansen

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Deppe MOVED to CONTINUE the hearing for CPA 2-21/ZC 3-21 to October 20, 2022. The motion was seconded by Commissioner Tucholsky and PASSED 8-0.

E. Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 1-20) and Zone Change (ZC 1-20)

(Continued from July 21, 2022 PC Meeting).

Applicant has requested a continuance to February 16, 2023

Request: An application for a Comprehensive Plan Map Amendment from Residential to Commercial and a Zone Change from County EF-80 to City C-3 (General Commercial) for approximately 1.2 acres of a 50.15-acre property.

The 50.15 acre parcel is within McMinnville's Urban Growth Boundary (UGB), and it is split by City limits, with approximately 9.5 acres inside City limits and approximately 40.5 acres outside City limits. The proposed map amendment would apply to the northerly 1.2-acre portion of the 9.5 acres within City limits.

The 9.5-acre portion of the property inside City limits has a combination of Comprehensive Plan Map designations and zoning designations: Commercial/C-3 on the front (approximately 7.3 acres), Residential/County EF-80 on the rear (approximately 1.2 acres), and a portion of Floodplain/F-P along the east and north boundaries (approximately 1 acre). The proposed amendment would change the 1.2 acres from Residential/County EF-80 to Commercial/C-3, so all of the nonfloodplain portion inside City limits would then be Commercial/C-3.

The unincorporated portion of the property within the UGB and outside City limits is approximately 40.5 acres. It is within the Floodplain Comprehensive Plan Map designation. It has County EF-80 zoning, with the entirety also being within the County's Floodplain Overlay Districts. The proposal would not change the Comprehensive Plan designation or county zoning of this unincorporated portion of the parcel.

Location: 3225 NE Highway 99 West, more specifically described at Tax Lot 1500, Section 10, T.4S., R 4 W., W.M.

Applicant: Cascade Steel Rolling Mills, c/o Jennifer Hudson representing property owner White Top Properties LLC

Disclosures: Chair Winfield opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Commissioner Rankin MOVED to CONTINUE the hearing for CPA 1-20/ZC 1-20 to February 16, 2023. The motion was seconded by Commissioner Tucholsky and PASSED 8-0.

5. Action Items

None

6. Commissioner Comments

None

7. Staff Comments

Planning Director Richards discussed the reasons for the continued public hearings. Senior Planner Bilodeau had left the City for a different job. She announced the American Planning Association Conference on October 27-29 if any Commissioner wanted to attend. She then discussed upcoming meetings.

8. Adjournment

Chair Winfield adjourned the meeting at 9:15 p.m.

Heather Richards
Secretary

DRAFT