



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

**City Council Meeting Agenda
Tuesday, October 24, 2017**

**6:00 p.m. – Dinner Meeting
7:00 p.m. – Regular Council Meeting**

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

6:00 PM – DINNER MEETING – CONFERENCE ROOM

1. Call to Order
2. Review City Council Agenda
3. Adjournment

7:00 PM – REGULAR COUNCIL MEETING – COUNCIL CHAMBERS

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PROCLAMATION
 - a. Hands and Words are not for Hurting Week
4. INVITATION TO CITIZENS FOR PUBLIC COMMENT – *The Mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a topic already on the agenda; a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit comments to 3 minutes per person for a total of 30 minutes. Please complete a request to speak card prior to the meeting. Speakers may not yield their time to others.*
5. CONSENT AGENDA
 - a. Consider the Minutes of the March 28, 2017 and October 10, 2017 - Dinner and Regular City Council Meetings.
6. RESOLUTIONS
 - a. **Resolution No. 2017-67:** A Resolution authorizing the approval of a cooperative fund exchange agreement between the City of McMinnville and Oregon Department of Transportation (ODOT) known as 2017 Fund Exchange Agreement, No. 32411.

Kent Taylor Civic Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made a least 48 hours before the meeting to the City Recorder (503) 435-5702. For TTY services, please dial 711.

7. ORDINANCES

- a. **Ordinance No. 5039**: An Ordinance amending the Zoning Map Designation from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.
- b. **Ordinance No. 5040**: An Ordinance amending the McMinnville Zoning Ordinance specific to section 17.12.010(D) Accessory Dwelling Unit (ADU) to help remove local barriers to affordable housing and to encourage additional residential opportunities.

8. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
- b. Department Head Reports
- c. Cash & Investment Report

9. ADJOURNMENT

Kent Taylor Civic Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made a least 48 hours before the meeting to the City Recorder (503) 435-5702. For TTY services, please dial 711.



PROCLAMATION

WHEREAS, a community without abuse and violence is a dream we all share; and

WHEREAS, we acknowledge that any form of mistreatment of another is abuse;

WHEREAS, abuse can be in the form of verbal, mental, or physical, and often escalates to further violence; and

WHEREAS, we believe that all people have the right to live free of abuse and violence; and

WHEREAS, we believe that every person can make a difference in stopping abuse and violence by not using either action to control others; by not tolerating any form of abuse to oneself or others; and by developing healthy relationships based on respect and equality; and

WHEREAS, we, together with communities around the country and overseas, recognize the Hands & Words Are Not For Hurting Project's Pledge is an effective tool in abuse and violence prevention education.

NOW, THEREFORE, I, Scott A. Hill, Mayor of the City of McMinnville, do hereby proclaim the week of October 29th through November 4th 2017, to be our 12th Annual

HANDS & WORDS ARE NOT FOR HURTING WEEK

in McMinnville, Oregon, and in doing so, urge all citizens to join Hands to unite as a family and a community to pledge:

"I Will Not Use My Hands Or My Words For Hurting Myself Or Others"

IN WITNESS WHEREOF, I have hereunto set my hand and caused the OFFICIAL Seal of the City of McMinnville to be affixed this 24th day of October, 2017.

Scott A. Hill, Mayor

CITY OF McMinnville
MINUTES OF DINNER MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, March 28, 2017 at 6:00 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Melissa Grace

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Remy Drabkin	Adam Garvin
	Alan Ruden	Kellie Menke, Council President
	Wendy Stassens	Kevin Jeffries

Also present were City Manager Jeff Towery, City Attorney David Koch,
Planning Director Heather Richards, and Community Development
Director Mike Bisset.

DINNER

Discussion began at 6:23 p.m. Mayor Hill noted that there would not be a quorum of the Council until 7:30 p.m.

DISCUSSION:

Mayor Hill asked for a volunteer to lead the Pledge of Allegiance and Councilor Ruden volunteered.

The agenda for the regular meeting was reviewed.

Discussion ensued regarding the McMinnville Downtown Association and the goal of no vacancies downtown and economic development.

Community Development Director Bisset discussed the acquisition of property for the NW Hill Road transportation bond project. Councilor Ruden stated that he will be recusing himself from the discussion.

Community Development Director Bisset discussed an easement request by Jackson Family Wines. He noted that a discrepancy was found between map and deed from 1987 and that a property line adjustment is required.

Councilor Drabkin stated that a couple farmers have approached her about the land at the airport that is being leased being far below the value. Community Development Director Bisset noted that the City is currently leased seeking proposals for the lease parcels at airport and that maintenance services will be included to meet airport standards.

Discussion ensued regarding community contributions. It was noted that the Mayor has reached out to those who have participated in years prior and that there were no concerns with the proposed Community Contributions Program. The language in the new policy was broad enough for some flexibility and the requests would need to tie into Council goals. There will be an established dollar amount in the budget to work with. The policy and application for the Community Contributions Program will be posted on the website on April 14th. A committee will review the applications and bring recommendations to the City Council.

ADJOURNMENT: The Dinner Meeting adjourned at 7:01 p.m.

Melissa Grace, City Recorder

CITY OF McMinnville
MINUTES OF REGULAR MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, March 28, 2017, at 7:00 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Melissa Grace

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Remy Drabkin	Adam Garvin
	Kevin Jeffries	Kellie Menke, Council President
	Alan Ruden	
	Wendy Stassens	

Also present were City Manager Jeff Towery, City Attorney David Koch, Captain Tim Symons, and Community Development Director Mike Bisset.

AGENDA ITEM

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:03 p.m. and welcomed all in attendance.

2. PLEDGE OF ALLEGIANCE: Councilor Ruden led the Pledge of Allegiance.

Mayor Hill noted that there were two excused absences and that Councilor Jeffries was on his way to the meeting but would arrive prior to any action being taken.

3. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Hill invited the public to comment.

Dan Hilbert, 875 NE 19th Street, asked City Attorney Koch if he has addressed letter to the Senior Center. He stated that the letter addresses a violation between the State and Church. Mr. Hilbert warned that this could be very expensive if a federal court challenge was initiated. He stated that the Freedom from Religion Foundation usually tries to resolve disputes before taking any action. He suggested that the Senior Center drop The Grotto event. He discussed the Foundation has constitutional lawyers who win 85 percent of their cases. Mr. Hilbert reviewed the amount of money spent by organizations in litigation with the Freedom

from Religion Foundation. He stated that the Senior Center should not be promoting or organizing a religious event and that they charged an unreasonable amount. He expressed his concerns with the amount of money charged to the elderly.

Janet Sasaki, 675 NE Davis Street, stated she lives adjacent to the parking garage and that it is very dirty. She stated that is pretty unsightly. Ms. Sasaki thanked the City Manager, City Attorney and Police Chief for taking the time to meet with her to hear concerns and share actions being taken. She asked that it would be nice if the parking structure could be spruced up.

Denise Murphy, 841 SW Goucher Street, also thanked the City Manager, City Attorney and Police Chief for meeting with her. She stated that their ideas were forward thinking and innovative. Ms. Murphy provided pictures of trash in the parking garage. She mentioned that this is the designated parking area for County staff, jurors and some local businesses. She noted that this is the first thing some visitors see when they come to McMinnville. She stated that there are transients camping in the garage and that she has called the police department multiple times and received the response that there is nothing they can do. She asked Council establish permits in order to use the garage for more than two hours. Mayor Hill stated that Ms. Murphy sent a letter for Councilors with comments and pictures.

4.

PRESENTATION

Jerry Eichten, Executive Director of McMinnville Community Media (MCM) shared that:

- MCM is a 501 C3 non-profit formed in 2000.
- A second 10-year contract with the City was signed in 2013.
- MCM provides quarterly reports and an annual audit or review to the City.

Mr. Eichten shared that MCM is a connecting organization that links local groups, individuals, and organizations. MCM helps create community through media and many local organizations use MCM to publicize events.

Mr. Eichten reviewed the variety of services that they offer. He noted that their focus is local programming and that MCM schedules and telecast programs free of charge. 75 percent of programs come from local providers, 15 percent is staff production, and 10 percent is imported. Mr. Eichten reviewed the number of equipment check-outs, editing reservations and editing hours for 2016. He shared improvements such as

expanded green screen and virtual set, improved lighting, digital back-up and timing system. The production truck also received an upgrade.

Councilor Jeffries arrived at 7:26 p.m.

Mr. Eichten reviewed the various content from the year and played a video titled “Year in Review”.

Discussion ensued regarding funding sources.

Mayor Hill commented on the service that MCM provides to the public and noted it is a community resource. Mayor Hill thanked Mr. Eichten for the update.

5. CONSENT AGENDA

5.a. Consider the Minutes of the February 4th, 2017 Goal-Setting meeting and February 14th, 2017 Dinner and Regular Meeting.

5.b. Request from Midtown Tobacco Inc. for a liquor license at 1220 N Adams Street.

Councilor Ruden MOVED to adopt the consent agenda; SECONDED by Councilor Jeffries. Motion PASSED unanimously.

6. RESOLUTIONS

6.a. **Resolution No. 2017-24:** A Resolution amending Resolution 2016-88, authorizing the acquisition of property for the NW Hill Road transportation bond project, Project 2015-16, and exercising the power of imminent domain.

Community Development Director Bisset presented. He reminded Council that they approved Resolution 2016-88 at the December 12, 2016 City Council Meeting. He noted that subsequent to the adoption of Resolution No. 2016-88, they City’s agents determined that the approved acquisitions files did not accurately represent the ownership of two parcels along the corridor. As a result the approved acquisition files need to be amended to reflect a reduction in the amount of property needed from the McMinnville School District parcel and the addition of a file to acquire property from Fox Ridge Developers. Mr. Bisset noted that it is the same total amount of square footage.

Councilor Stassens MOVED to adopt Resolution No. 2017-24 authorizing the acquisition of property for the NW Hill Road transportation bond project, Project 2015-16, and exercising the power of eminent domain; SECONDED by Councilor Drabkin. Motion PASSED 3-0 with Councilor Ruden abstaining from the vote.

- 6.b. **Resolution No. 2017-25:** A Resolution approving the initiation of a Property Line Adjustment between the City and Jackson Family Wines, and granting an Access and Utility Easement on City owned property to Jackson Family Wines.

Community Development Director Bisset stated that Jackson Family Wines has purchased the property next to the airport. He displayed a map showing a proposed easement on airport property. The proposed easement grants them an access and utility easement to construct a circulation roadway and associated drainage facilities on City property. Jackson Family Wines will compensate the City \$3,2000 for granting the easement. This will allow for the best use of the property. Mr. Bisset noted that the easement area requested will eventually be public right-of-way, and the access roadway to be constructed by Jackson Family Wines will eventually be replaced by a future public street.

Discussion ensued regarding a temporary paved access road.

Councilor Ruden MOVED to adopt Resolution No. 2017-25 approving the initiation of a Property Line Adjustment between the City and Jackson Family Wines, and granting an Access and Utility Easement on City owned property to Jackson Family Wines; SECONDED by Councilor Stassens. Motion PASSED unanimously.

7. **ADVICE/ INFORMATION ITEMS**

7. a. **Reports from Councilors on Committee and Board Assignments**

Councilor Stassens reviewed the recent activities of the Urban Renewal Advisory Committee meeting. She noted that the groundbreaking of Alpine Avenue breaking was on the 20th and that the Planning Commission recently had a full day of informative training. She shared that she offered to be liaison for the Planning Commission.

Councilor Drabkin stated that the Affordable Housing Task Force is attempting to meet monthly and that there is still one position they are looking to fill on the Homeless subcommittee. She also noted that they are looking for a high school student to serve on the committee.

Councilor Ruden recently attended the Historic Landmarks Committee meeting and shared that they are an energized committee.

7.b. Department Head Reports

Captain Symons provided a staffing update.

8. EXECUTIVE SESSION UNDER ORS 192.660(2)(d) TO CONDUCT DELIBERATIONS WITH PERSONS DESIGNATED TO CARRY OUT LABOR NEGOTIATIONS.

Mayor Hill stated that the Council and those directed would be going into Executive Session and that they would be returning to regular session to take action on Resolution No. 2017-26.

The Executive Session began at 8:03 p.m. and closed at 8:55 p.m. Council returned to the regular meeting at 9:00 p.m.

9. **Resolution No. 2017-26:** A Resolution ratifying a collective bargaining agreement between the City of McMinnville and the McMinnville Police Association (MPA) for wages only for the period starting July 1, 2017.

Councilor Stassens stated that she values the work of the police officers and knows that this is a compromise. She noted the City's commitment to strategic planning and public safety needs.

Councilor Ruden expressed his support of increasing livability in McMinnville and working towards addressing the issues of morale, workloads and personnel.

Councilor Drabkin MOVED to adopt Resolution No. 2017-26 ratifying a collective bargaining agreement between the City of McMinnville and the McMinnville Police Association (MPA) for wages only for the period starting July 1, 2017; SECONDED by Councilor Ruden. Motion UNANIMOUSLY.

Steve Maccartney, McMinnville Police Association President stated that the Police Officers look forward to working with the City on finding solutions.

10. ADJOURNMENT: Mayor Hill adjourned the Regular City Council Meeting at 9:05 p.m.

Melissa Grace, City Recorder

CITY OF McMinnville
MINUTES OF DINNER MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, October 10, 2017 at 6:00 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Melissa Grace

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Adam Garvin	Remy Drabkin
	Kellie Menke, Council President	
	Kevin Jeffries	
	Alan Ruden	
	Wendy Stassens	

Also present were City Manager Jeff Towery, City Attorney David Koch, Community Development Director Mike Bisset, Planning Director Heather Richards, and Finance Director Marcia Baragary.

DINNER

CALL TO ORDER: Mayor Hill called the Dinner Meeting to order at 6:25 p.m. and welcomed all in attendance.

DISCUSSION:

Mayor Hill asked for a volunteer to lead the Pledge of Allegiance and Councilor Garvin volunteered.

Planning Director Richards stated that the Affordable Housing Task Force recently reviewed the request from the County for the System Development Charge (SDC) exemptions related to Affordable Housing. Habitat for Humanity and Community Homebuilders were present at the meeting and they expressed concerns with all of the monies being used by one entity. County Commissioners voted to reduce their request to \$50,000. The program will be reviewed and brought back for revisions.

The agenda for the regular meeting was reviewed.

Finance Director Baragary noted that in 2014 voters approved \$24 million of general obligation debt with proceeds to be used for transportation projects. She explained that the City has issued

approximately \$16 million in general obligation bonds in April 2015, and that the City is at a point where it is appropriate to issue the remaining bonds.

Community Development Director Bisset discussed the vacation process. He noted that abutting property owners have not agreed to the Edmunston Street vacation. Community Development Director Bisset noted that there were eight responses received in opposition of the vacation. Councilor Jeffries shared that he will be recusing himself from the Edmunston Street vacation agenda item since the applicant is his Uncle.

Discussion ensued regarding Marijuana Tax Collection revenues.

ADJOURNMENT: The Dinner Meeting adjourned at 6:46 p.m.

Melissa Grace, Recording Secretary

CITY OF McMinnville
MINUTES OF REGULAR MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, October 10, 2017, at 7:00 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Melissa Grace

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Remy Drabkin	
	Adam Garvin	
	Kellie Menke, Council President	
	Kevin Jeffries	
	Alan Ruden	
	Wendy Stassens	

Also present were City Manager Jeff Towery, City Attorney David Koch, Planning Director Heather Richards, Community Development Director Mike Bisset, Finance Director Marcia Baragary, Parks and Recreation Director Susan Muir, Information Systems Director Scott Burke, and Police Chief Matt Scales.

AGENDA ITEM

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:00 p.m. and welcomed all in attendance.

2. PLEDGE OF ALLEGIANCE: Councilor Garvin led the Pledge of Allegiance.

3. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Hill invited the public to comment.

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Tim Cross, 1102 SW Russ Lane, displayed a map of the residences surrounding Edmunston. He noted a line of trees that divides the two properties and stated that he has been maintaining the trees surrounding his property as it provides a vegetative wall. He displayed a map of the topography. He shared that trees overhang his property and that they have been trimming the limbs. He noted that if the property was vacated they would have to walk additional 1/3 of a mile to get into town or the library. He felt Mr. Anderson has not shown any injury that needs to be remedied. Mr. Cross also stated that he would incur considerable, immediate and

significant damage immediately as a result of the loss of the ability to maintain the forested natural area.

Mary Cross, 1102 SW Russ Lane, she stated that her house was designed so that it would have a natural screen. She stated the screen of trees are integral to her home and that the value of her home would be significantly diminished if the trees were replaced with a wall. Ms. Cross stated that she has been reassured before they bought and since that time that a vacation could not take place without 2/3 of the adjacent property owners agreeing to a vacation of the right of way. She added that they relied on that information as they have invested a lot of money into their home and property. Ms. Cross felt that if Planning and Zoning knew that there was something special about the property, they had an obligation to tell them. She stated that the right of way serves a definite public good; it gives the neighbors a shortened walk where they do not have to go on a busy street and that it provides a wildlife habitat. Ms. Cross added that she thought the process felt extremely intimidating. She shared that Mr. Anderson came to her home with Councilor Jeffries and that they were unaware that he was coming. She stated that Councilor Jeffries disclosed that he was related to Mr. Anderson by marriage and that she was then told that they should sign papers. She then shared that a mediation took place and she was very uncomfortable when City Attorney Koch and Community Development Director Bisset were present at the mediation. She expressed concern that the process did not feel good and that they were very intimidated and that they felt it was a done deal. She added that it maybe a perception on their part that's unfair but that's what it felt like. She noted that she does respect the City government and employees but wanted to let Council know that the process did not feel good.

Jose Rodriguez, 1116 SW Russ Lane, stated that he and his wife moved to McMinnville four years ago. They found their property which was beautiful and perfect and he stated that it was disclosed to them at that time that the house had been through a vacation process before and that the Council decided against vacation. He said that information was instrumental in their decision to buy the property. He shared that they have invested money into upgrading their home and that he feels that their home will be devalued if a vacation were to take place. He stated that he does not know what Mr. Anderson's intentions are because it has not been disclosed to him. He felt that he has committed himself to the City of McMinnville and that he serves on non-profits and volunteers in the community. He stated that the vacation process has been distasteful and that the City Council has gone through a process before and that the prior decision should be upheld. Mr. Rodriguez stated that he will be impacted if the property is vacated.

Mary Ann Rodriguez, 1116 SW Russ Lane, expressed her opposition to Resolution 2017-66. She stated that she and her husband are adjacent property owners and that they will have substantial loss to their property if the City vacates the property. She described the landscape and natural beauty setting. She expressed her concerns for not knowing what the use would be for the property and she stated that her property would possibly be devalued. She told that Council that as of 2015 it became the City's responsibility to have damages assessed. She said she was guaranteed by the Planning Department and Realtors that the property in question would not be vacated without a 2/3 vote of the adjacent property owners in favor of the vacation. She said that it is a top down approach rather than having the neighbors work together to find a solution. She felt that it is a different kind of feel to the government than she has experienced in McMinnville. She asked the Councilors to consider how it will impact the community which they serve.

Jan Iverson, 1033 SW Courtney Lane Drive, noted that she lives in a gated community. She stated that Russ Lane is very intimate to Forest Glenn. She stated that they like the agreements that both neighborhoods have worked out. She stated that it is a gentle and inclusive area. She shared that Edmunston Street provides a nice walk that eliminates having to walk on busy streets.

Richard Anderson, 960 SW Edmunston Street, shared that he is the person requesting the street vacation. He provided the history of the property. He stated that there is no possibility that the City will use it as a City Street. He stated that he's asking the City to recognize that and that there is a sequence of rules spelled out in law that would be followed. He stated that he would be removing weeds and blackberries which he has already been doing. He noted that there would be a maintained public path and more native plants. He stated that there would be no vehicles. He felt that the worries of his neighbors are unfounded. Discussion ensued regarding a possible retaining wall.

Jose Rodriguez, 1116 SW Russ Lane, noted that Councilor Jeffries has a personal relationship with Mr. Anderson.

4. PRESENTATION

4.a. Mid-Willamette Valley Council of Local Governments (MWVCOG)

Councilor Jeffries, MWVCOG member introduced the representatives present from the MWVCOG.

Mr. O'Day, Executive Director of the MWVCOG shared a history of his experience and explained the work of the MWVCOG. He explained that

the MWVCOG is a public entity formed in 1957 and is governed by an Intergovernmental Agreement. He shared that the primary services are community development, transportation/ GIS, Business Lending and Member Services. Mr. O'Day reviewed the membership, revenues by source, and how revenues are spent.

Renata Wakeley, Community Development Director, discussed the Economic Development District and the Mid-Willamette Valley Regional Comprehensive Economic Development Strategy (CEDS). She shared that they provide land use planning assistance, assistance with grant applications and administration, housing rehabilitation, Urban Renewal Area/ Plan Development, ADA Assessments, economic development staff meetings and Planning Commissioner trainings.

Karen Odenthal, Senior Planner at MWVCOG reviewed the transportation planning services and their roles with the Metropolitan Planning Organization (SKATS) and the Mid-Willamette Area Commission on Transportation (MWACT).

Kim Sapunar, Transportation Planner and GIS Specialist, reviewed the various services provided and the projects that MWVOG have worked on related to Yamhill County. She noted that MWVOG has done the redistricting for the City of McMinnville.

Mr. O'Day reviewed the small business loan program. He noted that they have access to all major government loan programs. They also help cities administer local revolving loan programs. He shared that they have a very active loan program.

Mr. O'Day continued discussing the member services: executive level recruitments and background check services, evaluations for positions that report to the City Council such as the City Manager and City Attorney, goal setting/ facilitation for Councils, Charter review and update assistance, customized training, new Councilor Orientation, Technical Assistance, CEO evaluation Coordination, and other services as requested. He shared future services that may be expanded based on a listening tour Mr. O'Day recently conducted including human resource services, enhanced training, legal services, enhanced grant services and regional advocacy. He stated that he will be taking feedback back to the MWVCOG Board.

Discussion ensued regarding the MWVCOG lending program, outreach to members, and a strategic planning coordinator shared position which will be housed at the COG and will be shared and paid for by specific jurisdictions.

Mayor Hill noted that the flowers at the dais were provided by Hands and Words are not for hurting.

5. RESOLUTIONS

- 5.a. **Resolution No. 2017-65:** A Resolution of the City of McMinnville, Yamhill County, Oregon authorizing the issuance, sale and delivery of general obligation bonds; designating an authorized representative; authorizing execution of the bonds and related matters.

Finance Director Baragary stated that in November 2014, the McMinnville voters approved \$24 million of general obligation debt with proceeds to be used for street improvement projects. She stated that the City issued \$16,085,000 in general obligation bonds in April 2015. The Bond proceeds are being spent on design and construction of a number of projects, including 1st and 2nd Street pedestrian improvements, street resurfacing, and 2nd Street, 5th Street, and Alpine Avenue improvements.

Kieu-Oanh Nguyen, Municipal Advisor at pfm stated that there are \$7,915,000 remaining in general obligation debt to be issued. Ms. Nguyen shared that rates are still favorable. She explained the two options of public sale versus bank placement. She stated that the two methods were comparable and noted that if the City were to do a public sale an offering statement would need to be conducted, more staff time would required and these funds are being received very well right now. She explained that she estimates that the premium would be \$647,000.

Discussion ensued regarding staff time that it would take to prepare the official statements. Finance Director Baragary stated that there would be time required for gathering information for the official statement but with the help of staff and advisors this work could be done. Community Development Director Bisset shared that they will get the projects completed within their budgets and constraints and if there are additional resources available there are other projects that may come in higher than anticipated that they could use the funds on.

Discussion ensued regarding ratings. Ms. Nguyen stated the City was well positioned for good financing.

Councilor Garvin MOVED to adopt Resolution No. 2017-65 authorizing the issuance, sale and delivery of general obligation bonds; designating an authorized representative; authorizing execution of the bonds and related matters; SECONDED by Councilor Ruden. Motion PASSED unanimously.

5.b.

Resolution No. 2017-66: A Resolution initiating the proceedings and setting a date and time for a public hearing to vacate a portion of SW Edmunston Street (RV 2-17).

Councilor Jeffries recused himself from the discussion stating a conflict of interest. He stepped away from the dais.

Community Development Director Bisset explained the processes for vacation of public right of way. He stated that Richard Anderson has requested that the City Council initiate the vacation of a portion of the SW Edmunston Street right of way west Cozine Creek, and a portion of an unnamed right of way south of SW Edmunston Street.

Mr. Bisset stated that public notice went to the area residents. He noted that there were 22 pages of testimony from neighbors in opposition of the vacation.

Council Garvin asked about the best public interest.

Mr. Bisset explained that the best public interest requirement is only under the citizen initiated process. He reviewed the City-initiated process.

Discussion ensued regarding the vacation process for returning property as outlined in statute. He explained how Mr. Anderson could do a boundary line adjustment.

City Attorney Koch explained that the Council would determine if it is in the public interest to vacate. Mr. Bisset added that the Council may also consider future interest.

Councilor Drabkin noted that Mr. Anderson brought this before the City approximately two years ago. She stated she was taken off-guard by the amount of comments by surrounding property owners. She expressed her concerns. She felt that it is a neighborhood disagreement that the City does not need to interject itself in at this time. She stated that she does not see the greater good.

Discussion ensued regarding possible erosion Mr. Anderson is experiencing and the topography of the property.

Councilor Ruden MOVED to adopt Resolution No. 2017-66 initiating the proceedings and setting a date and time for a public hearing to vacate a portion of SW Edmunston Street (RV 2-17); SECONDED by Council President Menke. AYES: Council President Menke and Councilor Ruden. NAYS: Councilor Drabkin, Councilor Garvin and Councilor Stassens. The motion FAILED by a vote of 3-2.

6. CONSENT AGENDA

- a. Consider the Minutes of the September 12, 2017 - Dinner and Regular City Council Meeting, September 18, 2017 -Special Called City Council Meeting and September 26, 2017 - Dinner and Regular City Council Meeting.
- b. Consider OLCC Liquor License application for winery “second location” for Oregon Synergy Partners, LLC (Retour Wine Company) located at 336 NE Davis Street.
- c. Consider OLCC Liquor License application for limited on-premises sales for The Blue Quail located at 701 NE 3rd Street.
- d. Consider OLCC Liquor License application for winery “no consumption” for Gusty Farm Estate Vineyard and Winery, LLC located at 2803 NE Orchard Ave.

Councilor Jeffries MOVED to adopt the consent agenda; SECONDED by Councilor Garvin. Motion PASSED unanimously.

7. REPORT ON STRATEGIC PLANNING

City Manager Towery provided a rough timeline of the Strategic Planning process and noted that the economic development strategy scope of work Request for Proposals (RFP) went out yesterday and that the RFP would go out for the Strategic Planning portion would go out soon. He felt that it is reasonable to assume that Consultants would be hired by the end of the year. Mr. Towery discussed the stakeholder feedback process. He encouraged Council to be thinking about who they would like to be on the Project Advisory Committee and what their involvement would look like.

Mayor Hill shared that stakeholder involvement is a good place to begin and expressed his confidence in the outlined process.

8. ADVICE/ INFORMATION ITEMS

8. a. Reports from Councilors on Committee and Board Assignments

Councilor Drabkin stated that the Housing for Homeless subcommittee of the Affordable Housing Task Force met yesterday. They are advancing a couple of plans and also received an update from a group that is working on relieving homeless Veterans. The Affordable Housing Task Force met two weeks ago and that progress is being made with Cottage codes, Accessory Dwelling Units, and Emergency Shelter programs.

Council President Menke noted that there is a possibility that a Teen Center may be opened.

Councilor Ruden stated that there is a possibility of eliminating the individual utility services for Accessory Dwelling Units. He stated that the Historic Landmarks Committee is a vibrant committee.

Councilor Stassens shared that the McMinnville Urban Renewal Advisory Committee (MURAC) recently met and reviewed the loan agreement with Atticus Hotel, they received an update on Alpine Avenue and cost effective solutions that may address parking discoveries. She discussed the streetscape plan for the Alpine area.

Councilor Garvin noted that the Yamhill Communications Agency (YCOM) has not met in a few months but will be meeting next week. The CAD upgrade project is moving forward and is the largest agency project since 2008. He shared that it is expected to go live October 2018. He shared that YCOM is still working on text capabilities for 911 services. He stated that there will be text capabilities once the upgrade is complete. Councilor Garvin also noted the Downtown Safety Task Force that was recently formed will be meeting soon.

Council President Menke shared that Visit McMinnville received a \$20,000 Travel Oregon grant for website updates. She shared the other grants received and noted that Visit McMinnville received a lot more money than they expected from Transient Lodging Taxes.

Mayor Hill provided an update on the Parkway Committee and shared that they are working on the funding gap for the next phase of the bypass. He shared that the Landscape Review Committee is a long-standing committee with a lot of expertise. The Yamhill Community Emergency Management group meets soon and an expert will be coming in to discuss preparedness related to weather events. McMinnville Water and Light is in the process of hiring a General Manager. McMinnville Water and Light is also in negotiations with the City of Lafayette for water services.

8.b.

Department Head Reports

Police Chief Scales noted that Rhonda Sandoval was promoted to Captain. Two officers graduated from the Police Academy last Friday. A conditional offer has been extended to a Park Ranger for a full time position. He shared that the US Secretary of Education will be in town tomorrow and the Police Department and the Police Department has been

preparing the last couple of days. The Downtown Safety Task Force will be meeting soon.

Parks and Recreation Director Muir shared data related to the Shower Voucher Program at the Community Center: 1,600 showers took place from January to August. She noted that the Community Center provides a clean and safe shower in the community.

Information Systems Director Burke described a security project that his department is working on with the Police Department.

Planning Director Richards shared that an RFP was sent out for historic preservation work based on a grant that was received. She noted that they selected a well-known consultant and a historic preservation plan will be created. She shared that it will be a community-wide effort. She also shared that the Planning Department is also applying for a grant with the Department of Land Conservation and Development to get funds to conduct a housing needs analysis and buildable land inventory. She noted that this should be updated every five years and are the foundation of long-term planning and is also one of the actions in the Affordable Task Force action plan.

City Manager Towery shared that he will be out of town October 19th – 25th for the annual International City Managers Association (ICMA) conference. It will be his last meeting as an ICMA Executive Board Member.

9. ADJOURNMENT: Mayor Hill adjourned the Regular City Council Meeting at 9:12 p.m.

Melissa Grace, City Recorder



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

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: October 11, 2017
TO: Jeff Towery, City Manager
FROM: Mike Bisset, Community Development Director
SUBJECT: ODOT Fund Exchange Agreement No. 32411

Council Goal:

Plan and Construct Capital Projects

Report in Brief:

This action is the consideration of a resolution authorizing the approval of a cooperative fund exchange agreement between the City of McMinnville and Oregon Department of Transportation (ODOT) known as 2017 Fund Exchange Agreement, No. 32411

Background:

In 2013, the City entered into a Oregon Transportation Infrastructure Bank (OTIB) loan agreement (attached) with the State of Oregon to cover the City's \$3,209,600.00 portion of the Newberg-Dundee Bypass project. Section 2.10 of the loan agreement allows of the use of the City's federal transportation fund allotment to cover the loan principal and interest payments.

Discussion:

The attached 2017 Fund Exchange Agreement No. 32411 provides for the exchange of \$201,248 of the City's federal allocation to cover the City's 2018 OTIB loan principal and interest payment, which will be due in January 2018. Per the agreement, the City will receive \$100 in state funds for every \$100 of federal funds exchanged.

Attachments:

1. Proposed Resolution
2. ODOT Fund Exchange Agreement No. 32411
3. Oregon Transportation Infrastructure Bank (OTIB) loan agreement

Recommendation:

Staff recommends that the City Council adopt the attached resolution authorizing the City Manager to execute 2017 Fund Exchange Agreement No. 32411.

RESOLUTION NO. 2017 - _____

A Resolution authorizing the approval of a cooperative fund exchange agreement between the City of McMinnville and Oregon Department of Transportation (ODOT) known as 2017 Fund Exchange Agreement, No. 32411.

RECITALS:

The Oregon Department of Transportation allows the City to exchange its allocation of Federal Transportation Funds for State revenues. It is to the City's benefit to exchange the funds because the requirements attached to Federal projects do not apply to State revenues.

The agreement will provide for the exchange of \$201,248 of the City's federal allocation to cover the City's 2018 Oregon Transportation Infrastructure Bank loan principal and interest payment (Newberg-Dundee Bypass project). Per the agreement, the City will receive \$100 in state funds for every \$100 of federal funds exchanged.

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

1. That entry into an agreement with the State of Oregon, Department of Transportation, for the exchange of the City's \$201,248 allocation of Federal Highway Funds for \$201,248 of State funds is approved.
2. The City Manager is hereby authorized and directed to execute the agreement between the State of Oregon, acting by and through its Department of Transportation, and the City of McMinnville.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a meeting held the 24th day of October 2017 by the following votes:

Ayes: _____

Nays: _____

Approved this 24th day of October 2017.

MAYOR

Approved as to form:

CITY ATTORNEY

2017 FUND EXCHANGE AGREEMENT

Newberg-Dundee Bypass Project (Phase 1)
Oregon Transportation Infrastructure Bank (OTIB) Loan #0048
City of McMinnville

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and CITY OF McMINNVILLE, acting by and through its designated officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572, and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Agency has submitted a completed and signed Part 1 of the Project Prospectus, or a similar document agreed to by State, outlining the schedule and costs associated with all phases of the Newberg-Dundee Bypass (Phase 1) OTIB Loan payment project, hereinafter referred to as "Project."
2. State has reviewed Agency's prospectus and considered Agency's request for the Fund Exchange. State has determined that Agency's Project is eligible for the exchange of funds.
3. To assist in funding the Project, Agency has requested State to exchange 2017 federal funds, which have been allocated to Agency, for state funds based on the following ratio:

\$100 state for \$100 federal
4. Based on this ratio, Agency wishes to trade \$201,248 federal funds for \$201,248 state funds.
5. The term of this Agreement will begin upon execution and will terminate two (2) calendar years later, unless extended by an executed amendment.

6. The Parties agree that the exchange is subject to the following conditions:
- a. The federal funds transferred to State may be used by State at its discretion.
 - b. State funds transferred to Agency must be used for the Project. This Fund Exchange will provide funding for specific roadway projects and may also be used for the following maintenance purposes:
 - i. Purchase or Production of Aggregate. Agency shall ensure the purchase or production of aggregate will be highway related and used exclusively for highway work.
 - ii. Purchase of Equipment. Agency shall clearly describe how it plans to use said equipment on highways. Agency shall demonstrate that the equipment will only be used for highway purposes.
 - c. State funds may be used for all phases of the Project, including preliminary engineering, right of way, utility relocations and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible to account for expenditure of state funds.
 - d. This Fund Exchange shall be on a reimbursement basis with state funds limited to a maximum amount of \$201,248. All costs incurred in excess of the Fund Exchange amount will be the sole responsibility of Agency.
 - e. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
 - f. Agency, and any contractors, shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
 - g. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530, and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to

the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

- h. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; purchase all necessary right of way in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.
- i. Agency shall submit invoices to State on a monthly basis, for actual costs incurred by Agency on behalf of the Project directly to State's Project Manager for review and approval. Such invoices will be in a form identifying the Project, the Agreement number, the invoice number or account number or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$201,248, including all expenses. Travel expenses will not be reimbursed.
- j. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and service demand.
- k. All employers, including Agency, that employ subject workers in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its subcontractors complies with these requirements.
- l. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
 - i. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - A. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - B. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State

fails to correct such failures within ten (10) days or such longer period as State may authorize.

- ii. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by the terminating Party, under any of the following conditions:
 - A. If either Party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow either Party, in the exercise of their reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - B. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.
 - iii. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 - m. State and Agency agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
7. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
8. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

10. This Agreement and attached exhibits, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The funding for this Fund Exchange program was approved by the Oregon Transportation Commission on July 20, 2017 as a part of the 2018-2021 Statewide Transportation Improvement Program (STIP).

The Program and Funding Services Manager approved the Fund Exchange on June 7, 2017.

SIGNATURE PAGE FOLLOWS

CITY OF McMINNVILLE, by and through
its designated officials

By _____
City Manager

Date _____

APPROVED AS TO LEGAL FORM

By _____
City Legal Counsel

Date _____

Agency Contact:

Mike Bisset, Community Development Director
City of McMinnville
231 NE Fifth Street
McMinnville, OR 97128
Phone: (503) 434-7312
Email: bissetm@ci.mcminnville.or.us

STATE OF OREGON, by and through its
Department of Transportation

By _____
Region 2 Manager

Date _____

By _____
Region 2 Planning and Development
Manager

Date _____

By _____
Region 2 Special Program Coordinator

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

Agency Contact:

Shelly White-Robinson, Acting Special
Program Coordinator
ODOT, Region 2
455 Airport Road SE, Bldg. B
Salem, OR 97301
Phone: (503) 986-6925
Email: shelly.white-robinson@odot.state.or.us

Loan Agreement

Between

State of Oregon acting by and through its Department of Transportation

And

City of McMinnville

Dated July 1, 2013

THIS LOAN AGREEMENT, is made and entered into effective on the 1st day of July, 2013, by and between the State of Oregon, acting by and through its Department of Transportation (the "State"), and the Borrower (as defined below). The reference number for this Loan Agreement is OTIF-0048. Terms not otherwise defined herein shall have the meanings assigned to them by Section 1.01 of this Loan Agreement.

WITNESSETH:

WHEREAS, the State, in accordance with the Act, will provide funds in the Oregon Transportation Infrastructure Fund for the purpose of making loans to Municipalities, including the Borrower, to finance a portion of the cost of transportation projects;

WHEREAS, the Borrower, along with Other Applicants, has made timely application to the State for a loan to finance all or a portion of the construction cost of a Oregon Department of Transportation transportation project, and the Oregon Transportation Commission and the State have approved the Borrower's application for a loan to finance a portion of the construction cost of such project;

WHEREAS, the Borrower has agreed to make payments sufficient to pay when due the principal of and interest on the Loan from the State pursuant to the terms of the Note and this Loan Agreement;

NOW, THEREFORE, for and in consideration of the Loan by the State, the Borrower agrees to perform its obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein:

ARTICLE 1

DEFINITIONS

Section 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the meanings assigned to them below:

"Act" means ORS 367.010 to 367.060 and related provisions, as the same may be from time to time amended and supplemented.

"Applicants" means collectively Yamhill County, the City of McMinnville, the City of Newberg, and the City of Dundee. "Applicant" means Yamhill County, the City of McMinnville, the City of Newberg, or the City of Dundee, individually without distinction,

"Authorized Officer" means, in the case of the Borrower, the person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to act as an authorized officer of the Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement and whose name is furnished in writing to the State.

"Borrower" means the City of McMinnville, and its successors and permitted assigns.

"Borrower's Portion" means the percentage of the Costs of the Project for which Borrower is responsible as determined pursuant to Section 5.06.

"Business Day" means any day other than

(i) a Saturday, Sunday or legal holiday,

(ii) a day on which banking institutions in Salem, Oregon are closed, or

(iii) a day on which the New York Stock Exchange is closed.

"Costs of the Project" means the total costs of the Project as shown on Exhibit B to this Agreement.

"Counsel" means an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of, the State or the Borrower) duly admitted to practice law before the highest court of any state.

"Event of Default" means any occurrence or event specified in Section 7.01 hereof.

"Loan" means the loan evidenced by the Note and made by the State to the Borrower to finance or refinance a portion of the Costs of the Project pursuant to this Loan Agreement. The Loan may be funded by the State from amounts held in the OTIF.

"Loan Agreement" or "Agreement" means this loan agreement, including the Exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"Loan Closing Date" means the date on which all conditions to closing specified in Section 4.01 are satisfied by Borrower (or waived by State).

"Loan Prepayment" means, as to any payment, the amount paid by the Borrower that is in excess of the amount required to be paid as a Loan Repayment.

"Loan Repayment(s)" means the scheduled payment(s) of principal and interest required to be made by the Borrower pursuant to the provisions of the Note and this Loan Agreement.

"Maturity Date" means the date on which the Loan is payable in full, which date shall be, January 25, 2036.

"Municipality" means a city, county, road district, school district, special district, metropolitan service district or an intergovernmental entity organized under ORS 190.010.

"Note" means the promissory note of the Borrower substantially in the form of Exhibit D, as it may be amended, extended or renewed.

"Other Applicants" means the Applicants other than the Borrower.

"ODOT" means the Oregon Department of Transportation.

"Oregon Transportation Infrastructure Bank" or "OTIB" means the program authorized by Section 350 of the National Highway System Designation Act of 1995, 23 U.S.C. 101 note, Public Law 104-59, and a cooperative agreement between the Federal Highway Administration, Federal Transit Administration, of the United States Department of Transportation and the Oregon Department of Transportation dated August 20, 1996.

"Oregon Transportation Infrastructure Fund" or "OTIF" means the fund created by the Act. Loans from the OTIF may include OTIB loans or loans to finance transportation projects from any accounts established within the OTIF.

"Project" means the transportation project of ODOT described in Exhibit A, a portion of the Costs of the Project of which is financed or refinanced by the State through the making of the Loan under this Loan Agreement.

"Project Completion Date" means the earlier of

(i) the date on which all of the proceeds of the Loan, including any investment earnings derived from the investment of such proceeds, have been spent; or

(ii) the date on which ODOT completes construction of the Project; or

(iii) December 1, 2016.

"Project Completion Deadline" means December 1, 2016.

"Rule" or "Rules" means Oregon Administrative Rules, chapter 731, division 30, as they may be supplemented, modified or amended from time to time.

"State" means the State of Oregon, acting by and through its Department of Transportation.

"Transportation project" has the meaning assigned to that term by the Rule.

Section 1.02. General Rules. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

ARTICLE II

LOAN

Section 2.01. Loan Amount. On the Loan Closing Date the State hereby agrees to make to the Borrower, and the Borrower agrees to borrow and accept from the State, a Loan in the maximum aggregate principal amount of Three Million Two Hundred Nine Thousand Six Hundred and No/100 Dollars (\$3,209,600.00). A disbursement under this Loan Agreement shall not exceed the product of the Borrower's Portion multiplied by the amount of the disbursement request.

Section 2.02. Use of Loan Proceeds. The Borrower shall use the proceeds of the Loan strictly in accordance with Section 5.01 hereof. Borrower shall be responsible to pay a portion of only those specified construction costs incurred by ODOT that are listed in Exhibit B which do not include

- (i) costs in excess of one-hundred percent (100%) of the total cost of the Project,
- (ii) the purchase of equipment and other property not directly related to the Project,
- (iii) construction or repair of facilities owned or operated by private parties,
- (iv) costs incurred prior to the date of the Loan, except as provided in Section 5.01,
- (v) administrative and oversight expenses of the Borrower or the Oregon Department of Transportation not related to the construction of the Project, and
- (vi) design and preliminary construction engineering costs related to the Project.

Section 2.03. Loan Term. The term of the Loan is set forth in the Note. The term of the Loan commences on the date of the first disbursement of the Loan and ends on the Maturity Date, which is January 25, 2036.

Section 2.04. Interest. The principal balances due under the Note shall bear interest at the rate of Two and 26/100 percent (2.26%) per annum. Interest shall be computed on the basis of a 360-day year, consisting of twelve (12), thirty (30) day months. Interest shall be due and payable in arrears and shall accrue on the outstanding principal balance from the date hereof until the principal amount of the Note, together with accrued unpaid interest thereon, is paid in full.

Section 2.05. Loan Repayments.

The Loan shall be due and payable in scheduled payments as set forth in the Note.

Section 2.06. Loan Prepayments; General.

(a) *Optional Prepayment* Subject to the following terms and conditions, the Borrower may make Loan Prepayments upon prior written approval of the State:

(1) The Borrower shall provide prior written notice of not less than one hundred twenty (120) days to the State; and

(2) The Borrower shall pay to the State all or a portion of the principal amount of the Loan outstanding plus the unpaid interest accrued on such amount to the date of prepayment.

(b) *General.* Loan Repayments and Loan Prepayments shall be applied first to any accrued interest (in the case of Loan Prepayments, on the portion of the Loan prepaid), and then to principal payments on the Loan. In the case of a Loan Prepayment that does not prepay all the principal of the Loan, the State shall determine, in its sole discretion, the method by which such Loan Prepayment shall be applied to the outstanding principal payments.

Section 2.07. Unconditional Obligation. Except as provided in Section 2.10, the obligation of the Borrower to make the Loan Repayments and all other payments required hereunder and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part contained herein is payable solely from the sources of repayment described in Section 2.10 hereto and shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments under this Loan Agreement remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of the purpose, any change in the laws of the United States of America or of the State of Oregon or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the State to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project, this Loan Agreement, the State's loan agreement with any Other Applicant, or any intergovernmental agreement related to the Project or any rights of set off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the State, or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights. The Borrower shall not be obligated to make any payments required to be made by any other Applicants or any Municipality, or any other borrower under any separate loan agreement.

Section 2.08. Disclaimer of Warranties and Indemnification. The Borrower acknowledges and agrees that:

(a) the State makes no warranty or representation, either expressed or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portions thereof or any other warranty or representation with respect thereto;

(b) in no event shall the State or its commissioners, officers, agents or employees be liable or responsible for any direct, incidental, indirect, special, consequential, punitive or other damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the Project; and

(c) to the extent authorized by law, the Borrower shall indemnify, save, hold harmless and defend the State and its commissioners, officers, agents and employees, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Borrower or its officers, employees, agents or subcontractors pursuant to the terms of this Loan Agreement; provided, however, that the provisions of this clause (c) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to Chapter 30 of the Oregon Revised Statutes or the laws of the United States of America or other laws of the State of Oregon.

Section 2.09. Termination of Availability Hereunder. Ninety (90) days after the Project Completion Deadline, the State's obligation to make any further disbursements of the Loan hereunder shall terminate.

Section 2.10. Sources of Repayment of Borrower's Obligations.

(a) The State and the Borrower agree that the amounts payable by the Borrower under this Loan Agreement, including, without limitation, the amounts payable by the Borrower pursuant to Section 2.05, Section 2.06, Section 2.08(c) and Section 7.04 of this Loan Agreement, are payable from the sources of repayment described in subsections (b) and (c) of this Section 2.10. Nothing herein shall be deemed to prevent the Borrower from paying the amounts payable under this Loan Agreement from any other legally available source.

(b) The amounts payable by the Borrower under this Loan Agreement are payable from the following:

(i) Borrower's federal surface transportation program allocation being exchanged for state funding on a dollar for dollar basis without deduction;

(ii) Borrower's proceeds from the Jobs and Transportation Act;

(iii) Any other funds payable from the Oregon Department of Transportation to Borrower; and

(iv) Any other funds legally available to the Borrower.

(c) The Borrower acknowledges that the State of Oregon is entitled to withhold any amounts due to the Borrower from the State of Oregon, including but not limited to any amounts due to the Borrower from the State of Oregon pursuant to ORS 366.785 to 366.820, and to apply

any such amounts to payments due under this Loan Agreement if the Borrower defaults on payments due under this Loan Agreement.

Section 2.11. Loan Fee. The Borrower shall pay to the State a one-time loan fee equal to one percent (1%) of the Loan. This fee shall be in addition to any interest charged on the Loan. The Borrower may elect to (check the appropriate box):

☐

Pay the entire amount of this loan fee on the Loan Closing Date; or

☒

Authorize the State to deduct the loan fee from the Loan proceeds disbursed to Borrower;

provided however that if the Loan is not fully disbursed, the State shall refund to the Borrower the portion of the loan fee allocated to the undisbursed portion of the Loan.

Section 2.12. Late Fee. If the payment of any Loan Repayment required under the Note is delinquent more than fifteen (15) days, the Borrower shall pay to the State a late charge of five percent (5%) of the delinquent Loan Repayment in addition to the Loan Repayment due under the Note.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF BORROWER

The Borrower represents and warrants to the State as follows:

Section 3.01. Organization and Authority.

(a) The Borrower is a Municipality.

(b) Based on information received from ODOT and to the best of Borrower's knowledge, the Oregon Department of Transportation (ODOT), the entity that will own, manage and operate the Project for which the Borrower is providing funding hereunder for the Borrower's Portion of the Costs of the Project, has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Project, other than licenses and permits relating to the Project which the ODOT expects to receive in the ordinary course of business, to carry on its activities relating thereto, and to undertake and complete the Project.

(c) Based on information received from ODOT and to the best of Borrower's knowledge, the Project is a project which ODOT may undertake pursuant to Oregon law and for which the Borrower is authorized by law to borrow money.

(d) The proceedings of the Borrower's governing members and voters, if necessary, approving this Loan Agreement and the Note and authorizing the execution, issuance and

delivery of this Loan Agreement and the Note on behalf of the Borrower and authorizing Borrower to finance the Borrower's Portion of the Costs of the Project have been duly and lawfully adopted in accordance with the laws of Oregon, and such proceedings were duly approved and published, if necessary, in accordance with applicable Oregon law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Oregon law and at which quorums were present and acting throughout.

(e) This Loan Agreement and the Note are duly authorized by a resolution or ordinance of the Borrower which was adopted in accordance with ORS 367.035(4) and in accordance with applicable law and the Borrower's requirements for filing public notices and holding public meetings.

(f) This Loan Agreement and the Note have been duly authorized, executed and delivered by an Authorized Officer of the Borrower, and, assuming that the State has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered, this Loan Agreement, this Loan Agreement and the Note constitute the legal, valid and binding obligation of the Borrower in accordance with its terms.

(g) Based on information received from ODOT and to the best of Borrower's knowledge, the information contained in Exhibit A and Exhibit B is true and accurate in all respects.

Section 3.02. Full Disclosure. There is no fact that the Borrower has not disclosed to the State in writing, on the Borrower's application for the Loan or otherwise, that materially adversely affects the properties, activities, prospects or the condition (financial or otherwise) of the Borrower or the ability of the Borrower to finance the Borrower's Portion of the Costs of the Project or make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement. Neither the Borrower's application for the Loan nor the Borrower's representations and warranties in this Loan Agreement contain any untrue statement of a material fact or omits any statement or information which is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Based on information received from ODOT and to the best of Borrower's knowledge, there is no fact that the Borrower has not disclosed to the State in writing, on the Borrower's application for the Loan or otherwise, that materially adversely affects the properties, activities, prospects or the condition (financial or otherwise) of the Project

Section 3.03. Pending Litigation. There are no proceedings pending, or, to the knowledge of the Borrower threatened, against or affecting the Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect

(a) The Project or the Borrower's ability to finance Borrower's Portion of the Costs of the Project,

(b) Properties, activities, prospects or the condition (financial or otherwise) of the Borrower or

(c) The ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

Section 3.04. Compliance with Existing Laws and Agreements. The authorization, execution and delivery of this Loan Agreement by the Borrower, the observation and performance by the Borrower of its duties, covenants, obligations and agreements hereunder and the consummation of the transactions provided for in this Loan Agreement, and the financing by Borrower of the Borrower's Portion of the Costs of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Borrower pursuant to, any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than any lien and charge arising under this Loan Agreement or any of the documents related hereto) to which the Borrower is a party or by which the Borrower or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, resolutions, rules, regulations or court orders to which the Borrower or its properties or operations is subject.

Section 3.05. No Defaults. No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it or its properties may be bound, which violation would materially adversely affect the

(a) Project,

(b) Properties, activities, prospects or the condition (financial or otherwise) of the Borrower or

(c) The ability of the Borrower to finance the Borrower's Portion of the Costs of the Project or to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

Section 3.06. Governmental Consent. The Borrower has obtained or will obtain all permits and approvals required by any governmental body or officer for the making, observance or performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or for Borrower providing the financing (or refinancing thereof) for the Borrower's Portion of the Costs of the Project; and the Borrower has complied or will comply with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or Borrower providing the financing (or refinancing thereof) for the Borrower's Portion of the Costs of the Project. No consent, approval or authorization of, or filing,

registration or qualification with, any governmental body or officer that has not been obtained is required on the part of the Borrower as a condition to the authorization, execution and delivery of this Loan Agreement.

Section 3.07. Compliance with Law. The Borrower:

Is in compliance with all laws, ordinances, rules and regulations to which it is subject, non-compliance with which would materially adversely affect the condition (financial or otherwise) of the Borrower or the ability of the Borrower to provide financing for the Borrower's Portion for the Costs of the Project.

Section 3.08. The Project.

(a) Based on information received from ODOT and to the best of Borrower's knowledge, the Project is feasible. There will be adequate funds available to repay the Loan.

(b) Based on information received from ODOT and to the best of Borrower's knowledge, the Project is in compliance with the Rules.

Section 3.09. Costs of the Project.

(a) Based on information received from ODOT and to the best of Borrower's knowledge, costs of the Project is a reasonable and accurate estimation.

(b) The principal amount of the Loan is not in excess of the Borrower's Portion of the Costs of the Project.

Section 3.10. Term of the Loan. Based on information received from ODOT and to the best of Borrower's knowledge, the term of the Loan is not in excess of the useful life of the Project.

ARTICLE IV

CONDITIONS TO LOAN AND DISBURSEMENTS

Section 4.01. Conditions Precedent to Loan. The State shall be under no obligation to make the loan pursuant to the terms hereof unless the Borrower delivers to the State, on or prior to June 30, 2013, the following documents in form and substance satisfactory to the State and its Counsel:

(a) An opinion of Borrower's Counsel to the effect that:

(i) The Borrower is duly formed and operating under applicable State of Oregon law,

(ii) The Borrower has full legal right and authority to execute and deliver the Loan Agreement and to observe and perform its duties, covenants, obligations and agreements hereunder and to provide financing for the Borrower's Portion of the Costs of the Project,

(iii) The Loan Agreement has been authorized pursuant to official action of the Borrower that has been adopted and authorized in accordance with applicable Oregon law,

(iii) The Loan Agreement has been duly authorized and executed and delivered by Authorized Officers of the Borrower and constitutes the legal, valid and binding obligations of the Borrower enforceable in accordance with its terms,

(iv) The authorization, execution and delivery of the Loan Agreement by the Borrower, the observation and performance by the Borrower of its duties, covenants, obligations and agreements hereunder, the consummation of the transactions contemplated herein and the financing by the Borrower of the Borrower's Portion of the Costs of the Project do not and will not contravene any existing law, rule or regulation or any existing order, injunction, judgment, or decree of any court or governmental or administrative agency, authority or person having jurisdiction over the Borrower or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing agreement to which the Borrower is a party or by which the Borrower or its property or assets is bound,

(v) All approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required on the part of the Borrower in connection with the authorization, execution, delivery and performance of the Loan Agreement and its undertaking to provide a portion of the financing for the Project have been obtained or made to the extent it is possible to obtain or make them on or prior to the Loan Closing Date, and

(vi) There is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State of Oregon or federal) questioning the creation, organization or existence of the Borrower, the validity, legality or enforceability of the Loan Agreement or the Borrower's authority to finance Borrower's Portion of the Costs of the Project (such opinion or portions of such opinion may be given by one or more counsel).

(b) Counterpart of this Loan Agreement duly executed and delivered by an Authorized Officer of the Borrower;

(c) The Note duly executed and delivered by an Authorized Officer of the Borrower;

(d) Copy of the official action of the governing body of the Borrower authorizing the execution and delivery of this Loan Agreement and the documents, instruments and agreements required by this Loan Agreement, certified by an Authorized Officer of the Borrower;

(e) Such other certificates, documents, opinions and information as the State may require.

Section 4.02. Conditions to Disbursement.

(a) On the Loan Closing Date, the State will authorize disbursement of Loan funds in the amount of Borrower's Portion of the Costs of the Project incurred by ODOT that will be reimbursed by Borrower pursuant to Section 5.06. If, as of the Loan Closing Date, the Project is not completed and the aggregate amount of the Loan disbursed is less than the maximum Loan amount available under Section 2.01, the State shall make subsequent Loan disbursements directly to ODOT on the 15th day of each quarter following initial Loan disbursement, each in an amount equal to Borrower's Portion of the Costs of the Project incurred during the previous quarter. Such quarterly disbursements shall continue until the earlier of (a) the date the Project is completed, (b) the Project Completion Deadline or (c) the date there is no further availability under this Loan Agreement. The State's obligation to make any disbursement is subject to satisfaction of the conditions set forth in this Section 4.02, and in no event shall the aggregate of all Loan disbursements made hereunder exceed the maximum aggregate principal amount set forth in Section 2.01.

(b) The obligation of the State to make any disbursement to ODOT on behalf of the Borrower is subject to the following conditions:

(i) All the conditions set forth in Section 4.01 of this Loan Agreement have been satisfied;

(ii) There shall exist no Event of Default or event, omission or failure of a condition which would constitute an Event of Default after notice or lapse of time or both;

(iii) All representations and warranties of the Borrower made in this Loan Agreement shall be true and correct on the date of disbursement with the same effect as if made on such date;

(iv) [reserved]

(v) There is availability of sufficient moneys in the OTIF for use in the Project;
and

(vi) The State receives:

(1) A requisition executed by the Borrower in substantially the form of Exhibit F and

(2) Any other written evidence of materials and labor furnished to or performed upon the Project, itemized receipts or invoices for the payment of the same, and releases, satisfactions and other signed statements and forms as the State may require as a condition for making disbursements of the Loan. Nothing herein contained shall require the State to pay any amounts for labor or materials unless satisfied that such claims are reasonable and

that such labor and materials were actually expended and used in connection with the Project.

(c) Further, the State shall have no obligation to make any disbursement to ODOT on behalf of the Borrower if:

(i) On or before disbursement, there has been a change in the Act so that the Project is no longer eligible for financial assistance authorized by this Loan Agreement;

(ii) If ODOT does not receive sufficient funding, appropriations, limitation, allotments and other expenditure authority to allow ODOT or OTIF, in the exercise of its reasonable administrative discretion, to provide such funding;

(iii) The requisition is submitted by the Borrower after the Project Completion Deadline; or

(iv) The closing(s) for the loans to be made by the State to the Other Applicants for the Project, which together with the Loan to the Borrower total the maximum aggregate amount of \$16,000,000, have not occurred.

ARTICLE V

COVENANTS OF BORROWER

Section 5.01. Use of Proceeds. The Borrower will apply the proceeds of the Loan:

(a) To finance the Borrower's Portion of Costs of the Project; and

(b) With the advance written approval of the State, to reimburse the Oregon Department of Transportation the Borrower's Portion of Costs of the Project, which portion was paid or incurred in anticipation of reimbursement by the Borrower.

Section 5.02. Source of Repayment. The Loan shall be paid from the sources of repayment described in Section 2.10 of this Loan Agreement. Such sources shall be applied to the punctual payment of the principal of and the interest on the Loan, and all other amounts due under this Loan Agreement according to the terms hereof.

Section 5.03. Performance Under Loan Agreement. The Borrower covenants and agrees to cooperate with the State in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the State under this Loan Agreement.

Section 5.04. [reserved]

Section 5.05. Construction Accounting and Reporting to Borrower. ODOT shall keep and periodically provide construction cost accounting records pertaining to the Project to Borrower in

support of the payment requisition(s) to be made by Borrower to the ODOT in connection with the Project.

Section 5.06. Proportionality Formula for Payment Requisitions. At the time of the first payment requisition from Borrower, ODOT shall state its estimate of the total Costs of the Project. The Borrower and the Other Applicants will be paying to ODOT a portion of the Costs of the Project, which portion shall not in the aggregate exceed (in the dollar equivalent) \$16,000,000. As between the Borrower and the Other Applicants, an Applicant shall pay its portion of the aggregate payments made by all the Applicants for the Costs of the Project in accordance with the applicable percentage set forth below:

Yamhill County	64.15%
City of McMinnville	20.06%
City of Newberg	13.82%
City of Dundee	1.97%

The Borrower Portion of the Costs of the Project and the portion of the Costs of the Project for each of the Other Applicants shall be determined by multiplying the applicable percentage set forth above for an Applicant by \$16,000,000 divided by the Costs of the Project estimated by ODOT at the time of the first payment requisition. These percentages for the Borrower and the Other Applicants, as well as ODOT's share of the Costs of the Project, shall remain constant during the Project with respect to all payment requisitions. For example:

If the Costs of the Project are estimated by ODOT at the time of the first payment requisition to be \$215,497,360, then the combined share of the Costs of the Project to be paid by the Borrower and the Other Applicants for the first and all subsequent requisitions will be 7.4247 percent of the Costs of the Project up to a maximum aggregate payment of \$16,000,000. If the first requisition is in the amount of \$10,000,000, then the portion of such requisition payable by Borrower and the Other Applicants shall be \$742,470 allocated to Borrower and the Other Applicants as follows:

Yamhill County	4.76295%	\$476,294.51
City of McMinnville	1.48939%	\$148,939.48
City of Newberg	1.02609%	\$102,609.35
City of Dundee	<u>.14627%</u>	<u>\$14,626.66</u>
Totals	7.4247%	\$742,470.00

Section 5.07. [reserved]

Section 5.08. Records; Accounts. The Borrower shall keep accurate records and accounts for the revenues and funds that are the sources of repayment of the Loan (the "Repayment Revenues Records"), as a part of its other records and accounts (the "General Records"). Such Repayment Revenues Records and General Records shall be maintained in accordance with generally accepted accounting principles as established by the Government Accounting Standards Board as in effect from time to time and shall be audited annually by an independent accountant,

as part of the annual audit of the Borrower. Such Repayment Revenues Records and General Records shall be made available for inspection by the State and the federal government (including but not limited to Federal Highway Administration, Federal Transit Administration) at any reasonable time, and a copy of such annual audit(s) therefor, including all written comments and recommendations of such accountant, shall be furnished to the State within two hundred ten (210) calendar days of the close of the fiscal year being so audited.

Section 5.09. [reserved]

Section 5.10. [reserved]

Section 5.11. [reserved]

Section 5.12. Notice of Material Adverse Change. The Borrower shall promptly notify the State of any material adverse change in the properties, activities, prospects or the condition (financial or otherwise) of the Borrower or in the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

Section 5.13. [reserved]

Section 5.14. Financial Statements; Reports. The Borrower shall deliver to the State in form and detail satisfactory to the State:

(a) As soon as reasonably possible and in any event within ninety (90) days after the close of each fiscal year of the Borrower, unaudited statements of revenues, expenditures, cash flows, and changes in retained earnings for such period and for the portion of the fiscal year ended with such period, all in comparative form and all in reasonable detail and certified by the chief financial officer of the Borrower, subject to year-end audit adjustments.

(b) Such other statement or statements or reports as to the Borrower as the State may reasonably request.

Section 5.15. Compliance with Applicable Laws. ODOT will comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority that relate to ODOT's construction of the Project. In particular, but without limitation, the Borrower shall comply with the following, as applicable:

- a. The National Environmental Policy Act (NEPA), and other environmental laws and requirements;
- b. The Uniform Relocation Assistance Act (Right of Way);
- c. The Civil Rights Act of 1964 and other civil rights laws and requirements including the DBE program;
- d. The Davis Bacon Act and other labor laws and requirements;

- e. The Common Rule (49 C.F.R.19) with respect to procurement;
- f. The Brooks Act;
- g. Competitive Bidding Requirements and state labor standards and wage rates found in Oregon Public Contracting Code, ORS 279A, 279B and 279C, as applicable;
- h. Buy America;
- i. Manual of Uniform Traffic Control Devices;
- j. The Americans with Disabilities Act (ADA) and other federal and state laws prohibiting discrimination against persons with disabilities;
- k. OAR, Chapter 731, Division 30, as amended from time to time at the discretion of the State;
- l. State municipal bonding requirements found in ORS Chapters 280, 286A, and 287A.

Section 5.16. Continuing Representations. The representations of the Borrower contained herein shall be true at the time of the execution of this Loan Agreement and at all times during the term of this Loan Agreement.

ARTICLE VI

ASSIGNMENT

Section 6.01. Assignment and Transfer by State.

(a) The Borrower expressly acknowledges that, other than the right, title and interest of the State under Sections 2.08 and 7.04 of this Loan Agreement, all right, title and interest of the State in, to and under this Loan Agreement either has been or may, at the sole discretion of the State, be assigned and that if any Event of Default shall occur and if this Loan Agreement has been assigned, the assignee, shall be entitled to act hereunder in the place and stead of the State. The Borrower consents to assignment of this Loan Agreement. The Borrower is only required to observe and perform its covenants, agreements and obligations under this Loan Agreement and the Note and, if and when requested by the State, to cooperate with the State to enable the State to comply with the State's covenants, agreements or obligations arising out of such assignment. This Loan Agreement, including, without limitation, the right to receive payments required to be made by the Borrower hereunder and to compel or otherwise enforce observance and performance by the Borrower of its other duties, covenants, obligations and agreements hereunder, may be sold by the State to a third party or may be further transferred, assigned and reassigned in whole or in part by such third party to one or more assignees or subassignees at any time subsequent to its execution without the necessity of obtaining the consent of, but after giving prior written notice to, the Borrower.

In the event of the assignment of this Loan Agreement, the State shall retain the right to compel or otherwise enforce observance and performance by the Borrower of its duties, covenants, obligations and agreements under Section 3.06 of this Loan Agreement; provided, however, that in no event shall the State have the right to accelerate the outstanding balance

payable pursuant to the Loan Agreement in connection with the enforcement of Section 3.06 of this Loan Agreement.

(b) The Borrower hereby approves and consents to any assignment, sale or transfer of this Loan Agreement that the State deems to be necessary in connection with any pooled loan program of the State.

Section 6.02. Assignment by Borrower. This Loan Agreement may not be assigned by the Borrower without the prior written consent of the State. The State may grant or withhold such consent in its sole discretion. In the event of an assignment of this Loan Agreement by Borrower and assumption of the obligations hereunder, Borrower shall pay, or cause to be paid, to the State any fees or costs incurred by the State as the result of such assignment, including but not limited to, attorney fees or costs of in-house Counsel.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01. Event of Default. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) Failure by the Borrower to pay, or cause to be paid, any Loan Repayment required to be paid hereunder on the due date thereof; or

(b) Failure by the Borrower to make, or cause to be made, any required payments of principal and interest on any bonds, notes or other obligations of the Borrower for borrowed money (other than the Loan), after giving effect to the applicable grace period; or

(c) Any representation made by or on behalf of the Borrower contained in this Loan Agreement, or in any agreement, instrument, certificate or document furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect; or

(d) A petition is filed by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Borrower such petition shall be dismissed within twenty (20) calendar days after such filing, and such dismissal shall be final and not subject to appeal; or the Borrower shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including without limitation, a trustee, receiver, custodian, liquidator, or the like of Borrower or any of its property) shall be appointed by court order or take possession of the Borrower or its property or assets if such order remains in effect or such possession continues for more than thirty (30) calendar days; or

(e) [reserved]

(f) [reserved]

(g) Failure by the Borrower to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in subsections (a) through (f) of this Section, which failure shall continue for a period of thirty (30) calendar days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the State, unless the State agrees in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the State may not unreasonably withhold its consent to an extension of such time up to one hundred twenty (120) calendar days of the written notice referred to above if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Event of Default is corrected.

Section 7.02. Notice of Default. The Borrower shall give the State prompt telephone notice of the occurrence of any Event of Default referred to in Section 7.01(d) hereof and of the occurrence of any other event or condition that constitutes an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof. Any telephone notice pursuant to this Section 7.02 shall be confirmed in writing as soon as is practicable by the Borrower.

Section 7.03. Remedies on Default. Whenever an Event of Default referred to in Section 7.01 hereof shall have occurred and be continuing, the State shall have the right to take any action permitted or required pursuant to the Loan Agreement and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Borrower hereunder, including, without limitation,

(a) Declaring all Loan Repayments and all other amounts due hereunder to be immediately due and payable, and upon notice to Borrower the same shall become due and payable without further notice or demand,

(b) Appointment of a receiver,

(c) Refusal to disburse any Loan proceeds,

(d) Barring the Borrower from applying for future OTIF assistance, or

(e) Withholding other State of Oregon funds, including but not limited to, the Borrower's apportionment of State Highway Fund revenues due under ORS 366.762 to 366.768 and ORS 366.785 to 366.820, to the extent permitted by Section 2.10(c).

Section 7.04. Attorney Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Agreement shall be entitled to recover from the other its reasonable attorney fees, costs and

expenses at trial and on appeal. Reasonable attorney fees shall not exceed the rate charged to the State by its attorneys. The Borrower shall, on demand, pay to the State reasonable expenses incurred by the State in the collection of Loan payments.

Section 7.05. Application of Moneys. Except as otherwise provided in any other provision of this Loan Agreement, any moneys collected by the State pursuant to Section 7.03 hereof shall be applied in the following order:

- (a) to pay any attorney fees or other fees, costs and expenses incurred by the State,
- (b) to pay interest due and payable on the Loan, and
- (c) to pay principal due and payable on the Loan.

Section 7.06. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the State is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. To entitle the State to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article VII.

Section 7.07. Retention of State's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof or anything else to the contrary contained herein, the State shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Borrower at law or in equity, as the State may, in its discretion, deem necessary to enforce the obligations of the Borrower to the State pursuant to Sections 2.08(c), 3.06, and 7.04 hereof.

Section 7.08. Default by the State. In the event of any default by the State under any covenant, agreement or obligation of this Loan Agreement, the Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the State hereunder as may be necessary or appropriate.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Notices. All notices hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed, postage prepaid, to the Borrower and the State at the addresses set forth below or at such other address of which such party shall have notified in writing the other parties hereto:

If to the State: Oregon Department of Transportation
Financial Services -- MS21
355 Capitol St. NE
Salem, OR 97301-3871
Attn: Chief Financial Officer

If to the Borrower: City of McMinnville
230 NE Second
McMinnville, OR 97128
Attn: City Manager

Any notice so addressed and mailed shall be effective five (5) days after mailing. Any notice given by personal delivery shall be effective when actually delivered.

Section 8.02. Successors and Assigns; No Third Party Beneficiaries.

(a) This Loan Agreement shall inure to the benefit of and shall be binding upon the State and the Borrower and their respective successors and assigns.

(b) The State and the Borrower are the only parties to this Loan Agreement and are the only parties entitled to enforce its terms. Nothing in this Loan Agreement gives or provides any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name in this Loan Agreement and expressly described as intended beneficiaries of the terms of this Loan Agreement.

Section 8.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 8.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the State and the Borrower. This Loan Agreement may not be amended, supplemented or modified in a manner that is not in compliance with the Act or the Rules.

Section 8.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.06. Headings. The Section headings in this Loan Agreement are intended to be for reference purposes only and shall in no way modify or restrict any of the terms or provisions hereof.

Section 8.07. No Construction against Drafter. Both parties acknowledge that they are each represented by and have sought the advice of counsel in connection with this Loan Agreement and the transactions contemplated hereby and have read and understand the terms of this Loan Agreement. The terms of this Loan Agreement shall not be construed against either party as the drafter hereof.

Section 8.08. Choice of Law; Designation of Forum; Federal Forum.

(a) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Loan Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

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

(c) Notwithstanding Section 8.08(b), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity.

Section 8.09. Loan not an Obligation of the United States of America. The covenants, agreements and obligations of the State contained in this Loan Agreement shall not be construed to be covenants, agreements or obligations of the United States of America.

Section 8.10. Consents and Approvals. Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the State unless otherwise provided by law or by rules, regulations or resolutions of the State or unless expressly delegated.

Section 8.11. [reserved]

Section 8.12. Further Assurances. The Borrower shall, at the request of the State, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement.

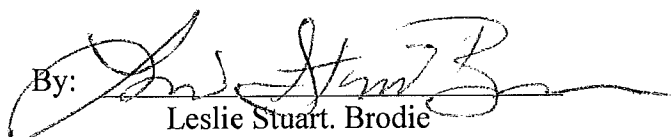
Section 8.13. Merger; No Waiver. This Loan Agreement and attached exhibits (which are by this reference incorporated herein) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or


written, not specified herein regarding this Loan Agreement. No waiver of any provision of this Loan Agreement or consent shall be binding unless in writing and signed by the party against whom it is being enforced and (if against the State) all necessary State approvals have been obtained. Such waiver or consent, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the State to enforce any provision of this Loan Agreement shall not constitute a waiver by the State of that or any other provision.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed and delivered as of the date first above written.

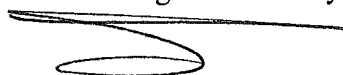
STATE OF OREGON, acting by and
through its Department of Transportation

CITY OF MC MINNVILLE
(Borrower)

By: 
Leslie Stuart. Brodie
Chief Financial Officer

By: 
Title: MAYOR

Approved for legal sufficiency.



Lynn T. Nagasako, Sr. AAG
Date: 6/26/13

Exhibit A to Loan Agreement

Project Description

Borrower: City of McMinnville

ODOT will construct Phase 1 of the Newberg-Dundee Bypass.

The Bypass encompasses a section of Oregon 99W that extends northeast across Yamhill County from the Oregon 99W/Oregon 18 intersection to Rex Hill east of Newberg. The Bypass corridor will be at least 330' wide, be located along the south sides of Newberg and Dundee, and be approximately 11 miles long. The eastern terminus is located east of Newberg in the Rex Hill area of Oregon 99W at mile post 20.08. The western terminus is located where Oregon 99W intersects with Oregon 18 (McDougal Corner) west of Dundee near Dayton at Oregon 18 mile post 51.84.

The Bypass includes the following proposed interchanges:

- Dayton Interchange – located at the junction of Oregon 99W and Oregon 18 and represents the western terminus of the Bypass; it replaces the existing Oregon 18/Oregon 99W intersection at McDougal Corner and the South Dundee Interchange.
- East Dundee Interchange – located between Dundee and Newberg; a new connector road will link the interchange at Oregon 99W to the Bypass.
- Oregon 219 Interchange – located in south Newberg along Oregon 219.
- East Newberg Interchange - located southwest of Rex Hill; this interchange will be the eastern terminus of the Bypass

Phase 1 of the Bypass will begin at a new signalized intersection on Oregon 219, traveling through south Newberg into Dundee. South of Dundee, Phase 1 will leave the eventual full Bypass alignment, proceeding west, parallel to the Dundee city limits, and cross over the Willamette and Pacific Railroad and Oregon 99W. After crossing over Oregon 99W, Phase 1 of the Bypass will loop around and connect to Oregon 99W at a new signalized intersection.

Other Phase 1 improvements include:

- Additional southbound left turn lane on Oregon 99W at Springbrook Road.
- Widening Springbrook Road to three lanes (one northbound lane, one southbound lane, and a center left turn between Oregon 99W and Oregon 219)

Exhibit B to Loan Agreement

Approved Project Budget

Borrower: City of McMinnville

Borrower's Portion of the Costs of Project (in dollars): \$3,209,600

Sources	
ODOT/JTA	\$192,000,000
STIP	12,000,000
Confederated Tribes of Grand Ronde	4,000,000
City of Dundee (OTIB Loan)	315,200
City of McMinnville (OTIB Loan)	3,209,600
City of Newberg (OTIB Loan)	2,211,200
Yamhill County (OTIB Loan)	10,366,640
Total	\$224,102,640.00
Uses	
Construction	\$166,067,919
Preliminary Engineering	8,557,662
Right of Way	45,291,168
Utility Relocation	4,025,891
Loan Fees	\$160,000
Total	\$224,102,640.00

Exhibit C to Loan Agreement

[Reserved]

Exhibit F to Loan Agreement

Payment Requisition

TO: Oregon Transportation Infrastructure Bank
Oregon Department of Transportation
Financial Services, MS – 21
355 Capitol Street, NE
Salem, Oregon 97301-3871

RE: Oregon Transportation Infrastructure Fund, Loan Number OTIF-0048

On behalf of the City of McMinnville, I hereby request that the Oregon Transportation Infrastructure Fund (OTIF) disburse to the Oregon Department of Transportation the following amount from the account established in the OTIF for this Loan:

[Insert Amount]

The foregoing disbursement is for Costs of the Project as such term is defined in, and which are permitted under, the Loan Agreement dated July 1, 2013, between the State of Oregon acting by and through its Department of Transportation and the City of McMinnville. I have attached all necessary documentation as required by Section 4.02(b)(vi) of the Loan Agreement. No Event of Default has occurred or is continuing under the Loan Agreement.

DATED this _____ day of _____, _____.

CITY OF MCMINNVILLE

By: _____

Authorized Officer

Name & Title (print): _____

Attachments



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

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: October 24, 2017
TO: Mayor and City Councilors
FROM: Ron Pomeroy, Principal Planner
SUBJECT: **Ordinance No. 5039 - ZC 11-17** (Zone Change) Land Use Resources, LLC

Council Goal:

Promote Sustainable Growth and Development

Report in Brief:

This action is the consideration of Ordinance No. 5039, an ordinance approving a zone change request from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site. (The remaining acreage is in the flood plain and as such is zoned FP and will remain zoned FP.)

The subject site is located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M. Attachment A to this staff report contains the Decision, Conditions of Approval, Findings of Fact, Comments, Attachments, and Conclusionary Findings.

This land use request was considered in a public hearing by the McMinnville Planning Commission on August 17, 2017. At that time the Commission heard public testimony, and then elected to close the public hearing to additional oral testimony but to keep the record open for an additional seven days, until 5:00 p.m., August 25, 2017 for receipt of additional written testimony. Then by an additional seven day period for the applicant to provide written rebuttal testimony with that period ending at 5:00 p.m. on September 1, 2017. Review of this application was continued to the evening of September 21, 2017 for Commission deliberation following which the Planning Commission voted unanimously to recommend that the Council consider and approve the zone change request subject to conditions of approval outlined in the *Decision Document, Conditions of Approval, Findings of Fact and Conclusionary Findings for ZC 11-17*.

Background:

The site is undeveloped with a large stand of trees, and is located east of and across Fircrest Drive from the Fircrest Community development that provides both assisted living and memory care residential opportunities as well as retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village

Attachments:

Ordinance No. 5039 including:

Exhibit A – ZC 11-17 Decision Document

Application and Public Testimony Received

Planning Commission Minutes, 08.17.17 and 09.21.17

retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

All adjacent land to the west and northwest is zoned R-4 (Multiple-Family Residential) and R-4 PD (Multiple-Family Residential Planned Development), respectively while adjacent land to the south is zoned AH. The site's southeastern edge is bounded to Oregon Department of Transportation (ODOT) right-of-way providing no access rights to the site.

The southern portion of the site is relatively flat and generally covered in native grasses that are periodically mowed. The northern portion of the site is characterized by a downward slope of approximately 15 feet in elevation forming a drainage ravine the flows northwesterly eventually emptying into the South Yamhill River beyond the boundary of this site. This northern portion of the property is also covered in a fairly thick stand of, mostly, evergreen trees.

The site is identified as residential zoning on the McMinnville Comprehensive Plan map.

A graphic identifying the subject parcel has been provided below. While the full parcel is outlined in yellow for identification purposes, approximately 1/10th of an acre located in the northwest corner of the parcel is proposed to retain its current F-P (Flood Plain) zone and is not part of this zone change request.



In addition, the two graphics below provide a depiction of current zoning designations on the subject site and surrounding properties in addition to identifying how the zoning map would appear should these zone change requests be approved.

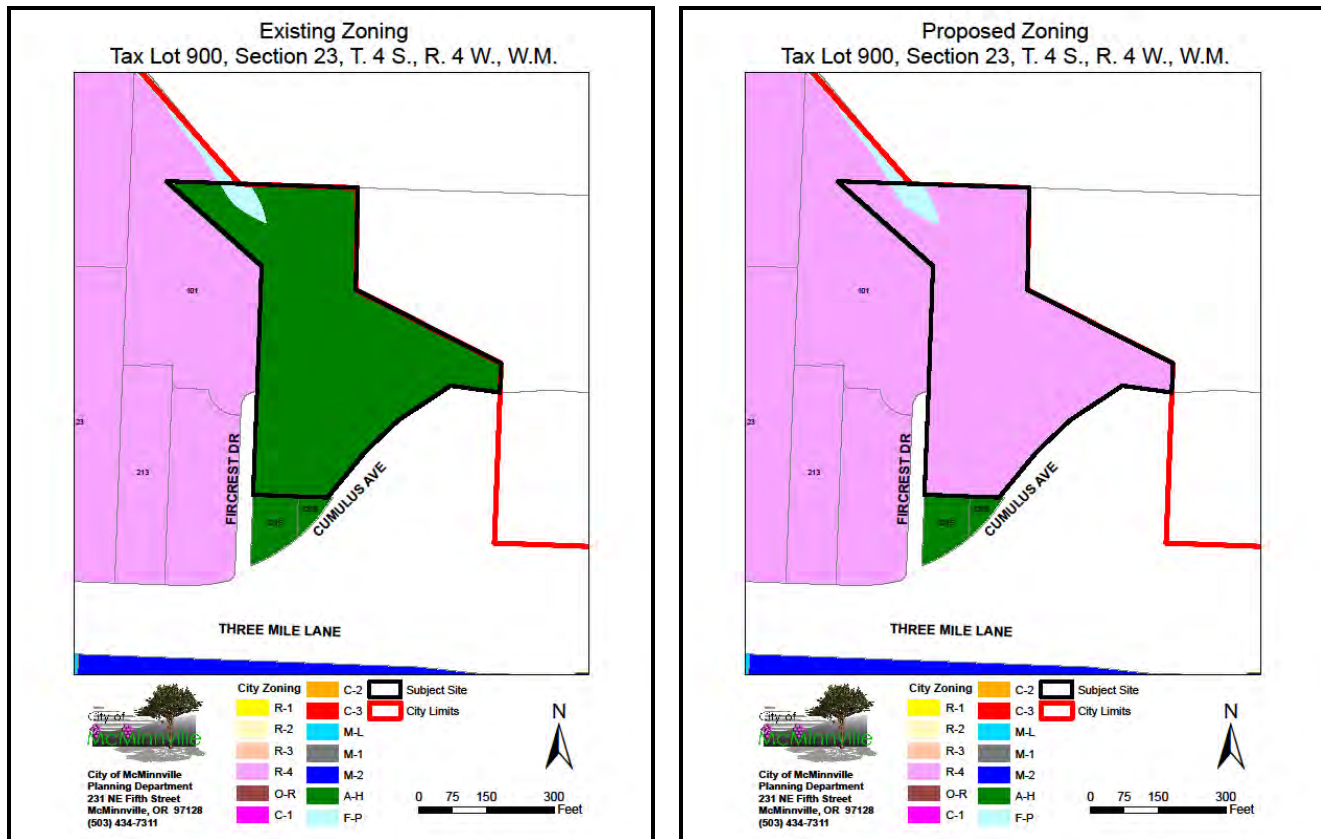
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This request, if approved, would allow the applicant to amend the residential zoning designation from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site to afford the ability to pursue a future multiple-family development project on this site as noted in the submitted application, findings, and Traffic Impact Analysis (TIA). Please note that submittal of a conceptual development plan is not a required element of a zone change request and the applicant has not included such as part of this submittal. Additionally, the provision of other site graphics by the applicant are for general illustrative purposes only.

Evaluation of Review Criteria:

An amendment of the zoning map may be authorized provided that the proposal satisfies all applicable review criteria and provided that the applicant demonstrates the following:

Section 17.74.020

A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.

Comprehensive Plan Policies: There are numerous Comprehensive Plan Goals and Policies that are applicable to this request. Most of those have been well addressed in the applicant's submitted narrative. Some of the more notable guidance is found in Chapter V (Housing and Residential Development) which includes Goals that speak to quality housing for all city residents and achieving a residential development pattern that is land intensive and energy efficient as well as Policies encouraging opportunities for multiple-family development in locations that have sufficient access opportunities and service availability to support such development.

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Ordinance No. 5039 including:

Exhibit A – ZC 11-17 Decision Document

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Section 17.74.020

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

Existing Development Pattern: The area to the west of this site is comprised of a mix of residential types including the Fircrest Community development that provides both assisted living opportunities and retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

Section 17.74.020

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

Utility and Service Provision: This area is well served by existing sanitary and storm sewer systems as well as other public utilities. The Engineering Department notes that there is an existing 15" diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT). At the time of development, the applicant will need to design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements.

Street System: Regarding adjacent public rights-of-way, a portion of the western edge of the site is adjacent to NE Fircrest Drive. The other right-of-way that is adjacent to this site is Oregon Department of Transportation (ODOT) right-of-way located along the site's southeasterly edge; as the ODOT right-of-way is intended to serve as portion of a fully constructed future clover-leaf interchange to serve Highway 18, local access to this roadway is not possible. Access to serve future development of this site would be provided from Fircrest Drive.

NE Fircrest Drive has been constructed to a 26-foot wide, curb to curb, paved section within a 30-foot wide public right-of-way. Currently, there is no sidewalk installed along the property's Fircrest Drive frontage. At the time of development, 11-feet of additional right-of-way, to accommodate a planter strip and sidewalk, will need to be dedicated along the site's Fircrest Drive frontage. Additionally, a 10-foot wide public utility easement shall be granted along the Fircrest Drive frontage to enable adequate service to this site.

As noted in comments by the City's Engineering Department, a Traffic Impact Analysis (TIA) of projected vehicular impacts to the surrounding street network resulting from development of a multiple-family project on the subject site has been provided as part of the applicant's submittal with a conclusion that the surrounding network has the capacity to sufficiently accommodate the anticipated traffic; the TIA model assumed the site's maximum development capacity of 95 multiple-family residences.

Based on the analysis provided in the submitted TIA, the projected maximum residential yield on the 5.2-acre site of this zone change request is 95 multiple-family residential units. The corresponding trip generation from this site then is limited to a maximum total of 48 morning peak hour trips and a maximum total of 59 evening peak hour trips as referenced in the Executive Summary, (page 1) of the TIA. A condition speaking to this maximum trip generation is recommended as a condition of approval in the associated Decision Document.

Attachments:

Ordinance No. 5039 including:

Exhibit A – ZC 11-17 Decision Document

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Site Hydrology: Due to the presence of the on-site drainage ravine and the approximately one-tenth acre of floodplain located at the parcel's far northwest end, the developer will be required, at the time of development, to acquire any necessary erosion control permits from the Oregon Department of Environmental Quality (DEQ), and any necessary wetlands / waterway permits from the Division of State Lands (DSL) and the US Army Corps of Engineers (COE) to address.

R-4 Multiple-Family Residential Zone:

The applicant's materials submitted to support this zone change application speak to a future intent to development multiple-family residential on this property. While the applicant has not provided a conceptual development plan with this zone change proposal, and is not required to do so at this time, it is instructive to note the permitted and conditional uses that could potentially locate on R-4 zoned land.

R-4 Multiple-Family Residential Zone:

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

- A. Single-family dwelling
- B. Two-family dwelling
- C. Multiple-family dwelling
- D. Accessory dwelling unit (ADU) subject to the following standards:
 - 1. The accessory dwelling unit may be established by:
 - a. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - b. Adding floor area to the primary dwelling, including a second story; or
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling
 - 2. The square footage of the accessory dwelling shall not exceed 40 percent of the primary dwelling exclusive of the garage, or 800 square feet, whichever is less. The minimum area shall not be less than 300 square feet.
 - 3. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction.
 - 4. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit.
 - 5. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
 - 6. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.
 - 7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.
 - 8. The accessory dwelling unit shall contain a kitchen, bathroom, living and sleeping area that [is] completely independent from the primary dwelling.
 - 9. The property owner shall reside on site within the primary dwelling unit.
 - 10. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures shall not be used as an accessory dwelling unit.
- E. Condominium
- F. Boardinghouse, lodginghouse, or roominghouse
- G. Single-family dwelling having a common wall with one or more other single-family dwelling, provided:
 - 1. Each dwelling unit shall be situated on an individual, legally subdivided or partitioned lot.

Attachments:

Ordinance No. 5039 including:

Exhibit A – ZC 11-17 Decision Document

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Planning Commission Minutes, 08.17.17 and 09.21.17

2. The dwelling shall have a common wall at the “zero” lot line.
 3. Each lot shall comprise not less than twenty-five hundred square feet in area.
 4. Lot area and setback requirements will apply to the combined dwelling units as one structure and the combined lots as one lot.
 5. Each dwelling unit must have independent services which include, but are not limited to sewer, water and electricity.
 6. The common wall shall be a fire wall, and shall be a kind of construction that will insure fire protection as per the Uniform Building Code as adopted by the State
 7. Common wall, single-family structures shall be required to provide a sound barrier at the common wall which has a sound transmission class rating of not less than fifty (50) as per the Uniform Building Code as adopted by the State. The building technique used to achieve the sound barrier rating shall be the responsibility of the general contractor and will be accepted upon inspection if it meets the code requirements and is supported by proof of meeting sound emission controls as specified.
 8. Existing duplexes will be allowed to be converted to common wall, single-family units if they meet the provisions of this title and were constructed after January, 1974.
- H. Day care facility, under the following provisions:
1. The structure is maintained in its residential character, operators own, lease, or rent the property and reside therein; and the center is operated at a usage level equal to or subservient to the residential use of the structure.
 2. Twelve or fewer people are present at any one time at the center.
 3. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met.
 4. That a certificate of approval be obtained for facilities with seven or more people as defined by ORS 418.810.
- I. Residential Home as defined in Chapter 17.06 (Definitions)
- J. Residential Facility as in Chapter 17.06 (Definitions)
- K. Social relief facility, under the following provisions:
1. The structure is maintained in its residential character, operators own, lease, or rent the property and reside therein, and the center is operated at a usage level equal to or subservient to the residential use of the structure.
 2. Five or less people unrelated to the operator, reside at the home at any one time.
 3. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met.
- L. Home occupation subject to the provisions of Chapter 17.67 (Home Occupations)
- M. Mobile home subdivision, provided that the provisions of both the McMinnville Subdivision Ordinance and the Mobile Home Development Ordinance are met and that a minimum of ten contiguous lots are developed solely for mobile home occupation;]
- N. Model home subject to the provisions of Section 17.54.060 of this ordinance
- O. Public park and recreation area
- P. Sewage pump station
- Q. Mobile home park, subject to the provisions of the Mobile Home Development Ordinance
- R. Bed and breakfast establishments, subject to the provisions of Section 17.12.010(N)
- S. Satellite dish, provided such dish is screened from abutting or facing residential properties by a sight obscuring fence, wall, or planting.
- T. Vacation home rental, subject to the provisions of Section 17.12.010(O).

17.21.020 Conditional Uses. In an R-4 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74.030:

- A. Campus living organization (fraternity, sorority or dormitory)

Attachments:

Ordinance No. 5039 including:

Exhibit A – ZC 11-17 Decision Document

Application and Public Testimony Received

Planning Commission Minutes, 08.17.17 and 09.21.17

- B. Cemetery
- C. Church
- D. Community building, including library
- E. Day care facility, when the following situations exist:
 - 1. The structure is not used as a residence by the operators, and/or
 - 2. Thirteen or more people are present at any one time;
 - 3. That a certificate of approval be obtained for the facilities with seven or more people as required by ORS 418.810.
- F. Social relief facility, when the following situations exist:
 - 1. The structure is not used as a residence by the operators, and/or
 - 2. Six or more people unrelated to the operator reside at the home at any one time.
- G. Farming and keeping of domestic animals
- H. Golf course, except driving range and miniature golf course when operated as a business
- I. Home office of a physician or minister
- J. Hospital and clinic
- K. Nursing/convalescent home
- L. A multi-family dwelling constructed to a higher density than normally allowed in the R-4 Multiple-Family zone provided that the following conditions are met. It is the applicant's burden to show that the conditions have been met:
 - 1. That public and private utilities and services would not be overtaxed by the proposed development. Utilities and services include, but are not necessarily limited to, water, sanitary sewer, public schools, fire protection, police protection, electricity, natural gas, and telephone service.
 - 2. That the transportation network in the immediate area as well as in the adjoining areas is capable of handling the prospective increase in traffic flow.
 - 3. That off-street parking be provided at the rate of one and one-half parking stalls per unit. A variance to this requirement may be considered by the Planning Commission when the proposed housing structure is limited solely to elderly residents.
 - 4. That adjacent properties in other ownerships would not be caused to be limited to a lesser density than allowed in the zone as a direct result of the proposal using a "share" of that adjacent property's public or private utilities or services.
 - 5. That the provisions of this section may be utilized only in the core area, defined as that area bounded by First Street, Fifth Street, Adams Street, and Johnson Street
- M. Public or private school or college
- N. Electrical power substation
- O. Water reservoir
- P. Windmill, for generation of electricity or pumping water
- Q. Bed and Breakfast establishment, provided:
 - 1. That three or more guest sleeping rooms are provided on a daily or weekly basis for the use of six or more travelers or transients at any one time.
 - 2. That a minimum of one off-street parking space be provided for the first two guest sleeping rooms with an additional parking space for each additional guest sleeping room. The required off-street guest parking area may be provided within 200 feet from the bed and breakfast establishment.
 - 3. That signing be limited to only one non-illuminated or indirectly illuminated wooden sign not exceeding six square feet of face area.
 - 4. That smoke detectors be provided as per the requirements for "lodginghouses" in Ordinance 3997.

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- R. Wireless communications facilities, not to include antenna support structures and their associated facilities subject to the provisions of Chapter 17.55 (Wireless Communications Facilities)
- S. Fire Service Substation.

Below are some of the standards of the R-4 zone that would be applicable to development of this site in the future should this current request be approved. This information is offered only as an additional observation relative to the requested zoning redesignation. If approved, some of those applicable opportunities and development standards incumbent upon future development could include:

17.21.030 Lot size. In an R-4 zone, the lot size shall not be less than five thousand square feet, except that the lot area for common wall, single-family lots shall not be less than two thousand five hundred square feet per family.

17.21.040 Yard requirements. In an R-4 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than fifteen feet;
- B. A side yard shall not be less than six feet, except an exterior side yard shall not be less than fifteen feet;
- C. A rear yard shall not be less than twenty feet;
- D. Whether attached to a residence or as a separate building, a covered storage facility for a vehicle on which the main opening is toward a street shall be located not less than twenty feet to the property line bordering the street;
- E. All yards shall be increased, over the requirements of this section, one foot for each two feet of building height over thirty-five feet.

17.21.060 Density requirements. In an R-4 zone, the lot area per family shall not be less than fifteen hundred square feet for each unit with two bedrooms or less, and not less than seventeen hundred fifty square feet for each unit with three bedrooms, and an additional five hundred square feet for each additional bedroom in excess of three in any one unit. [..]

While the above information is presented relative to the requested R-4 zoning designation, it is important to note that the applicant's traffic impact analysis was prepared based upon the amount of land suited for development (removing flood plain, topographical and woodland compromised land) and the resulting potential number of residential units that could be constructed on that acreage in order to assess the traffic impact upon the surrounding street network. The results of this model analysis identified the maximum a.m. and p.m. peak hour trips volumes resulting from that conceptual amount of residential development on this site. Although the density calculation referenced above would potentially yield an increased number of developable multiple-family residential units on the entire site, the applicant's submitted materials and TIA did not analyze that, resulting in a traffic capacity as a condition of approval.

Discussion:

This land use request was considered in a public hearing by the McMinnville Planning Commission on August 17, 2017. At that time the Commission heard public testimony from a group of concerned citizens who live adjacent to the property. They elected to close the public hearing to additional oral testimony but to keep the record open for an additional seven days, until 5:00 p.m., August 25, 2017 for receipt of additional written testimony. Then the applicant had an additional seven day period to provide written rebuttal testimony with that period ending at 5:00 p.m. on September 1, 2017. Review of this

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Exhibit A – ZC 11-17 Decision Document

Application and Public Testimony Received

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application was continued to the evening of September 21, 2107 for Commission deliberation following which the Planning Commission voted unanimously to recommend that the Council consider and approve the zone change request subject to conditions of approval outlined in the *Decision Document, Conditions of Approval, Findings of Fact and Conclusionary Findings for ZC 11-17*.

Summary of Public Written Testimony Comments:

Much of the testimony centered around the impact of the new development to the adjacent Fircrest Condominiums. Those concerns are summarized below and can be reviewed in their original entirety by review of the attachments to this staff report.

Adequacy of utilities to serve the site:

Summary – Will existing public utilities have the capacity to sufficiently serve the future development of this site?

Response – This request to rezone the property to match that of existing zoning designation of adjacent properties to the west has been reviewed by the service and utility providers: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, McMinnville Water and Light, McMinnville School District No. 40, Yamhill County Public Works, Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas, and Oregon Department of Transportation. All of their comments have been included in this Staff Report and Decision Document (Attachment A) and have raised no concerns regarding their ability to provide sufficient services to support the future residential development of this site.

Emergency service access to the site and surrounding neighborhood:

Summary – Will emergency service providers retain the ability to sufficiently serve the surrounding neighborhood upon future development of this site?

Response – The McMinnville Police and Fire Departments, as noted above, reviewed this request and raised no concerns relative to their ability to continue to provide sufficient services to the surrounding neighborhood as well as this site upon future development.

Environmental impact:

Summary – What will the environmental impact be on the natural area that exists largely on the northern portion of the site?

Response – Condition of Approval number one requires a preservation plan for this site prior to approval of any development. Specifically, this condition states:

“That, prior to development, the applicant shall submit a preservation plan relative to the natural drainage swale and wooded area of the site, as far as practicable, as part of any development proposal. This plan shall be reviewed and approved by the McMinnville Planning Director prior to approval of any development plan for the site.”

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With a Planned Development request not being part of this zone change application, and no specific development plan provided as part of this proposal to rezone the site, and not required, this condition is as far reaching as current requirements allow regarding the protection of the site's natural area as a land use action. This condition does obligate any future development plan to include a preservation plan that will be reviewed by the Planning Director as assurance that every effort will be made to conserve this area in its natural state.

Density and livability:

Summary – What about the effects upon the livability of the surrounding area should this site develop with multiple-family residences?

Response – This site has been designated as Residential on the McMinnville Comprehensive Plan Map since 1980 for the purpose of residential development along this portion of the Highway 18 corridor. The applicant is requesting that this site be rezoned to match that of adjacent properties to the west to allow for future residential development. Such future development will have to comply with all applicable land use requirements just as the existing development to the west did when those properties developed. Additionally, as noted above, all local service and utility providers, as well as the McMinnville City Manager, City Attorney, and the Yamhill County Planning Department have reviewed this proposal and find no conflicts with their interests. The Decision Document (Attachment A) to this Staff Report also provides findings relative to all applicable Goals and Policies of the McMinnville Comprehensive Plan and finds that this proposal meets or exceeds those requirements. In review of the questions raised by opponents to this application, staff does not find evidence to the contrary.

Safe transportation network:

Summary – Does the surrounding transportation network sufficiently accommodate the trip volume modeled in the applicant's TIA?

Response – The answer to this question has already been provided in the applicant's TIA and in the McMinnville Community Development Director's review of the surrounding street network and that answer is "yes" the surrounding network can sufficiently accommodate the volume modeled. However, the opponent testimony also asked a capacity question specific to the intersection of NE Cumulus and NE Fircrest. In response, the Community Development Director reviewed specific traffic counts and proposed traffic that would result in development of 95 multiple-family residential units on the subject site. That analysis and response is provided in a memo dated August 23, 2017, and included as Decision Document Attachment 7 to this Staff Report.

In sum, the conclusion of that analysis states: "The total expected daily traffic on NE Fircrest Drive, including existing and proposed developments, is 1,058 trips per day. Thus, the expected traffic on NE Fircrest Drive is within the 1,200 vehicle per day designation for local residential streets and, as staff noted at the public hearing, there is adequate capacity to serve the proposed development."

Since a condition of approval for the rezone includes a traffic limitation if the development proposed is larger than 95 units or the maximum number of trips allowed with this land use decision, the developer will be required to conduct a new traffic impact analysis.

Additional email testimony was received on August 22, 2017 (Decision Document Attachment 3), citing a property line encroachment issue stating:

Attachments:

Ordinance No. 5039 including:

Exhibit A – ZC 11-17 Decision Document

Application and Public Testimony Received

Planning Commission Minutes, 08.17.17 and 09.21.17

"Be advised that a notice of property line encroachment has been sent to Mr. Denny Elmer in the matter of Docket ZC 11-17. This encroachment was discovered in October of 2013 when Fredrick Motor Company surveyed for future development. At that time, he did not want to deal with the issue and differed it to the new owner when it sold. Since Mr. Elmer is planning on the development, we have advised him of the encroachment of 557.16 feet of the west boundary line which consists of approximately .22 acres." -- Lee Eggers, President Fircrest Village Condominiums

This is a matter between adjacent land owners and is not in the purview of the review of this zone change request.

Land Use Resources, LLC provided a written rebuttal to the public testimony comments that the City of McMinnville received via email on September 1, 2017, prior to 5:00 pm. (Decision Document Attachment 6)

Summary – The applicant states that, between their TIA that was provided as part of the original application submittal, the memo from Community Development Director, Mike Bisset, and the analysis provided in the previous Staff Report and Decision Document, that the concerns of the opponents are sufficiently addressed and requests that this zone change request be approved.

The public testimony received is provided as an attachment to this staff report.

Fiscal Impact:

None

Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5039, approving ZC 11-17 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings.
2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting.
3. **DO NOT ADOPT** Ordinance No. 5039, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5039.

Recommendation/Suggested Motion:

Staff recommends that the Council adopt Ordinance No. 5039 which would approve ZC 11-17 subject to conditions of approval as recommended by the Planning Commission.

"THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5039."

RP:sjs

Attachments:

Ordinance No. 5039 including:

Exhibit A – ZC 11-17 Decision Document

Application and Public Testimony Received

Planning Commission Minutes, 08.17.17 and 09.21.17

ORDINANCE NO. 5039

AN ORDINANCE AMENDING THE ZONING MAP DESIGNATION FROM AH (AGRICULTURAL HOLDING) TO R-4 (MULTIPLE-FAMILY RESIDENTIAL) ON APPROXIMATELY 5.2 ACRES OF A 5.3 ACRE SITE.

RECITALS:

The City of McMinnville has adopted a FY 2017-2018 Goal to Promote Sustainable Growth and Development supported by the Objective of "Working with partners e.g. the County, COG, and others, identify economic opportunities for addressing affordable housing, homelessness, and growth"; and

The subject site located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M.; and

The Planning Department received application ZC 11-17 on June 30, 2017, and deemed it complete on July 10, 2017. At that time the Commission heard public testimony, and then elected to close the public hearing to additional oral testimony but to keep the record open for an additional seven days, until 5:00 p.m., August 25, 2017 for receipt of additional written testimony. Additional written testimony was received during that period. Then by an additional seven day period for the applicant to provide written rebuttal testimony with that period ending at 5:00 p.m. on September 1, 2017. The applicant provided their written rebuttal testimony on Friday, September 1, 2017. Review of this application was continued to the evening of September 21, 2107 for Commission deliberation following which the Planning Commission voted unanimously to recommend that the Council consider and approved the zone change request subject to conditions of approval.

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

1. That the Council adopts the Findings of Fact, Conclusionary Findings, Decision and Conditions of Approval as documented in Exhibit A for ZC 11-17; and
2. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 24th day of October 2017, by the following votes:

Ayes: _____

Nays: _____

MAYOR

Attest:

Approved as to form:

CITY RECORDER

CITY ATTORNEY



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

503-434-7311
www.mcminnvilleoregon.gov

**DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A
ZONE CHANGE REQUEST FOR PROPERTY LOCATED NORTH OF NE CUMULUS AVENUE AND
EAST OF NE FIRCREST DRIVE.**

DOCKET: ZC 11-17 (Zone Change)

REQUEST: The applicant is requesting approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.

LOCATION: The subject site is located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M.

ZONING: The subject site's current zoning is AH (Agricultural Holding) and F-P (Flood Area).

APPLICANT: Land Use Resources, LLC

STAFF: Ron Pomeroy, Principal Planner

DATE DEEMED COMPLETE: July 10, 2017

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: August 17, 2017 and September 21, 2017. Meetings held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY: McMinnville City Council

DATE & TIME: October 24, 2017. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

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

DECISION

Based on the findings and conclusions, the Planning Commission recommends that the City Council **APPROVE** zone change ZC 11-17 **subject to the conditions of approval provided in this document.**

DECISION: APPROVAL WITH CONDITIONS

City Council: _____
Scott Hill, Mayor of McMinnville

Date: _____

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

Date: _____

Planning Department: _____
Heather Richards, Planning Director

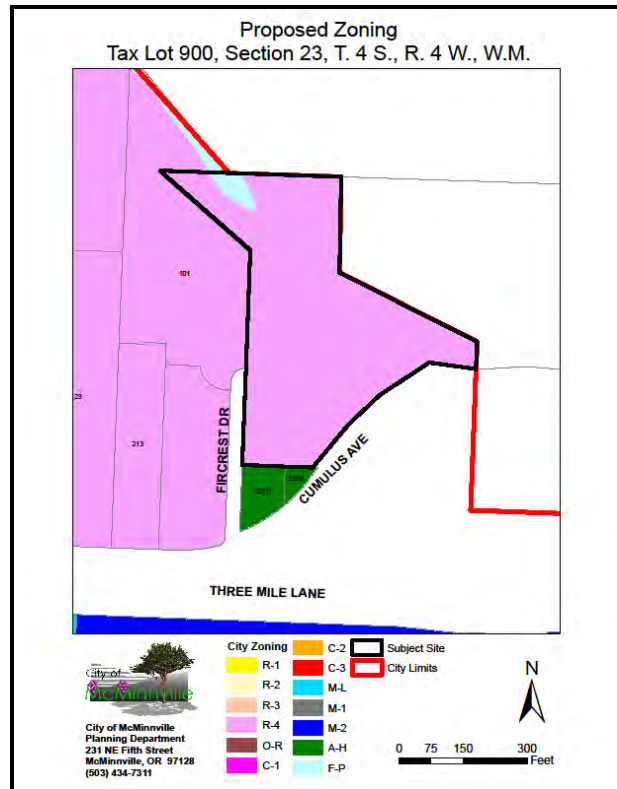
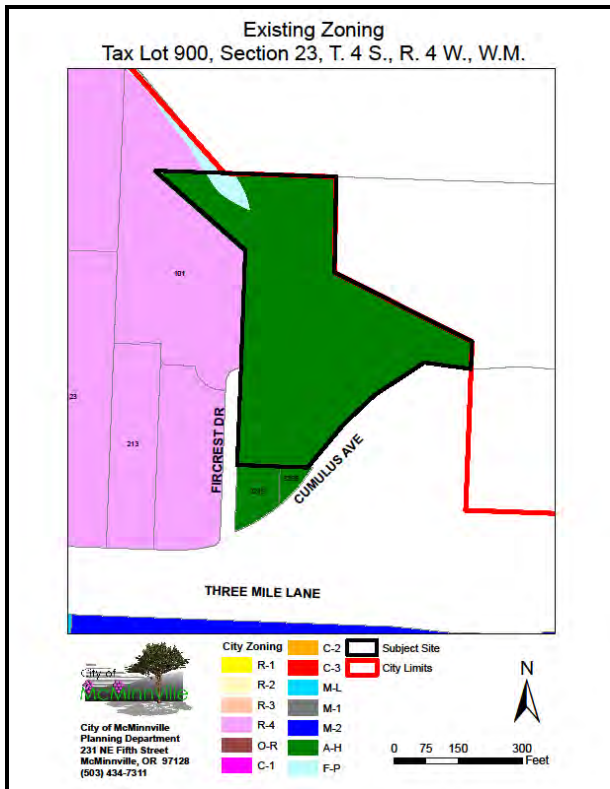
Date: _____

Application Summary:

The applicant is requesting approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.



The two graphics below provide depiction of current zoning designations on the subject site and surrounding properties in addition to identifying how the zoning map would appear should this zone change request be approved.



CONDITIONS OF APPROVAL:

The following conditions of approval shall be required to ensure that the proposal is compliant with the City of McMinnville's Comprehensive Plan and Zoning Ordinance:

ZC 11-17 is **approved** subject to the following conditions:

1. That, prior to development, the applicant shall submit a preservation plan relative to the natural drainage swale and wooded area of the site, as far as practicable, as part of any development proposal. This plan shall be reviewed and approved by the McMinnville Planning Director prior to approval of any development plan for the site.
2. That, based on the analysis provided in the submitted Traffic Impact Analysis (TIA) prepared for the applicant by Lancaster Engineering (June 28, 2017), the residential density allowed on this site of this 5.2-acre zone change request shall be limited to a maximum total of 48 morning peak hour trips and a maximum total of 59 evening peak hour trips as referenced in the Executive Summary (page 1) of the TIA unless a subsequent TIA is submitted by the applicant and the conclusions of which are found to be acceptable to the City.
3. That NE Fircrest Drive has been constructed to be 26' wide in a 30' public right-of-way, and there is not sidewalk along the property's frontage. At the time of development, 11-feet of additional right-of-way, to accommodate a planter strip and sidewalk, will need to be dedicated along the site's Fircrest Drive frontage. Additionally, a 10-foot wide public utility easement shall be granted along the Fircrest Drive frontage.
4. That there is an existing 15" diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT). At the time of development, the applicant will need to

design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements.

5. That, at the time of development, the applicant will need to acquire any necessary erosion control permits from the Oregon Department of Environmental Quality (DEQ), and any necessary wetlands / waterway permits from the Division of State Lands (DSL) and the US Army Corps of Engineers (COE).
6. That, at the time development, the applicant shall provide any geotechnical engineering analyses / reports required by the Building Division to accommodate the construction of any proposed structures.

ATTACHMENTS

Attachment 1: ZC 11-17 Application and Attachments

Attachment 2: Letter - Tom and Kathy Murtiashaw, dated August 16, 2017, received August 17, 2017

Attachment 3: Email - Lee Eggers, dated August 22, 2017, received August 22, 2017

Attachment 4: Letter - John and Sharon O'Gieblyn, dated August 24, 2017, received August 24, 2017

Attachment 5: Email - LaVerne Rickard, dated August 24, 2017, received August 24, 2017

Attachment 6: Email - Denny Elmer representing Land Use Resources, LLC, dated September 1, 2017, received September 1, 2017

Attachment 7: Email - Mike Bisset, Community Development Director, dated August 23, 2017, received August 23, 2017

COMMENTS

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

Engineering Department:

We have completed our review of proposed ZC 11-17. As noted below, we concur with the conclusion in the submitted traffic impact analysis that the zone change will not result in any level of service issues on the adjacent transportation network. Also, based on the City's adopted Conveyance System Master Plan (October 2008), staff can conclude that there is adequate sanitary sewer system capacity to accommodate the proposed zone change. Thus, we have no concerns with the proposed zone change.

At the time of development, the following items/issues will need to be addressed:

- NE Fircrest Drive has been constructed to be 26' wide in a 30' public right-of-way, and there is not sidewalk along the property's frontage. At the time of development, 11-feet of additional right-of-way, to accommodate a planter strip and sidewalk, will need to be dedicated along the site's Fircrest Drive frontage. Additionally, a 10-foot wide public utility easement shall be granted along the Fircrest Drive frontage.
- There is an existing 15" diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon

Department of Transportation (ODOT). At the time of development, the applicant will need to design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements.

- At the time of development, the applicant will need to acquire any necessary erosion control permits from the Oregon Department of Environmental Quality (DEQ), and any necessary wetlands / waterway permits from the Division of State Lands (DSL) and the US Army Corps of Engineers (COE).
- At the time development, the applicant shall provide any geotechnical engineering analyses / reports required by the Building Division to accommodate the construction of any proposed structures.”

In a supplemental memo provided by the McMinnville Community Development Director (Attachment 7) additional analysis of the potential impact on the intersection of NE Cumulus and NE Fircrest by adding a conceptual 95 multiple-family residential residences to the subject site was provided. In sum, the conclusion of that analysis states: “The total expected daily traffic on NE Fircrest Drive, including existing and proposed developments, is 1,058 trips per day. Thus, the expected traffic on NE Fircrest Drive is within the 1,200 vehicle per day designation for local residential streets and, as staff noted at the public hearing, there is adequate capacity to serve the proposed development.

Building Department:

No objections from this end.

Fire Department:

We have no issues with this zone change but please note that all construction will need to meet required Fire Code requirements.

McMinnville Water and Light:

MW&L has no comments on this application.

Yamhill County Public Works:

The subject proposal does not conflict with the interests of Yamhill County Public Works.

Recology Western Oregon:

No concerns here from our end.

Additional Testimony:

Notice of this request was mailed to property owners located within 300 feet of the subject site. As of the date this report was written, two letters and three emails have been received (*Attachments 2, 3, 4, 5 and 6*). Additional traffic impact related information was provided by Mike Bisset, Community Development Director, and is included as Attachment 7.

- Letter - Tom and Kathy Murtiashaw, dated August 16, 2017, received August 17, 2017 (Attachment 2)

- Email – Lee Eggers, dated August 22, 2017, received August 22, 2017 (Attachment 3)
- Letter – John and Sharon O’Gieblyn, dated August 24, 2017, received August 24, 2017 (Attachment 4)
- Email – LaVerne Rickard, dated August 24, 2017, received August 24, 2017 (Attachment 5)
- Email – Denny Elmer representing Land Use Resources, LLC, dated September 1, 2017, received September 1, 2017 (Attachment 6)

FINDINGS OF FACT

- A. Land Use Resources, LLC is requesting approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.
- B. The subject site is located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M. The site is undeveloped with a large stand of trees, and is located east of and across Fircrest Drive from the Fircrest Community development that provides both assisted living and memory care residential opportunities as well as retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

All adjacent land to the west and northwest is zoned R-4 (Multiple-Family Residential) and R-4 PD (Multiple-Family Residential Planned Development), respectively while adjacent land to the south is zoned AH. The site’s southeastern edge is bounded to Oregon Department of Transportation (ODOT) right-of-way providing no access rights to the site.

The southern portion of the site is relatively flat and generally covered in native grasses that are periodically mowed. The northern portion of the site is characterized by a downward slope of approximately 15 feet in elevation forming a drainage ravine the flows northwesterly eventually emptying into the South Yamhill River beyond the boundary of this site. This northern portion of the property is also covered in a fairly thick stand of, mostly, evergreen trees.

- C. Sanitary sewer and municipal water and power can adequately serve the site. The Engineering Department notes that there is an existing 15-inch diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT). At the time of development, the applicant will need to design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements. NE Fircrest Drive, which is adjacent to the west edge of the site, has been constructed to a 26-foot wide, curb to curb, paved section within a 30-foot wide public right-of-way. The other right-of-way that is adjacent to this site is Oregon Department of Transportation (ODOT) right-of-way located along the site’s southeasterly edge; as the ODOT right-of-way is intended to serve as portion of a fully constructed future clover-leaf interchange to serve Highway 18, local access to this roadway is not possible. Access to serve future development of this site would be provided from Fircrest Drive.
- D. Chapter 17.72.120 of the McMinnville Zoning Ordinance specifies notice requirements for all types of land use applications. Accordingly, public agency notice for this application was

provided to all applicable public departments and agencies. Notice to property owners located within 300 feet of the subject site was mailed on July 28, 2017, and notice of the scheduled public hearing was published in the News Register newspaper on August 8, 2017.

- E. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

CONCLUSIONARY FINDINGS

McMinnville's Comprehensive Plan:

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

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

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

Policy 59.00 Opportunities for multiple-family and mobile home developments shall be provided in McMinnville to encourage lower-cost renter and owner-occupied housing. Such housing shall be located and developed according to the residential policies in this plan and the land development regulations of the City.

Finding: Goal V 1 and Policies 58.00 and 59.00 are met by this proposal in that approval of the zone change request from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) will allow for the opportunity of this land to be developed with a variety of housing types including higher density housing as noted in the applicant's submitted findings. Higher density residential development of this site is commensurate with nearby development in that the site is located east of and across Fircrest Drive from the Fircrest Community development that provides both assisted living opportunities and retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

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

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

Policy 71.00 The City of McMinnville shall designate specific lands inside the urban growth boundary as residential to meet future projected housing needs. Lands so designated may be developed for a variety of housing types. All residential zoning classifications shall be allowed in areas designated as residential on the Comprehensive Plan Map.

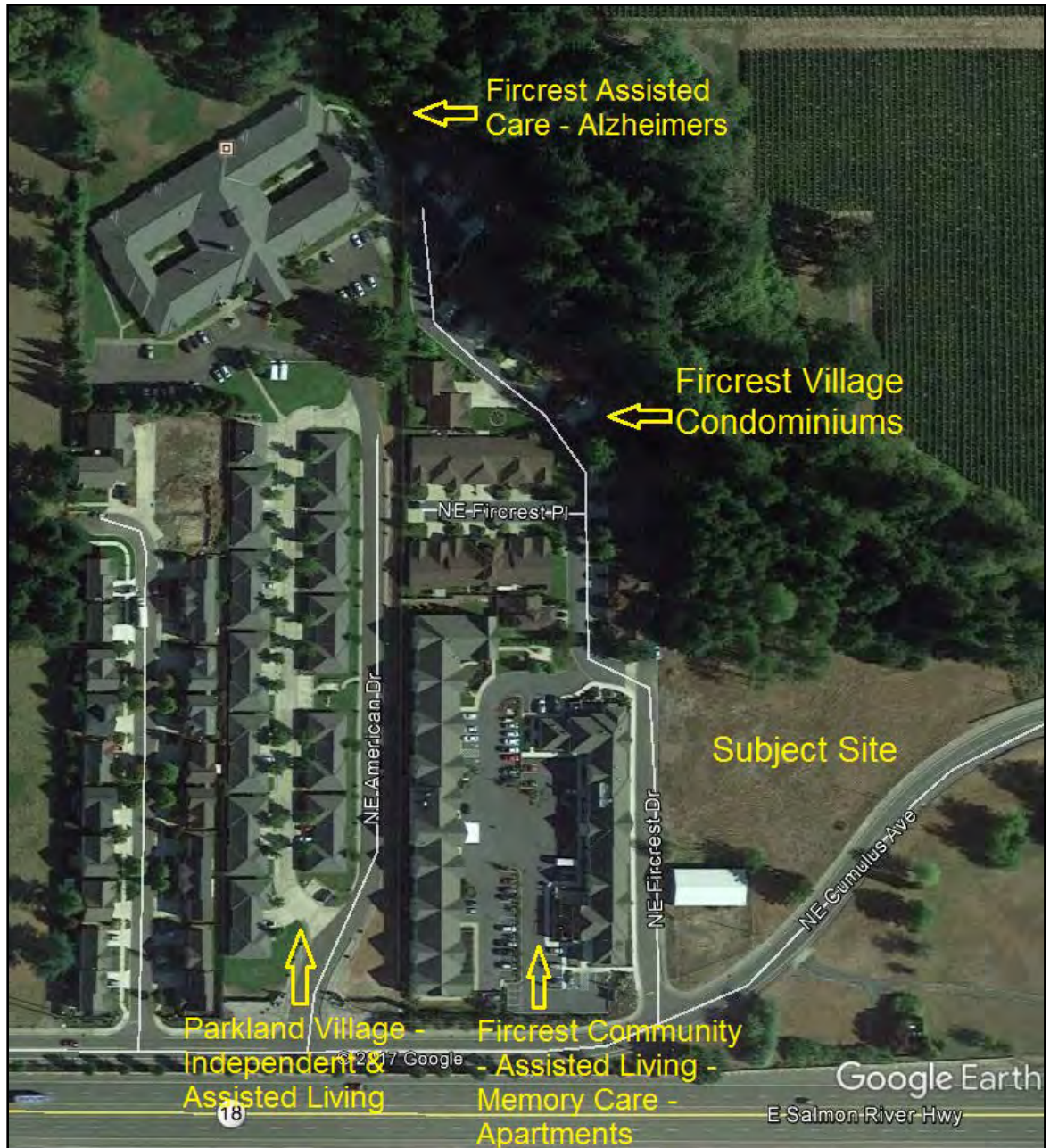
Policy 71.09 Medium and High-Density Residential (R-3 and R-4) – The majority of residential lands in McMinnville are planned to develop at medium density range (4 – 8 units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses. High density residential development (8 – 30 dwelling units per net acre) uses typically include townhouses, condominiums, and apartments. The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the city center and to those areas where urban services are already available before committing alternate areas to residential use.

- 1. Areas that are not committed to low density development;*
- 2. Areas that have direct access from collector or arterial streets;*
- 3. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;*
- 4. Areas where the existing facilities have the capacity for additional development;*
- 5. Areas within one-quarter mile of existing or planned public transportation; and,*
- 6. Areas that can be buffered from low density residential areas in order to maximize the privacy of established low density residential areas.*

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

- 1. Areas which are not committed to low or medium density development;*
- 2. Areas which can be buffered by topography, landscaping, collector or arterial streets, or intervening land uses from low density residential areas in order to maximize the privacy of established low density residential areas;*
- 3. Areas which have direct access from a major collector or arterial street;*
- 4. Areas which are not subject to development limitations;*
- 5. Areas where the existing facilities have the capacity for additional development;*
- 6. Areas within a one-half mile wide corridor centered on existing or planned public transit routes;*
- 7. Areas within one-quarter mile from neighborhood and general commercial shopping centers; and*
- 8. Areas adjacent to either private or public permanent open space.*

Finding: Goal V 2 and Policies 68.00, 71.00, 71.09, and 71.13 are met by this application in that the proposal to rezone this land as requested is encouraged by the existing Residential designation of the site on the Comprehensive Plan Map. In addition, rezoning of this site to allow higher residential density encourages more efficient residential development in an area where urban services are already available before committing alternate areas to residential development. The adjacent residential neighborhood to the west currently exhibits a range of medium and higher residential densities and housing types including single-family attached dwellings, condominiums, assisted living, apartments, and residential memory care facilities. A graphic has been provided below identifying the locations of these residential opportunities. Additionally, it is instructive to recall that Condition of Approval number 1 of this Decision Document requires preservation of open space within the wooded portion of this site which satisfies Policy 71.13(8) and can also be seen on the aerial graphic below as well as the site identification graphic provided on page 3 of this document.

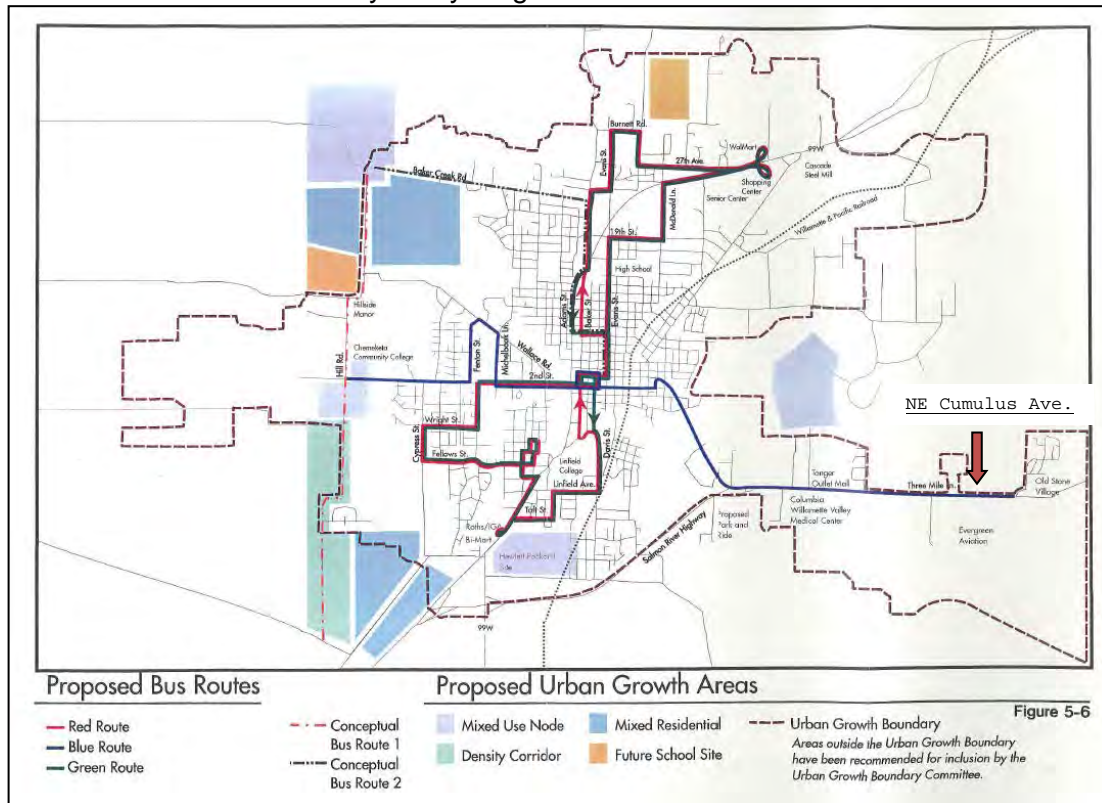


A traffic impact analysis (TIA) of the anticipated vehicular impacts on the surrounding street network from multiple-family residential development of this site was submitted by the applicant. The TIA concluded that the vehicular impact of development of 95 multiple-family dwelling units on this site can be sufficiently accommodated by the surrounding transportation network. While Policy 71.13(3) states that an area identified for high-density residential development *should* have direct access from a major collector or minor arterial, the identified site access is located on a non-through street and only some 200 to 300 feet away from NE Cumulus Avenue which is identified in the McMinnville Transportation System Plan as a Major Collector street (see graphic below). In the context of the applicant's request, while future residential construction may be multiple-family in form, the density limitation placed on this site (Condition of Approval 2) which is governed by maximum trip generation figures, places the maximum buildout of this site in a medium density range where access onto a Collector (major or minor) is suggested by Policy 71.09(2). This vehicular access location and the impacts of potential

development on the surrounding street network, based on an analysis of the findings of the submitted TIA, is found acceptable to the City Engineer. The graphic below demonstrates the designation of NE Cumulus Avenue as a Minor Collector street.

This site is also located within 200 feet of an existing public transit route which is available to serve this site as noted in the adopted McMinnville Transit Feasibility Study as shown below.

McMinnville Transit Feasibility Study - Figure 5-6



While Policy 17.13(7) requires high density residential development to be located within ¼ mile of neighborhood and general commercial shopping centers, it is important to recall that, while the form of development may be multiple-family, the overall site density will be limited to the medium residential density range to which this subsection of this policy does not apply. That said, general commercial shopping opportunities do exist within ¼ mile of this site at the Wings and Waves Water Park snack and gift shops located just east of the site; other commercial offerings could also develop at that site in the future.

Policy 79.00 *The density allowed for residential developments shall be contingent on the zoning classification, the topographical features of the property, and the capacities and availability of public services including but not limited to sewer and water. Where densities are determined to be less than that allowed under the zoning classification, the allowed density shall be set through adopted clear and objective code standards enumerating the reason for the limitations [..].*

Finding: Policy 79.00 is satisfied by this proposal as the requested zoning designation allows multiple-family development as a permitted use which is the type of residential development discussed by the applicant in their proposal. It is important to note that, while the topographic and forested features of the site are graphically represented by the applicant for illustrative purposes only, the applicant's traffic impact analysis (TIA) was based on an assumption of development occurring on only a portion of the

site. While not binding on the City, the applicants' TIA is based on a reduced development concept and analyzes the vehicular impact of a maximum of 95 multiple-family dwelling units on the surrounding transportation network. This modeled transportation impact is provided as an important part of the justification for approval of the requested zone change. The analysis and conclusions of the TIA have been reviewed, and are supported, by the City Engineer. City staff accepts this analysis and proposal and justification for density limitation of 95 multiple-family dwelling units and finds that this Policy is satisfied. Based on the analysis provided in the submitted Traffic Impact Analysis prepared for the applicant by Lancaster Engineering (June 28, 2017), Condition of Approval 2 relates to residential development in that the residential development of this 5.2-acre zone change site is limited to a maximum total of 48 morning peak hour trips and a maximum total of 59 evening peak hour trips as referenced in the page 1 Executive Summary of the TIA unless a subsequent TIA is submitted by the applicant and the conclusions of which are found to be acceptable to the City.

Policy 80.00 In proposed residential developments, distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales shall be preserved wherever feasible.

Finding: Policy 80.00 is satisfied by this proposal in that, prior to development, the applicant will be required to provide evidence of preservation methods relative to the natural drainage swale and wooded area, as far as practicable, as part of the development proposal. This plan shall be reviewed and approved by the McMinnville Planning Director prior to approval of any development plan for the site. A condition to require this has been drafted and provided as part of the recommended conditions of approval.

Policy 86.00 Dispersal of new multiple-family housing development will be encouraged throughout the residentially designated areas in the City to avoid a concentration of people, traffic congestion, and noise. The dispersal policy will not apply to areas on the fringes of the downtown "core," and surrounding Linfield College where multiple-family developments shall still be allowed in properly designated areas.

Policy 89.00 Zoning standards shall require that all multiple-family housing developments provide landscaped grounds.

Policy 90.00 Greater residential densities shall be encouraged to locate along major and minor arterials, within one-quarter mile from neighborhood and general commercial shopping centers, and within a one-half mile wide corridor centered on existing or planned public transit routes. (Ord. 4840, January 11, 2006; Ord. 4796, October 14, 2003)

Policy 91.00 Multiple-family housing developments, including condominiums, boarding houses, lodging houses, rooming houses but excluding campus living quarters, shall be required to access off of arterials or collectors or streets determined by the City to have sufficient traffic carrying capacities to accommodate the proposed development. (Ord. 4573, November 8, 1994)

Policy 92.00 High-density housing developments shall be encouraged to locate along existing or potential public transit routes.

Policy 92.01 High-density housing shall not be located in undesirable places such as near railroad lines, heavy industrial uses, or other potential nuisance areas unless design factors are included to buffer the development from the incompatible use. (Ord. 4796, October 14, 2003)

Policy 92.02 High-density housing developments shall, as far as possible, locate within reasonable walking distance to shopping, schools, and parks, or have access, if possible, to public transportation. (Ord. 4796, October 14, 2003)

Finding: Policies 86.00, 89.00, 91.00 and 92.01 are satisfied by this proposal as follows. While the applicant has indicated intent to construct multiple-family housing on this site, no development plan has been provided as part of this zone change request. However, in light of the possibility that a future multiple-family development project would be designed for this site, should this zone change request be approved, these policies are relevant. With approval of this request, the opportunity for higher density residential development will continue to be supported by the City in a manner that disperses this type of development throughout the community. While this site, if rezoned to R-4, would be adjacent to other R-4 zoned properties to the west, the existing medium and higher density dwelling opportunities exhibit a wide range of residential living situations as previously described. Provision of general rent market rate, or lower cost multiple-family residences on the subject site would add a type of residential opportunity in this area that is effectively not presently available making this rezoning request compliant with the intent of the City's policy of dispersing the location of new and various types of multiple-family development. Public transit will be available within approximately 200 feet of the site to the site identified as the proposed Blue Route bus line to serve Cumulus Avenue shown on Figure 5-6 shown in the adopted McMinnville Transit Feasibility Study. Additionally, future multiple-family residential development of this site shall be required to provide landscaped grounds commensurate with the requirements of the McMinnville Zoning Ordinance. Further, this site is not located in an undesirable place such as near railroad lines, heavy industrial uses, or other potential nuisance areas. Please see McMinnville Transit Feasibility Study - Figure 5-6 above.

Policy 90.00 encourages the location of professional and commercial uses within one-quarter mile from multiple-family residential development. Additionally, Policy 92.02 requires High-density housing developments to, as far as possible, locate within reasonable walking distance to shopping, schools, and parks, or have access, if possible, to public transportation. The reference of proximity to public transportation is also found in Policy 92.00. Professional, educational and commercial uses are currently limited to those found within approximately one-quarter to the east (The Wings and Waves Water Park and the Evergreen Aviation campus) and within approximately one-half mile to the west (including Chemeketa Community College, McDonalds Restaurant, Coming Attractions Theaters, Housing Authority of Yamhill County the adopted McMinnville Transit Feasibility Study identifies a proposed bus route (Blue Route shown on Figure 5-6) that is proposed to operate along Hwy 18 east to the Olde Stone Village Manufactured Home community (approximately one-mile east of the subject site). Additional opportunities for commercial, professional and educational development remain within this corridor. Therefore, Policies 90.00, 92.00 and 92.02 are satisfied by this proposal.

Policy 91.00 is satisfied by this proposal in that a Traffic Impact Analysis (TIA) for this proposal modeling 95 apartment units on this site was submitted by Lancaster Engineering. The results of this analysis show that there are no safety issues that need to be addressed and no safety mitigations recommended at the intersection of NE Cumulus Avenue and Highway 18. The area of vehicular ingress and egress to this site will be from NE Fircrest Drive and between 200 to 300 feet, approximately, north of the intersection of NE Cumulus Avenue and Fircrest Drive. It is also instructive to note that while Policy 91.00 encourages multiple-family development to gain direct access from arterial or collector streets it is not required if an alternative method is found to have sufficient traffic carrying capacities to accommodate the proposed development. The submitted traffic analysis was considered by the McMinnville Engineering Department and it is the determination of the City Engineer that there would be no appreciable loss of functionality at the Fircrest/Cumulus intersection.

Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:

- 1. Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.*
- 2. Storm sewer and drainage facilities (as required).*

3. *Streets within the development and providing access to the development, improved to city standards (as required).*
4. *Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light). (as amended by Ord. 4796, October 14, 2003)*
5. *Deleted as per Ord. 4796, October 14, 2003.*

Finding: Policy 99.00 is satisfied by this proposal as adequate levels sanitary sewer collection, storm sewer and drainage facilities, and municipal water distribution systems and supply either presently serve or can be made available to adequately serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Required street improvements commensurate with future development shall be required at the time of development.

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

Policy 117.00 The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.

Policy 118.00 The City of McMinnville shall encourage development of roads that include the following design factors:

1. *Minimal adverse effects on, and advantageous utilization of, natural features of the land.*
2. *Reduction in the amount of land necessary for streets with continuance of safety, maintenance, and convenience standards.*
3. *Emphasis placed on existing and future needs of the area to be serviced. The function of the street and expected traffic volumes are important factors.*
4. *Consideration given to Complete Streets, in consideration of all modes of transportation (public transit, private vehicle, bike, and foot paths). (Ord.4922, February 23, 2010)*
5. *Connectivity of local residential streets shall be encouraged. Residential cul-de-sac streets shall be discouraged where opportunities for through streets exist*

Policy 119.00 The City of McMinnville shall encourage utilization of existing transportation corridors, wherever possible, before committing new lands.

Policy 120.00 The City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows.

Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications: [in part]

2. *Local streets.*
 - a. *Designs should minimize through-traffic and serve local areas only.*

Finding: Goal VI 1 and Policies 117.00, 118.00, 119.00, 120.00, and 122.00 are satisfied by this proposal in that the subject site is currently adjacent to NE Fircrest Drive, a public local street, that serves only the local area and does not connect to other public streets due to the proximity of limiting geographic features and other existing development. Fircrest Drive will be required to be improved commensurate with the future development of this site as per the requirements of the adopted

McMinnville Transportation System Plan (TSP) to ensure safe and efficient transportation opportunities for all citizens.

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

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

Finding: Policies 126.00 and 127.00 are satisfied by this proposal in that off-street parking will be required for all residential development as specified by Chapter 17.60 (Off-Street Parking and Loading) of the McMinnville Zoning Ordinance.

Policy 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connect residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities.

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

Finding: Policies 130.00 and 132.15 are satisfied by this proposal in that, when a specific development is proposed for this site, public sidewalks commensurate with that proposal will be required as part of the street improvements and will provide pedestrian connections from this site to the surrounding area. Provision of safe, accessible bicycle routes continue to be provided throughout the city as directed by the McMinnville TSP.

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

Policy 136.00 The City of McMinnville shall insure that urban developments are connected to the municipal sewage system pursuant to applicable city, state, and federal regulations.

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

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

Policy 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

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

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

Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:

- 1. Facilities are placed in locations and in such manner as to insure compatibility with surrounding land uses.*
- 2. Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.*
- 3. For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized;*
- 4. Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.*

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

Policy 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:

- 1. Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, are available or can be made available, to fulfill peak demands and insure fire flow requirements and to meet emergency situation needs.*
- 2. Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluents.*
- 3. Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.*
- 4. Federal, state, and local water and waste water quality standards can be adhered to.*
- 5. Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.*

Finding: Goal VII 1 and Policies 136.00, 139.00, 142.00, 143.00, 144.00, 145.00, 147.00, and 151.00 are satisfied by the request as, based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to sufficiently serve the site. Additionally, the municipal Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville

shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas and in making land-use decisions.

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

Policy 155.00 The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.

Finding: Policies 153.00 and 155.00 are satisfied in that emergency services departments have reviewed this request and raise no concerns.

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

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

Finding: Goal VII 3 and Policy 163.00 are satisfied in that park fees shall be paid for each housing unit at the time of building permit application as required by McMinnville Ordinance 4282, as amended.

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

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

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

Finding: Goal VIII 1 and Policies 173.00 and 177.00 are satisfied in that McMinnville Water and Light and Northwest Natural Gas were provided opportunity to review and comment regarding this proposal and no concerns were raised.

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

Finding: Policy 178.00 is satisfied in that the applicant is proposing to amend the current zoning designation of 5.2 acres of this 5.3 acre site to R-4 to allow for the possibility of providing multiple-family type housing thereby achieving a more compact form of urban development and energy conservation than would have otherwise been achieved.

GOAL X1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNIVILLE.

Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

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

McMinnville's City Code:

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

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

Finding: Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.

17.57.010 Landscaping – Purpose and intent. The purpose and intent of this chapter is to enhance the appearance of the city by encouraging quality landscaping which will benefit and protect the health, safety, and welfare of the general public. By relating all the requirements of the zoning ordinance to the project in one review procedure, the review will assist the developer in integrating the uses of the property with the landscaping, will relate the project to surrounding property uses in existence or projected, and will attempt to minimize project costs. The landscaping provisions in Section 17.57.050 are in addition to all other provisions of the zoning ordinance which relate to property boundaries, dimensions, setback, vehicle access points, parking provisions and traffic patterns. [..]

17.57.050 Area Determination—Planning factors.

B. Landscaping shall be accomplished within the following ranges:

1. Multiple-family, twenty-five percent of the gross area. This may be reduced to not less than fifteen percent upon approval of the [landscape] review committee. (The gross area to be landscaped may only be reduced by the review committee if there is a showing by the applicant that the intent and purpose of this chapter and subsection B of this section are met).

C. The following factors shall be considered by the applicant when planning the landscaping in order to accomplish the purpose set out in Section 17.57.010. The Landscape Review Committee shall have the authority to deny an application for failure to comply with any or all of these conditions:

1. Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon.
2. Screen the proposed use by sight-obscuring, evergreen plantings, shade trees, fences, or combinations of plantings and screens.
3. The retention of existing trees and natural areas that may be incorporated in the development of the project. The existing grade should be preserved to the maximum practical degree. Existing trees shall be provided with a watering area equal to at least one-half the crown area.

Finding: Sections 17.57.010 and 17.57.050(B)(1-3) are satisfied by the request in that any future proposal to develop this site as a multiple-family development will be required to comply with these standards as per the review authority of the McMinnville Landscape Review Committee. Additionally, staff recommends adoption of a condition of approval of this application that would require sufficient buffering and screening along the site's western edge for the benefit of established senior and assisted care facilities that border the site along that edge. This buffering and screening shall utilize methods for the express purpose of mitigating noise, headlight glare, and visual intrusion from the site's development onto adjacent land west of the site and shall include a mix of vertical and horizontal vegetation, fencing and/or berms as may be approved by the Landscape Review Committee at the time of development. The existence of the 1.4 acre natural greenway along the northern portion of the site will further add to the buffering of existing residences to the northwest.

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

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

When the proposed amendment concerns needed housing (as defined in the McMinnville Comprehensive Plan and state statutes), criterion "B" shall not apply to the rezoning of land designated for residential use on the plan map.

In addition, the housing policies of the McMinnville Comprehensive Plan shall be given added emphasis and the other policies contained in the plan shall not be used to: (1) exclude needed housing; (2) unnecessarily decrease densities; or (3) allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delay.

Finding: Criterion "B" of this review standard does not apply when the proposed amendment concerns needed housing. Table B-11 of Appendix B of the 2001 McMinnville Buildable Land Needs Analysis and Growth Management Plan demonstrates that McMinnville had a deficit of 162 R-4 zoned acres needed to meet future projected housing needs; the year 2020 was the identified planning horizon for this projection. Since 2001, approximately 51 acres have been rezoned to R-4 leaving a residual deficit of approximately 111 R-4 zoned acres still needed to meet projected needs. Approval of this zone change request would reduce that deficit to approximately 105.8 acres.

Section 17.74.020 is satisfied in that the proposed R-4 zoning designation for this site is consistent with the goals and policies of the McMinnville Comprehensive Plan, and is orderly and timely given considering existing nearby residential development and the site's proximity to public streets, transit facility options, the ability to be adequately served by required utilities and services, and the local need for additional higher density and/or affordable housing options. While this site is located within approximately one-half mile from Airport Park, the park's location on the south side of Highway 18 makes it rather difficult to reach by means of pedestrian or bicycle travel. However, the applicant proposes, as shown on the submitted conceptual site plan, the provision of an approximately 1.4 acre area to be retained as an onsite nature reserve. While not an active park, this area would potentially provide similar opportunities to Tice Park for the benefit of the site's residents. Chemeketa Community College is located approximately one-half mile to the west of the subject site which provides a wide range of educational opportunities. While commercial opportunities are not readily available within a reasonable distance to this site, the alleviation of meeting Criterion "B" above allows recognition of the current development character of this area as meeting the needs of a diverse residential population by

numerous means. This current proposal to rezone the subject to R-4 would allow the continuation of this established development pattern in recognition of its unique location along Highway 18 and adjacent to the urban growth boundary (UGB). In addition, there are no policies contained in the Comprehensive Plan that are being utilized to unnecessarily decrease densities or discourage any form of housing.

RP:sjs

**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. 2C 11-17Date Received 12 30 17Fee 1595.00Receipt No. 17M0135Received by gfr

Comprehensive Plan Map Amendment/ Zone Change Application

Applicant InformationApplicant is: ☐ Property Owner ☒ Contract Buyer ☐ Option Holder ☐ Agent ☐ Other _____Applicant Name Land Use Resources LLC Phone _____Contact Name Denny Elmer Phone 971 237 6752
(If different than above)Address PO Box 237City, State, Zip McMinnville OR 97128Contact Email dennyelmer@gmail.com raepolivka@gmail.com**Property Owner Information**Property Owner Name Fredricks Motor Company Phone _____
(If different than above)Contact Name Christina Turner Phone 503 925 9955Address 14237 SW McKinley driveCity, State, Zip Sherwood, OR 97140Contact Email HawaiiWW@msn.com**Site Location and Description**

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

Property Address 5.3 acres FircrestAssessor Map No. R4 42300900 Total Site Area _____

Subdivision _____ Block _____ Lot _____

Comprehensive Plan Designation Ag Holding Zoning Designation Ag Holding

This request is for a:

☐ **Comprehensive Plan Amendment**

☒ **Zone Change**

1. What, in detail, are you asking for? State the reason(s) for the request and the intended use(s) of the property.

We are asking for zoning change from Ag Holding to R4. The reason for this is to conform with existing zones that border this property. We have plans to develop this property for residential use.

2. Show in detail, by citing specific goals and policies, how your request is consistent with applicable goals and policies of the McMinnville Comprehensive Plan (Vol. 2).

We understand that the current zoning does not match the long term goals of the city of McMinnville, through various conversations with the Planning Department. By changing the zoning, we are hoping to help the city of McMinnville achieve these goals by using the property in a way that is similar to surrounding properties in residential use.

*SEE ATTACHED FOR SPECIFIC GOALS & POLICIES.

3. If your request is subject to the provisions of a planned development overlay, show, in detail, how the request conforms to the requirements of the overlay.

N/A

4. If you are requesting a Planned Development, state how the proposal deviates from the requirements of the Zoning Ordinance and give justification for such deviation. _____

N/A

5. Considering the pattern of development in the area and surrounding land uses, show, in detail, how the proposed amendment is orderly and timely. _____

The property to our west is currently zoned R-4. We believe the best and most valuable use for our property is to have it zoned R4 as well. With the lack of available lots to build upon, as well as the need for housing during this time, we feel the addition of another residential property ~~is~~ would be beneficial and valuable to the city of McMinnville, Especially affordable housing.

6. Describe any changes in the neighborhood or surrounding area which might support or warrant the request. _____

Our bordering neighbor is R4 at this time. The proposed R-4 residential use is consistent with the city's desire to achieve higher density.

7. Document how the site can be efficiently provided with public utilities, including water, sewer, electricity, and natural gas, if needed, and that there is sufficient capacity to serve the proposed use.

The maps from city engineering shows all utilities in the street that borders this property.


8. Describe, in detail, how the proposed use will affect traffic in the area. What is the expected trip generation?

Traffic will be impacted minimally seeing that streets and traffic lights are already in use. *see Traffic analysis*

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

- ☐ A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed features within and adjacent to the subject site, such as: access; lot and street lines with dimensions; distances from property lines to structures; improvements; and significant features (slope, vegetation, adjacent development, drainage, etc.). If of a larger size, provide five (5) copies in addition to **an electronic copy** with the submittal.
- ☐ A legal description of the parcel(s), preferably taken from the deed.
- ☐ Payment of the applicable review fee, which can be found on the Planning Department web page.

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.


Applicant's Signature

3-8-17
Date


Property Owner's Signature
President

3-9-17
Date

The requested zone change is consistent with the following applicable goals and policies:

Goal V1: TO PROMOTE DEVELOPMENT OF AFFORDABLE, QUALITY HOUSING FOR ALL CITY RESIDENTS.

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

Policy 59.00 Opportunities for multiple-family and mobile home developments shall be provided in McMinnville to encourage lower-cost renter and owner-occupied housing. Such housing shall be located and developed according to the residential policies in this plan and the land development regulations of the City.

Goal VI and Policies 58.00 and 59.00 are satisfied. Our adjacent neighbors are R-4, a senior living facility. Making this zone change to R-4 will give access to high-density housing to the community which will help lower the cost of housing for McMinnville renters.

Goal V2: TO PROMOTE A RESIDENTIAL DEVELOPMENT PATTERN THAT IS LAND INTENSIVE AND ENERGY EFFICIENT, THAT PROVIDES FOR AN URBAN LEVEL OF PUBLIC SERVICES, AND THAT ALLOWS UNIQUE AND INNOVATIVE DEVELOPMENT TECHNIQUES TO BE EMPLOYED IN RESIDENTIAL DESIGNS.

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

Policy 71.00 The City of McMinnville shall designate specific lands inside the urban growth boundary as residential to meet future projected housing needs. Lands so designated may be developed for a variety of housing types. All residential zoning classification shall be allowed in areas designated as residential on the Comprehensive Plan Map.

Policy 71.09 Medium and High-Density Residential (R-3 and R-4) – The majority of residential lands in McMinnville are planned to develop at medium density range (4-8 units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes, and triplexes, and townhouses. High density residential development (8-30 dwelling units per net acre) uses typically include townhouses, condominiums, and apartments. The City of McMinnville shall encourage a compact form of urban development by direct residential growth close to the city center and those areas where urban services are already available before committing alternate areas to residential use.

1. *Areas that are not committed to low density development;*
2. *Areas that have direct access from collector or arterial streets;*
3. *Areas that are not subject to development limitations such as topography, flooding, or poor drainage;*
4. *Areas where the existing facilities have the capacity for additional development;*
5. *Areas within one-quarter miles of existing or planned public transportation; and,*
6. *Areas that can be buffered from low density residential areas in order to maximize the privacy of established low density residential areas.*

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

1. *Areas which are not committed to low or medium density development;*
2. *Areas which can be buffered by topography, landscaping, collector or arterial streets, or intervening land uses from low density residential areas in order to maximize the privacy of established low density residential areas;*
3. *Areas which have direct access from a major collector or arterial street;*
4. *Areas which are not subject to development limitations*
5. *Areas where the existing facilities have the capacity for additional development'*
6. *Areas within a one-half mile wide corridor centered on existing or planned public transit routes;*
7. *Areas within one-quarter mile from neighborhood and general commercial shopping center; and*
8. *Areas adjacent to either private or public permanent open space.*

Goal V 2 and Policies 68.00, 71.00, 71.09, and 71.13 are satisfied: The proposed zone change from Ag Holding to R-4 is allowed and encouraged within the Residential designation in the Comprehensive Plan. Rezoning this site will allow higher residential density which encourages a more efficient residential development in an area where urban services are already available. An analysis of vehicular impacts to the surrounding street network from development of a multiple-family development on this site has been provided as part of this submittal with a conclusion that this development is not designated as high traffic and will be able to accommodate the anticipated traffic. Public transit is available near the site, running near Cumulus Ave, adjacent to the southern edge of the site.

Policy 84.00 Multiple-family, low-cost housing (subsidized) shall be dispersed throughout the community by appropriate zoning to avoid inundating any one area with a concentration of this type of housing.

Policy 86.00 Dispersal of new multiple-family housing development will be encouraged throughout the residentially designated areas in the City to avoid a concentration

of people, traffic congestion, and noise. The dispersal policy will not apply to areas on the fringes of the downtown "core," and surrounding Linfield College where multiple-family developments shall still be allowed in properly designated areas.

Policy 89.00 Zoning standards shall require that all multiple-family housing developments provide landscaped grounds

Policy 90.00 Greater residential densities shall be encouraged to locate along major and minor arterials, within one-quarter mile from neighborhood and general commercial shopping centers, and within a one-half mile wide corridor centered on existing or planned public transit routes. (Ord. 4840, January 11, 2006; Ord. 4796, October 14, 2003)

Policy 91.00 Multiple-family housing developments, including condominiums, boarding houses, lodging houses, rooming houses by excluding campus living quarters, shall be required to access off of arterials or collectors or streets determined by the City to have sufficient traffic carrying capacities to accommodate the proposed development. (Ord. 4573, November 8, 1994)

Policy 92.00 High-density housing developments shall be encouraged to locate along existing or potential public transit routes.

Policy 92.01 High-density housing shall not be located in undesirable places such as near railroad lines, heavy industrial uses, or other potential nuisance areas unless design factor are included to buffer the development from the incompatible use. (Ord. 4796, October 14, 2003)

Policy 92.02 High-density housing developments shall, as far as possible, locate within reasonable walking distance to shopping, schools, and parks, or have access, if possible, to public transportation. (Ord. 4796, October 14, 2003)

Policies 84.00, 86.00, 89.00, 90.00, 92.00, 92.01, and 92.02 are satisfied: The opportunity for lower cost, higher density residential development is something the City supports, especially in areas that disperse this type of residence throughout the community. Landscaping standards will be complied with upon requirements of an R-4 zone. As stated previously, public transit is available near the development site. The site is not near railroad lines or any industrial facilities. This property will also have a large portion of open, green area and is steps from Evergreen.

Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:

- 1. Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.*
- 2. Storm sewer and drainage facilities (as required).*

3. *Streets within the development and providing access to the development, improved to city standards (as required).*
4. *Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light). (as amended by Ord. 4796, October 14, 2003)*
5. *Deleted as per Ord. 4796, October 14, 2003.*

Policy 99.00 is satisfied: Urban services can be provided concurrently with the proposed urban development. Water and power are available to serve the subject property. Storm Drainage and Sewer can be accessed.

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

Policy 117.00 The City of McMinnville shall endeavor to ensure that the roadway network provides safe and easy access to every parcel.

Policy 118.00 The City of McMinnville shall encourage development of roads that include the following design factors:

1. *Minimal adverse effects on, and advantageous utilization of, natural features of the land.*
2. *Reduction in the amount of land necessary for streets with continuance of safety, maintenance, and convenience standards.*
3. *Emphasis placed on existing and future needs of the area to be serviced. The function of the street and expected traffic volumes are important factors.*
4. *Consideration given to Complete Streets, in consideration of all modes of transportation (public transit, private vehicle, bike, and foot paths). (Ord. 4922, February 23, 2010)*
5. *Connectivity of local residential streets shall be encouraged. Residential cul-de-sac streets shall be discouraged where opportunities for through streets exist.*

Policy 119.00 The City of McMinnville shall encourage utilization of existing transportation corridors, wherever possible, before committing new lands.

Policy 120.00 The City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows.

Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications: [in part]

1. *Major, Minor arterials.*
 - a. *Access should be controlled, especially on heavy traffic-generating developments.*

Goal VI 1 and Policies 117.00, 118.00, 119.00, 120.00 and 122.00 are satisfied by this proposal in that the site abuts a public minor collector street developed to City standards and adequate capacity to safely accommodate the expected trip generation from this site. ***See Traffic Analysis.*** Access to the site for parcel delivery to be permitted off Fircrest St. No known adverse effects on the natural features of the land.

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

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

Policies 126.00 and 127.00 are satisfied: Off-Street parking for the multi-family dwelling shall be accommodated for on site, as required and specified by Chapter 17.60 (Off-Street Parking and Loading) of the McMinnville Zoning Ordinance.

Policy 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connect residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities.

Policy 130.00 is satisfied: For the proposed development for this site, there will be public sidewalks, as required as part of the street improvements and will add to the pedestrian connections with and beyond the site. Provision of safe, accessible bicycle routes will be provided as well.

Policy 132.27.00 is satisfied: The zone change proposal supports the land use designation of the site and urban development patterns within the surrounding area.

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

Policy 136.00 The City of McMinnville shall insure that urban developments are connected to the municipal sewage system pursuant to applicable city, state, and federal regulations.

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

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

Policy 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

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

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

Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:

1. *Facilities are placed in locations and in such manner as to insure compatibility with surrounding land uses.*
2. *Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.*
3. *For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized.*
4. *Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.*

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

Policy 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:

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

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

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

Policies 173.00 and 177.00 are satisfied: Upon any future development, requirements from McMinnville Water and Light and Northwest Natural Gas will be satisfied.

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

Policy 178.00 is satisfied: Proposing to amend the current zoning designations of this site to R-4 will allow for the possibility of providing multiple-family type housing thereby achieving a more compact form of urban development and energy conservation than would have otherwise been achieved.

Goal X1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF MCMINNVILLE.

Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

Goal X1 and Policy 188.00 are satisfied: McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertised public hearings. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

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

17.03.020 Purpose: The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each

other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.

Section 17.03.020 is satisfied: Intention to provide open spaces as well as bicycle and pedestrian connections to city streets.

17.57.010 Landscaping – Purpose and Intent: The purpose and intent of this chapter is the enhance the appearance of the city of encouraging quality landscaping which will benefit and protect the health, safety, and welfare of the general public. By relating all the requirements of the zoning ordinance to the project in one review procedure, the review will assist the developer in integrating the uses of the property with the landscaping, will relate the project to surrounding property uses in existence or projected, and will attempt to minimize project costs. The landscaping provisions in Section 17.57.050 are in addition to all other provisions of the zoning ordinance which relate to property boundaries, dimension, setback, vehicle access points, parking provisions and traffic patterns. [..]

17.57.050 Area Determination-Planning Factors:

B. The following factors shall be considered by the applicant when planning the landscaping in order to accomplish the purpose set out in Section 17.57.010. The Landscaper Review Committee shall have the authority to deny an application for failure to comply with any or all of these conditions:

1. Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon.

2. Screening the proposed use by sight-obscuring, evergreen plantings, shade trees, fences, or combinations of plantings and screens. [..]

Sections 17.57.010 and 17.57.050 are satisfied: The proposed development meets the condition of requiring sufficient buffering and screening. This site has natural buffering on the north and east boundaries that we will utilize in design to buffer noise, light, and visual intrusion into the neighborhood. The west side is a developed elderly care facility that appears to have minimal traffic. The south side that borders Cumulus Ave. will be designed to utilize methods for the express purpose of mitigating noise, headlight glare, and visual intrusion from the site. li

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

A. The proposed amendment is consistent with the goals and policies of the comprehensive plan;

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

C. Utilities and services can be efficiently provided to service the proposed uses or other potential uses in the proposed zoning district.

Criterion “B” of this review standard does not apply when the proposed amendment concerns needed housing. Table B-11 of Appendix B of the 2001 McMinnville Buildable Land Needs Analysis and Growth Management Plan demonstrates that McMinnville had a deficit of R-4 zoned acres needed to meet future projected housing needs; the year 2020 was the identified planning horizon for this projection. Since 2001, approximately 50 acres have been rezoned to R-4 still leaving a residual deficit of R-4 zoned acres still needed to meet projected needs. Approval of this zone change request would reduce that deficit.

Section 17.74.020 is satisfied: This site is consistent with the goals and policies of the McMinnville Comprehensive Plan, is orderly and timely considering existing nearby residential development and the site’s proximity to commercial opportunities and adjacency to public streets and transit facilities in addition to having the ability to be adequately served by required utilities and services. In addition, there are no policies contained in the Comprehensive Plan that are being utilized to unnecessarily decrease densities or discourage any form of housing.

Exhibit "A"

Real property in the County of Yamhill, State of Oregon, described as follows:

Being a part of the Reuben Harris Donation Land Claim #80, Notification #1232 and the I. M. Johns Donation Land Claim #81, Notification #1238 in Township 4 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon, and being more particularly described as follows, to-wit:

PARCEL 1:

Beginning at a point on the North right-of-way line of Oregon State Secondary Highway No. 152, as it is now located and constructed, which said beginning point is reached by running South 89°45' West 400.7 feet and North 0°15' West 30.0 feet from the Southwest corner of the said Harris Claim #80, and running thence North 0°15' West 543.1 feet; thence North 65°36' West 360.7 feet; thence North 0°15' West 231.9 feet to a point on the North line of the grantor's property; thence following said North line of grantor's property South 89°47' West 419.7 feet to a point on the line between said Harris and Johns Claims; thence South 50°30' East on division line between said Claims, 878.6 feet to an angle point in grantor's property; thence South 0°15' East 363.7 feet to a point on the North right-of-way line of said State Highway; thence North 89°45' East 72.5 feet to the place of beginning.

PARCEL 2:

Beginning at a point in the center of the McMinnville-Dayton Secondary State Highway #152 at a point 12.28 chains West from the most Easterly Northeast corner of said Johns Claim; thence North 5.86 chains to the Northeasterly line of said Claim; thence North 51°00' West with line of Johns and Harris Claim 7.065 chains; thence South 10.306 chains more or less to center of said Highway; thence East along center of said Highway 5.49 chains to the beginning and containing 4.44 acres more or less.

ALSO: Beginning in the center of the State Highway #152 running from McMinnville to Dayton, 17.77 chains West of the most Easterly NE corner of said Claim, which point of beginning is also the SW corner of that certain tract conveyed by deed recorded July 24, 1947, in Book 144, Page 69, Deed Records of Yamhill County, thence Westerly along the center of said Highway 103 feet and 7 inches; thence Northerly, parallel to the West line of said Fredricks tract above referred to, to the Northeasterly line of the I.M. Johns Donation Land Claim #81, thence South 51° East along the Northeasterly line of said Donation Land Claim; to the Northwest corner of said Fredricks tract above referred to; thence South along the West line of said Fredricks tract to the point of beginning.

SAVE AND EXCEPT that portion of the above-described premises beginning at a point on the North side of the right-of-way line of Oregon State Secondary Highway #152, which said beginning point South 89°45' West, 648.75 feet and North 0°15', 30 feet from the Southwest corner of said Harris Donation Land Claim; thence North 00°15' West, 232.9 feet; thence South 89°45' West along the North line of that certain parcel described in Deed recorded in Volume 184, Page 473, Yamhill County Deed Records and the extension thereof, 290.4 feet more or less to the East line of that certain parcel described in Film Volume 18, Page 851, Yamhill County Deed Records; thence Southerly along the East boundary line of said parcels to the North boundary line of said State Highway #152; thence Easterly along the North boundary line of said State Highway to the point of beginning.

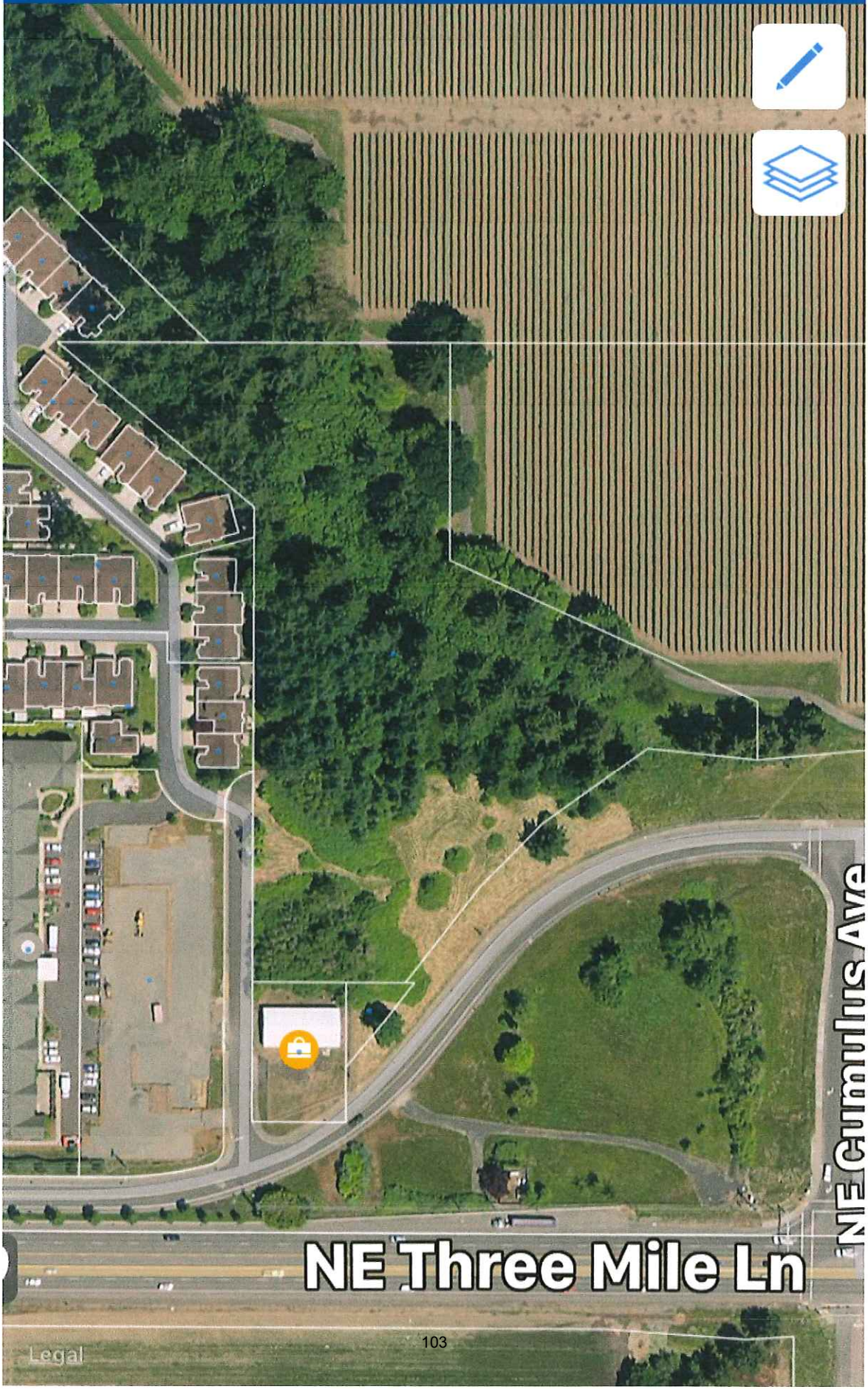
SAVE AND EXCEPT from Parcels 1 and 2, those portions conveyed to the State of Oregon, Department of Transportation in Deed recorded January 19, 1989 in Film Volume 229, Page 452 and in Stipulated Final Judgment entered June 12, 2003 and recorded June 30, 2003 as Instrument No. 200315555, Deed and Mortgage Records, Yamhill County, Oregon.

NOTE: This legal description was created prior to January 1, 2008

First American Title

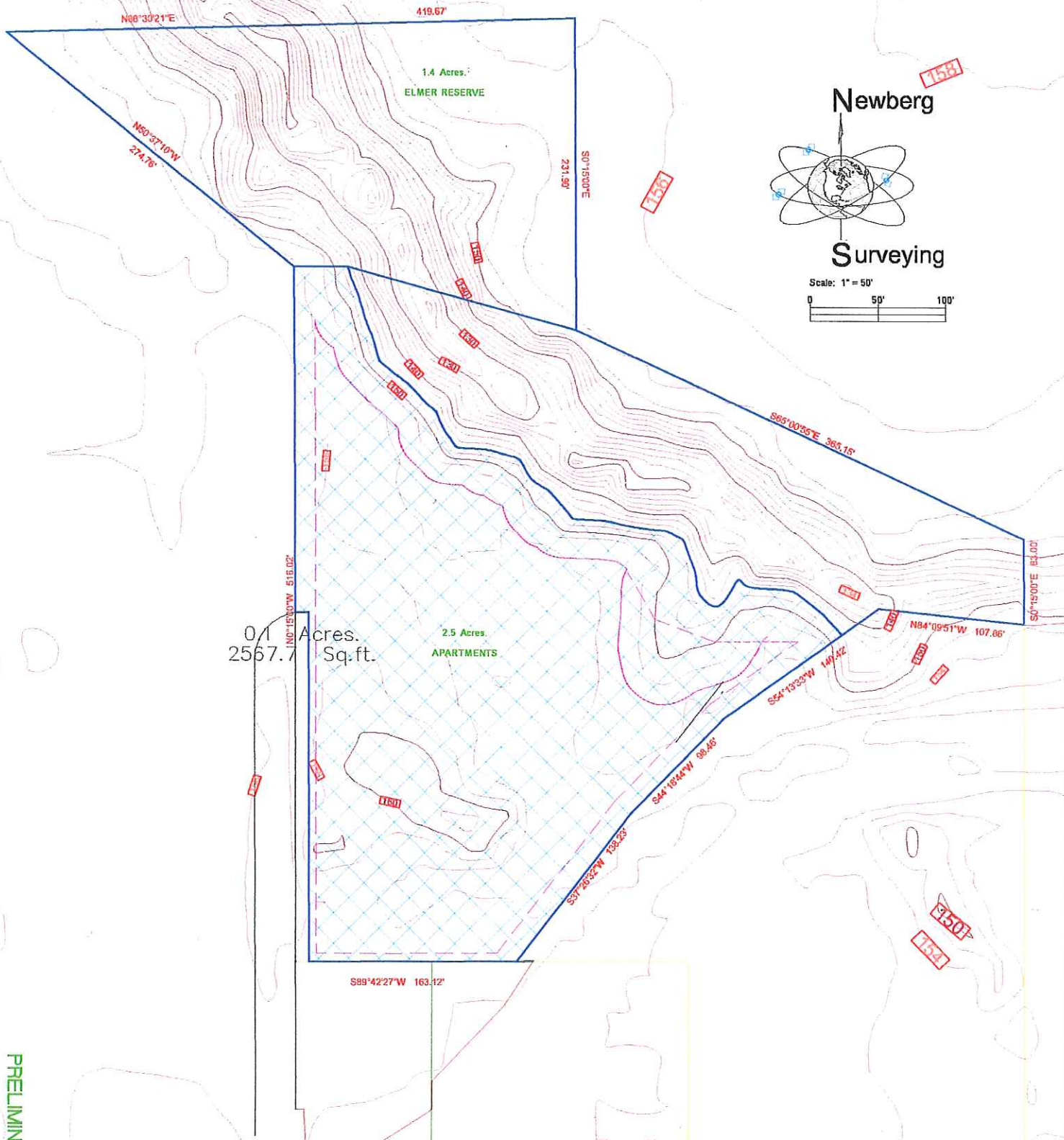


Q Address or Intersection



NE Three Mile Ln

NE Cumulus Ave



PRELIMINARY

<p>PROJECT NO. 1018</p> <p>13 FEBRUARY 2017</p>	<p>SLEEPY HOLLOW</p> <p>N.E. CUMULUS AVENUE & N.E. FIRCREST DRIVE, MC MINNVILLE, OREGON 97128</p>	<p>bruce w. kenny, architect, s.e.</p> <p>9318 north mohawk avenue</p> <p>portland, oregon 97203</p> <p>cell: 503-435-9900 brucek@yahoo.com</p>	<p>PRELIMINARY</p>
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Cumulus Avenue Zone Change & Apartments

Traffic Impact Analysis
McMinnville, Oregon

Date:

June 28, 2017

Prepared for:

Denny Elmer

Prepared by:

William R. Farley, PE



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Executive Summary

1. A zone change in conformance with the Comprehensive Plan is proposed for a 5.3-acre property located northeast of the intersection of NE Cumulus Avenue at NE Fircrest Drive in McMinnville, Oregon. Following a change in zoning designation from *Agricultural Holding* (AH) to *Multiple Family Residential* (R-4), an apartment complex with up to 95 dwelling units is planned for construction.
2. Under the proposed R-4 zoning and accounting for environmental constraints restricting development to approximately 3.8 acres, a maximum of 95 apartment units can be accommodated. The development of up to 95 apartment units will generate a total of 48 trips during the morning peak and 59 trips during the evening peak hours.
3. A detailed analysis of the crash history at the study intersections shows no trends that are indicative of safety issues that need to be addressed. No safety mitigations are recommended.
4. Traffic signal warrants were not projected to be met for the intersection of NE Cumulus Avenue at the Salmon River Highway connection road under any of the analysis scenarios.
5. The study intersections are projected to operate within the performance standards established by the Oregon Department of Transportation and the City of McMinnville, regardless of the zone change or additional trips from the development of up to 95 apartment units. No operational mitigations are recommended.
6. Full development under the proposed zoning will not significantly affect existing or planned transportation facilities as defined under Oregon's Transportation Planning Rule.

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Introduction

A zone change in conformance with the Comprehensive Plan is proposed for a property located northeast of the intersection of NE Cumulus Avenue at NE Fircrest Drive in McMinnville, Oregon. Subsequent to the approval of the zone change, an apartment complex is proposed for development on the subject site.

This report analyzes and addresses the potential traffic impacts of the proposed zone change as well as traffic impacts associated with the development of up to 95 apartment units. The purpose of this report is to provide both a short-term and long-term analysis that addresses the operation of the nearby transportation system in order to ensure safe and efficient performance.

Based on the location of the property and conversations with Mike Bisset with the City, the following intersection were identified for analysis of impacts related to the proposed zone change and subsequent development:

- Oregon Highway 18 at Cumulus Avenue (Salmon River Highway connection road)
- NE Cumulus Avenue at Cumulus Avenue (Salmon River Highway connection road)

All supporting data including traffic counts and detailed traffic analysis calculations are included in the appendix to this report.

Location Description

The subject property is identified as Tax Lot R442300900 and is located northeast of the intersection of NE Cumulus Avenue at NE Fircrest Drive. The 5.3-acre property is currently zoned *Agricultural Holding* (AH) by the City of McMinnville and is designated as Residential on the City's 2014 Comprehensive Plan Map. Due to environmental constraints on the property, only 3.8 acres of the property are identified as developable.

Vicinity Streets

Oregon Highway 18, also known as the Salmon River Highway, is under the jurisdiction of the Oregon Department of Transportation (ODOT) and is classified as a Statewide Expressway. The highway is a freight route and a federally designated truck route on the National Highway System. It has a five-lane cross section that includes a center two-way left-turn lane and has a speed limit of 55 mph. Curbs and sidewalks are not installed on either side of the facility in the vicinity of the site.

NE Cumulus Avenue is classified by the City of McMinnville as a Minor Collector and serves as a frontage road for homes and businesses located on the north side of Oregon Highway 18, including the Evergreen Air and Space Museums. It has a two-lane cross-section and has a posted speed limit of 35 mph. Curbs are installed on both sides of the roadway and sidewalks are installed on the north side west of the Salmon River Highway connection road. Bike lanes are provided on both sides of the roadway west of the Salmon River Highway connection road.

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The Salmon River connection road spans approximately 370 feet between NE Cumulus Avenue to Oregon Highway 18. The roadway's cross-section is between three and four lanes to serve intersections on both ends. Curbs and sidewalks are installed on the western side of the roadway.

Study Intersections

The intersection of Oregon Highway 18 at Cumulus Avenue (Salmon River Highway connection road) is a four-legged intersection operating under the control of a traffic signal. The eastbound approach on Oregon Highway 18 has a dedicated left-turn lane served by protected phasing, a through lane, and a shared through/left-turn lane, while the westbound approach has a dedicated left-turn lane served by protected phasing, two through lanes, and a dedicated right-turn lane. The southbound approach at the intersection has a dedicated left-turn lane, a through lane, and a dedicated right-turn lane operating concurrently with the northbound single-lane approach. Crosswalks are provided along each leg of the intersection and are served by pedestrian pushbuttons and signals.

The intersection of NE Cumulus Avenue at the Salmon River Highway connection road is a three-legged intersection operating under all-way stop control. The eastbound and westbound approaches on NE Cumulus Avenue each have a single, shared lane serving all turning movements. The northbound approach has dedicated left- and right-turn lanes with the channelized right-turn lane operating under yield control. A crosswalk is provided along the western leg of the intersection.

Figure 1 on page four provides a vicinity map showing the existing lane configurations and traffic control devices at the study intersections.

Traffic Counts

Traffic movement counts were collected at each of the study intersections on Tuesday, June 6th, 2017, from 4:00 PM to 6:00 PM to capture the evening peak hour and on Wednesday, June 7th, 2017, from 7:00 AM to 9:00 AM to capture the morning peak hour. Data corresponding to a system peak hour from 7:25 AM to 8:25 AM for the morning peak and from 4:25 PM to 5:25 PM for the evening peak were used for analysis.

Figure 2 on page five shows the existing traffic volumes occurring at each of the study intersections for both the morning and evening peak hours.

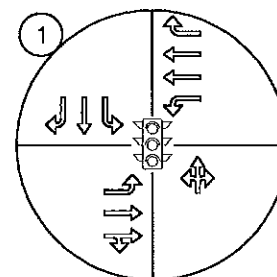
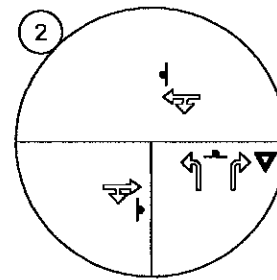
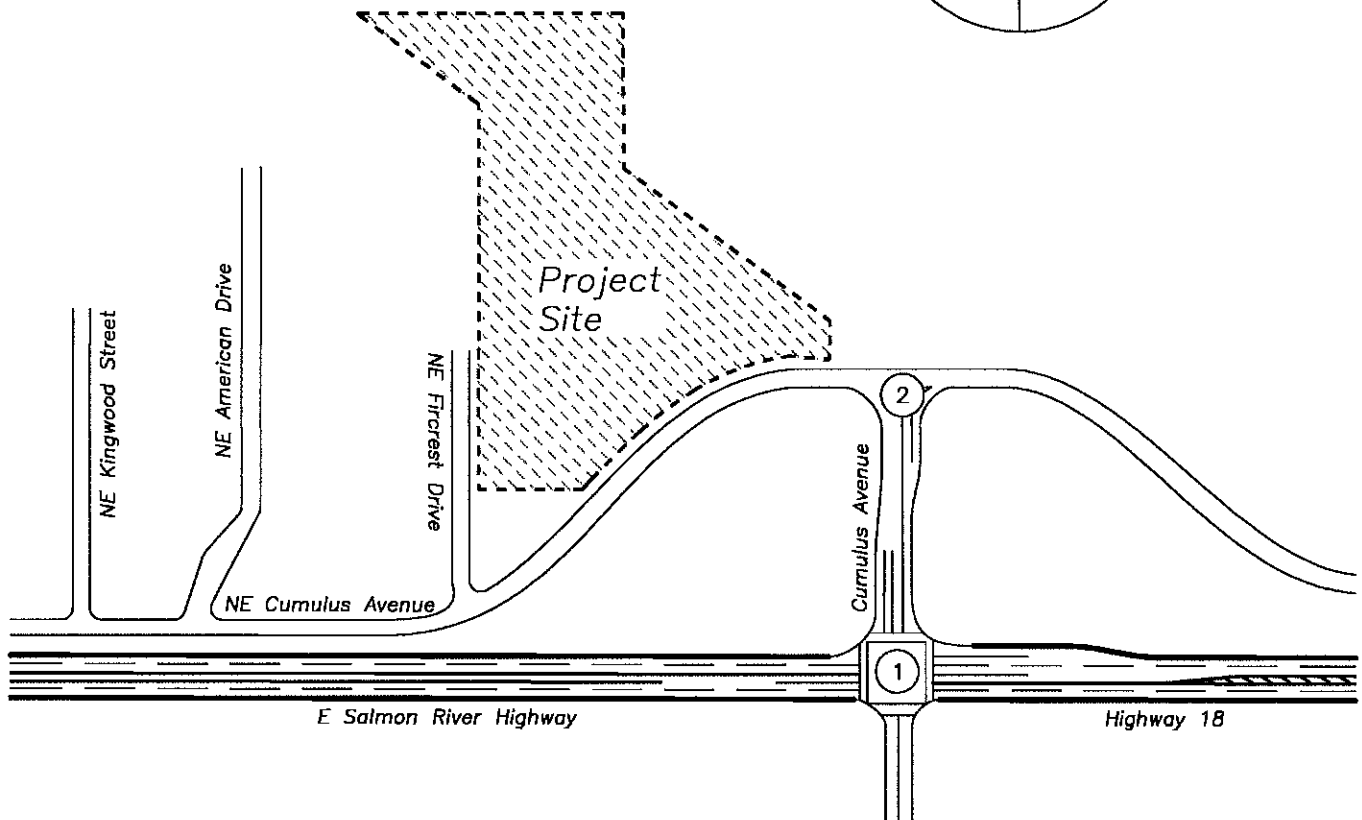
LEGEND

○ STUDY INTERSECTION

⊥ STOP SIGN

⬆️ TRAFFIC SIGNAL

▨ PROJECT SITE



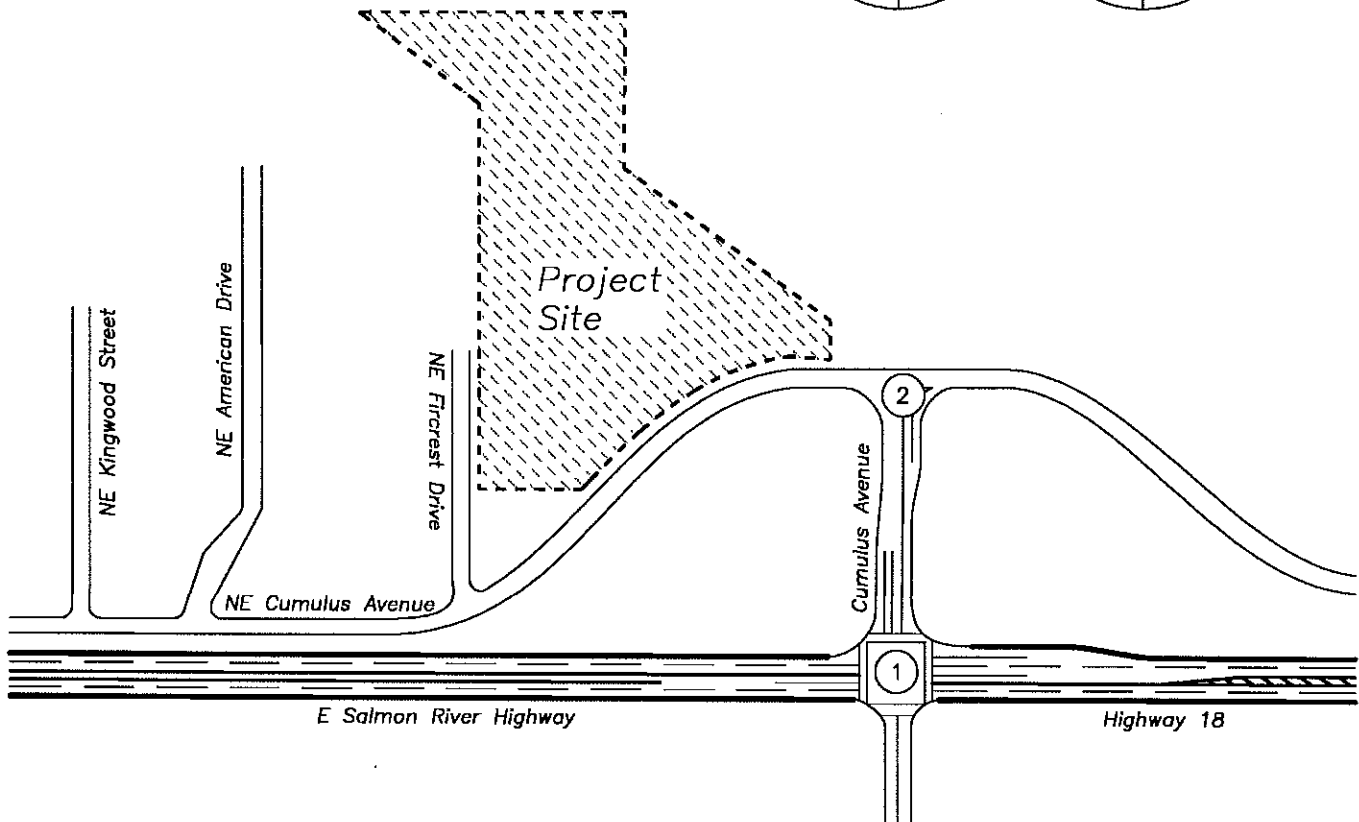
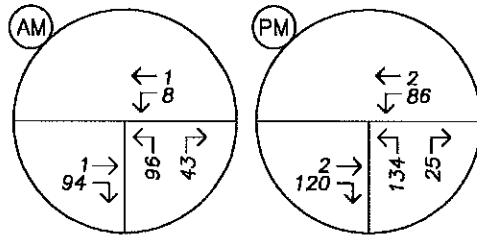
VICINITY MAP

no scale

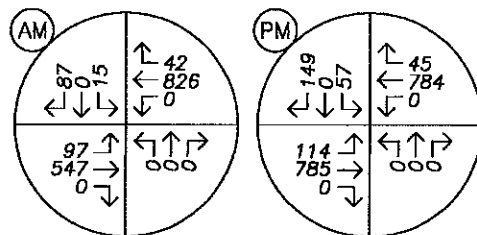
FIGURE 1

PAGE 4

INTERSECTION #2



INTERSECTION #1



Le

TRAFFIC VOLUMES
Existing Conditions
AM & PM Peak Hour

no scale

FIGURE
2
PAGE
5

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Site Trips

Trip Generation

A change in zoning designation from *Agricultural Holding* (AH) to *Multiple Family Residential* (R-4), in conformance with the City's Comprehensive Plan, is proposed for the 5.3-acre property. To evaluate the traffic impacts resulting from the proposed zone change, the reasonable worst-case development scenario for the existing and proposed zoning was evaluated. Under the current AH zoning, only one single-family dwelling would be permitted. The proposed zone change to R-4 would permit the property to accommodate residential uses at densities no less than 1,500 square feet per family. Based on the developable area of 3.8 acres, and assuming a 20 percent reduction to developable area for transportation and circulation facilities, the property could accommodate up to 95 apartment units.

To estimate the trip generation of the property, trip rates from the *TRIP GENERATION MANUAL*¹ were used. To project traffic for full build-out of the property under the proposed zoning, as well as the subsequent development of an apartment complex, data corresponding to land-use code 220, *Apartment*, was referenced based on the number of dwelling units.

The trip generation calculations show that the reasonable worst-case development scenario of 95 apartment units under the proposed R-4 zoning will generate 48 trips during the morning peak hour with 10 trips entering the site and 38 exiting. During the evening peak hour, the site is projected to generate 59 trips with 38 entering and 21 exiting the site. A total of 632 daily trips are projected with half entering and half exiting the site. Detailed trip generation calculations are included in the appendix to this report.

Trip Distribution

The subject property is located northeast of the intersection of NE Cumulus Avenue at NE Fircrest Drive. NE Cumulus Avenue does not provide any connections to areas outside the surrounding residential area and the Evergreen Air and Space Museum to the east. To reach employment and commercial destinations, people would need to use Oregon Highway 18 and travel to/from the west to the City of McMinnville or to/from the east towards Oregon Highway 99W and the cities of Newberg, Sherwood, and the Portland Metropolitan Area.

Based on the location of the property in addition to current travel trends, it is anticipated that majority of the trips associated with the property (70 percent) would arrive and depart in the direction of the City of McMinnville, with the remaining trips (30 percent) traveling to/from the east to other destinations.

Figure 3 on page seven provides the morning and evening peak hour trip assignment for both the reasonable worst-case development scenario and the subsequent development of up to 95 apartment units.

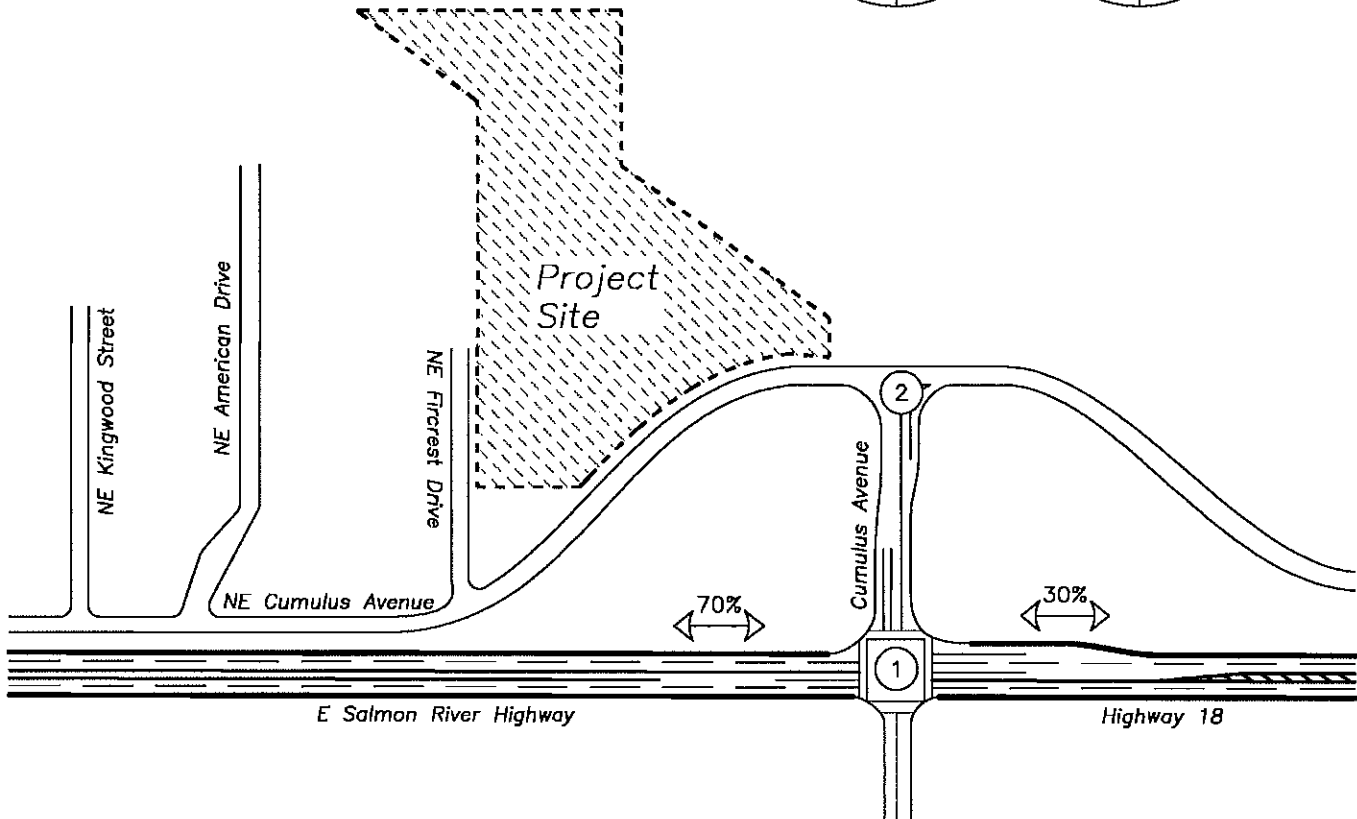
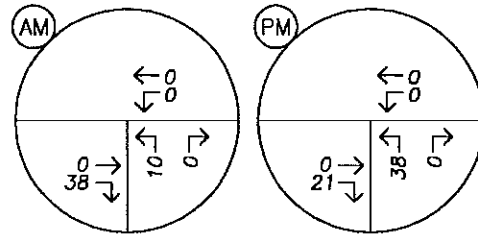
¹ Institute of Transportation Engineers (ITE), *TRIP GENERATION MANUAL 9th Edition*, 2012.

LEGEND

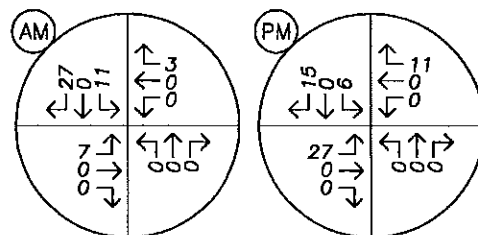
XX% PERCENT OF PROJECT TRIPS

TRIP GENERATION			
	IN	OUT	TOTAL
AM	10	38	48
PM	38	21	59

INTERSECTION #2



INTERSECTION #1



SITE TRIP DISTRIBUTION & ASSIGNMENT
Proposed Zone Change – Site Trips (R-4 Zoning)
AM & PM Peak Hours



FIGURE
3

PAGE
7

Safety Analysis

Crash Data Review

Using data obtained from the Oregon Department of Transportation's Crash Analysis and Reporting Unit, a review of crashes was performed using the most recent five years of crash data (January of 2011 to December of 2015) at available study intersections. The crash data and existing traffic counts were used to determine a crash rate for the study intersections with the common assumption that traffic counted during the evening peak hour represents ten percent of the average daily traffic (ADT) at the intersection. The crash rate was reported as the number of crashes per million entering vehicles (CMEV). Calculated intersection crash rates for each study intersection were compared against the average and 90th percentile crash rates for intersections with similar settings, approach configurations, and traffic control types in order to determine whether safety mitigation is necessary or appropriate.

The intersection of Oregon Highway 18 at Cumulus Avenue had eight reported crashes during the five-year analysis period. The crashes consisted of six rear-end collisions (including one involving a bicyclist) and two involving a turning maneuver. Of these, one crash resulted in a non-incapacitating injury (*Injury-B*), five resulted in possible injuries or complaints of pain (*Injury-C*), and two resulted in only property damage (*PDO*). The crash rate at the intersection was calculated to be 0.227 CMEV. The average crash rate for a rural four-legged intersection operating under signal control in Oregon was 0.324 CMEV with a 90th percentile crash rate of 0.579 CMEV.

No crashes were found to be reported at the intersection of NE Cumulus Avenue at the Salmon River Highway connection road during the analysis period.

Crash reports for the study intersections are included in the appendix to this report.

Warrant Analysis

Traffic signal warrants were examined for the intersection of NE Cumulus Avenue at the Salmon River Highway connection road to determine whether the installation of a new traffic signal will be warranted at any point through the planning horizon.

Low volumes are projected for both the minor and major street approaches at the intersection of NE Cumulus Avenue at the Salmon River Highway connection road. By examination, traffic signal warrants are not projected to be met under any of the analysis scenarios. No new installation of a traffic signal is recommended.

Operational Analysis

Background Traffic

To provide analysis of the impact of the proposed zone change in conformance with the Comprehensive Plan as well as the development of up to 95 apartment units, an estimate of future traffic volumes is required. In order to calculate the future volumes, a compounded growth rate of two percent per year was applied to the measured existing volumes on local streets to approximate future traffic volumes at the year 2037 planning horizon as well as year 2019 when the apartments are assumed to be constructed and occupied.

Future traffic volumes for through traffic on Oregon Highway 18 were projected in conformance with the requirements established in ODOT's Analysis Procedures Manual. This included the determination of the 30th-highest hour volumes based on seasonal trend variations of highways with commuter trends.

In addition to the seasonal adjustments, annual growth factors for the through traffic on Oregon Highway 18 were determined based on data from ODOT's Future Volumes Tables.

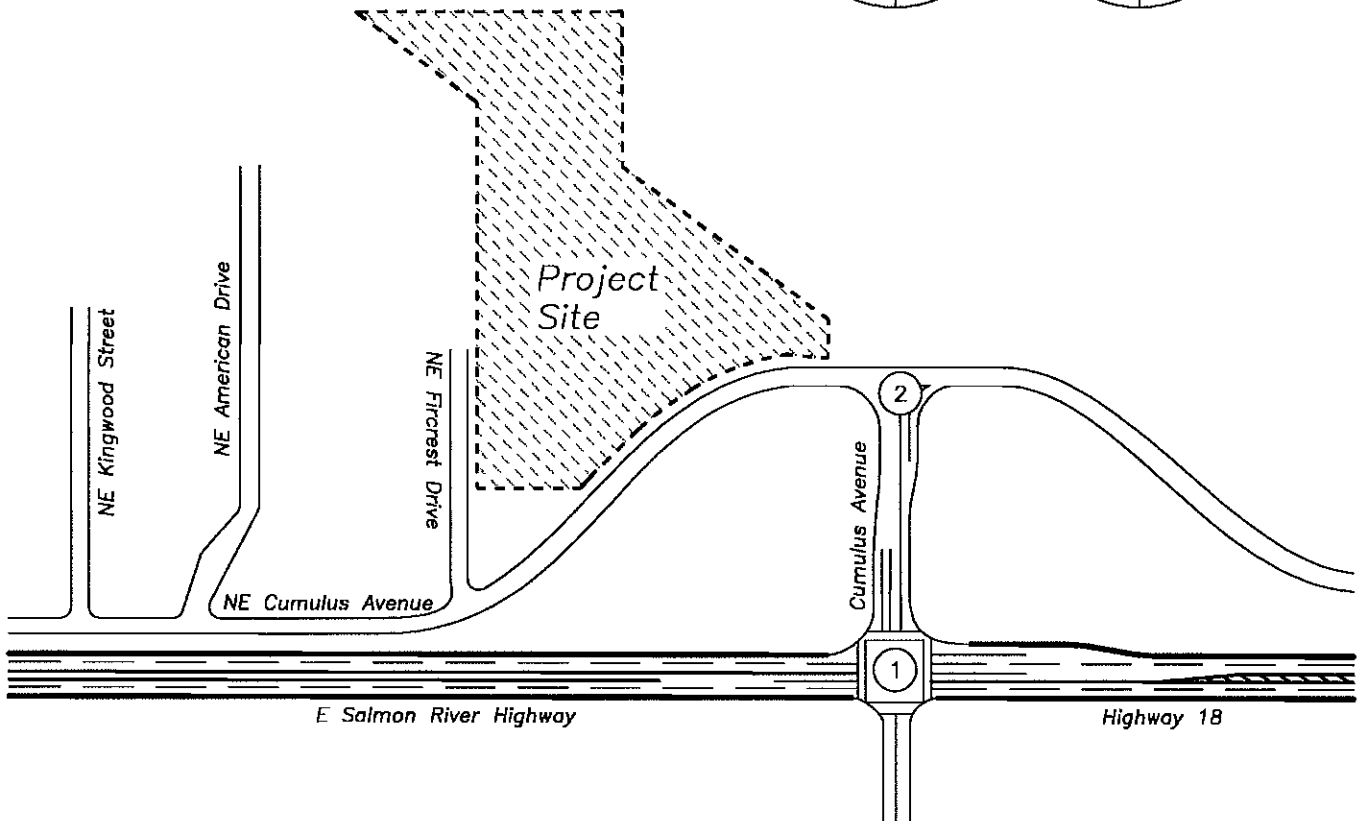
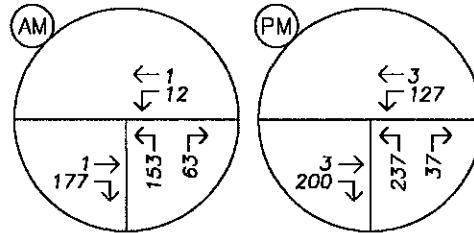
Background Plus Site Trip Volumes

Peak hour trips calculated to be generated by the assumed reasonable worst-case development scenario under the proposed R-4 zoning designation, as described earlier within the Site Trips section, were added to the calculated 2037 volumes to obtain the expected traffic conditions at the planning horizon with the proposed zone change.

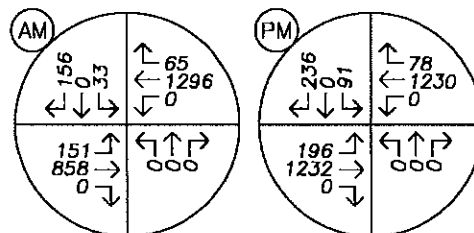
Additionally, site trips from the development of up to 95 apartments were added to year 2019 background volumes to obtain the expected traffic conditions with the completion and occupancy of the site.

Figure 4 on page 10 shows the projected year 2037 planning horizon volumes during the morning and evening peak hours with the proposed zone change on the subject property from AH to R-4. Figure 5 on page 11 shows year 2019 background volumes during both the morning and evening peak hours and Figure 6 on page 12 shows year 2019 background volumes with the addition of trips associated with the development of up to 95 apartment units.

INTERSECTION #2



INTERSECTION #1

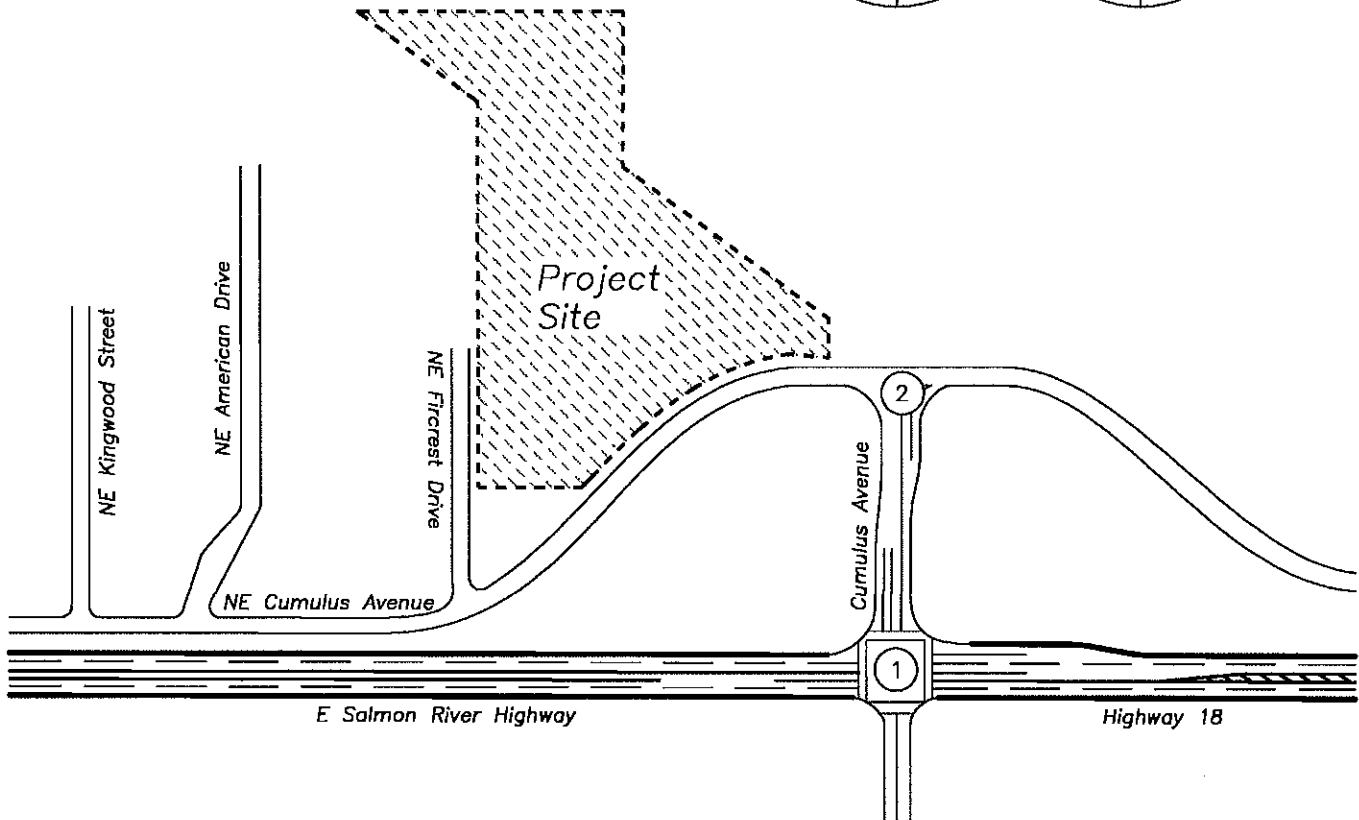
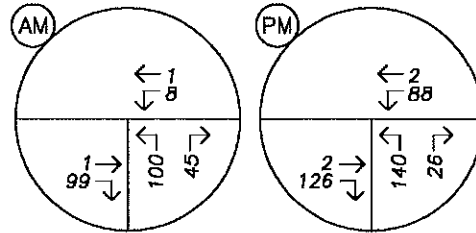


TRAFFIC VOLUMES
 Year 2037 Planning Horizon w/ Proposed Zone Change
 AM & PM Peak Hours

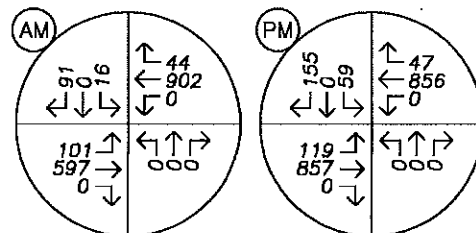


FIGURE
 4
 PAGE
 10

INTERSECTION #2



INTERSECTION #1

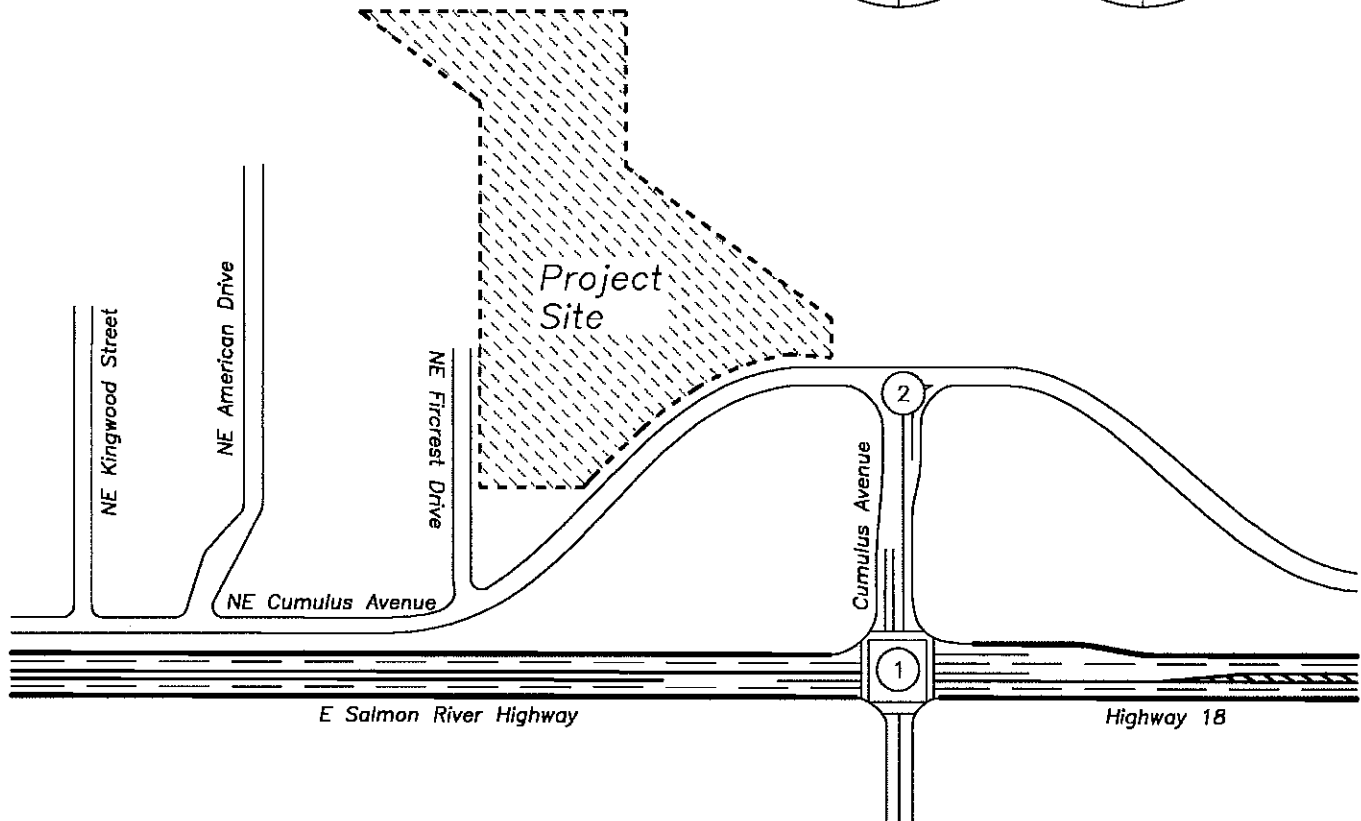
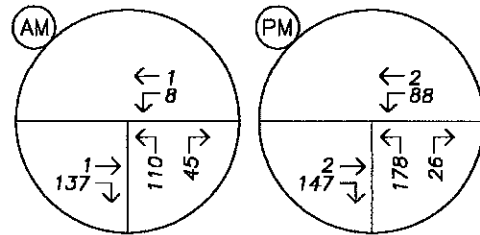


TRAFFIC VOLUMES
Year 2019 Background Conditions
AM & PM Peak Hours

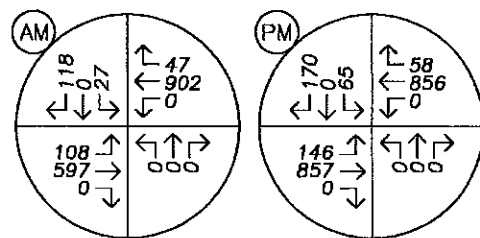


FIGURE
5
PAGE
11

INTERSECTION #2



INTERSECTION #1



TRAFFIC VOLUMES
Year 2019 Background Conditions plus Site Trips
AM & PM Peak Hours



FIGURE
6
PAGE
12

Intersection Capacity Analysis

A capacity and delay analysis was conducted for each of the study intersections during the morning and evening peak hours under existing conditions and year 2037 planning horizon conditions with the reasonable worst-case development scenario for the proposed change in zoning from AH to R-4 on the subject property. Additional analysis was conducted for year 2019 to compare background volumes to projected volumes that would be expected with the development of up to 95 apartment units.

The analysis was conducted according to the signalized and unsignalized intersection analysis methodologies in the *Highway Capacity Manual* (HCM). To evaluate an intersection, it is generally graded based on the average delay experienced by vehicles and is assigned a level of service (LOS). The level of service of an intersection can range from LOS A, which indicates very little or no delay experienced by vehicles, to LOS F, which indicates a high degree of congestion and delay.

Both the City of McMinnville and the Oregon Department of Transportation evaluate intersection performance using volume-to-capacity (v/c) ratios instead of average vehicle delay and level of service. The v/c ratio compares the potential capacity to the actual (or demand) volumes to determine the portion of the intersection's capacity that is utilized. A v/c ratio of 1.0 would indicate the intersection is operating at capacity.

The intersection of Oregon Highway 18 at Cumulus Avenue (Salmon River Highway connection road) is within the City of McMinnville's urban growth boundary and is classified by ODOT as a Statewide Expressway with a posted speed limit greater than 45 mph. According to the 1999 Oregon Highway Plan, the intersection is required to operate with a v/c ratio of 0.80 or less.

The City of McMinnville requires intersections to operate with a v/c ratio of 0.90 or less.

The intersection of Oregon Highway 18 at Cumulus Avenue is currently operating at LOS A during the morning peak hour and LOS B during the evening peak hour with a v/c ratio of 0.54. Under the reasonable worst-case development scenario for the proposed zoning, the intersection would be projected to operate at LOS B with a v/c ratio of 0.79 or less during both peak periods under 2037 planning year conditions. The intersection is also projected to meet ODOT and City standards under year 2019 traffic conditions with the development of up to 95 apartment units.

The intersection of NE Cumulus Avenue at the Salmon River Highway connection road is currently operating at LOS A during both peak periods. The intersection is projected to operate at LOS B or better under all future year analysis scenarios.

The results of the capacity analysis, along with the levels of service, delay, and v/c ratios are shown in Table 1 on the following page. Detailed calculations, as well as tables showing the relationships between delay and level of service, are included in the appendix to this report.

1e

Table 1 - Intersection Capacity Analysis

Intersection	AM Peak Hour			PM Peak Hour		
	Delay (s)	LOS	v/c	Delay (s)	LOS	v/c
<i>OR Hwy 18 at Cumulus Ave</i>						
2017 Existing	10	A	0.54	11	B	0.54
2019 Background	10	B	0.58	11	B	0.57
2019 Site	11	B	0.59	12	B	0.58
2037 R-4 Zoning	15	B	0.79	16	B	0.77
<i>NE Cumulus Ave at Cumulus Ave</i>						
2017 Existing	8	A	--	9	A	--
2019 Background	8	A	--	9	A	--
2019 Site	9	A	--	9	A	--
2037 R-4 Zoning	10	A	--	11	B	--

Based on the detailed capacity analysis, each of the study intersections will be projected to operate within the performance standards set by ODOT and the City of McMinnville through the year 2037 with the addition of trips from the reasonable worst-case development scenario under the proposed zoning as well as the proposed development of up to 95 apartment units. No mitigations are necessary or recommended.

Transportation Planning Rule

Oregon's Transportation Planning Rule (TPR) is contained in Section 660-012-0060 of the Oregon Administrative Rules. The TPR is in place to ensure that when an adopted plan or land use regulation is amended, provisions are made to ensure that the transportation system is capable of supporting any potential increase in trip intensity resulting from the amendment. The applicable portions of the TPR are quoted in italics below, with responses directly following.

660-012-0060 Plan and Land Use Regulation Amendments

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

Response:

The proposed change in zoning will not change any standards to the functional classification of existing or planned transportation facilities. Accordingly, this section is not triggered.

- (b) *Change standards implementing a functional classification system; or*

Response:

No changes are proposed to any standards implementing the functional classification system. Accordingly, this section is also not triggered.

- (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
- (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
- (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

1e

Response:

In the case of this report, subsections (A) and (B) are not triggered, since the proposed zone change will not impact or alter the functional classification of any existing or planned facility and the proposal does not include a change to any functional classification standards. Subsection (C) is also not triggered since each of the study intersections will meet applicable performance standards identified in the City of McMinnville's Transportation System Plan through the planning horizon.

Based on the detailed analysis, the proposed zone change of the subject property from *Agricultural Holding* (AH) to *Multiple Family Residential* (R-4) will not degrade the performance of any existing or planned transportation facility. Accordingly, the Transportation Planning Rule is satisfied.

1e

Conclusions

Full development under the proposed zoning of *Multiple Family Residential* (R-4) will not significantly affect existing or planned transportation facilities as defined under Oregon's Transportation Planning Rule.

The study intersections are projected to operate within the performance standards established by the Oregon Department of Transportation and the City of McMinnville, regardless of the zone change or additional trips from the development of up to 95 apartment units. No operational mitigations are recommended.

Traffic signal warrants were not projected to be met for the intersection of NE Cumulus Avenue at the Salmon River Highway connection road under any of the analysis scenarios.

A detailed analysis of the crash history at the study intersections shows no trends that are indicative of safety issues that need to be addressed. No safety mitigations are recommended.

Based on the detailed analysis, no mitigations are required or recommended for the proposed zone change from *Agricultural Holding* (AH) to *Multiple Family Residential* (R-4) or the subsequent development of up to 95 apartment units.

1e

Appendix

DRAFT

August 16, 2017

McMinnville Planning Commission and
Heather Richards, Planning Director
City of McMinnville Planning Department

HAND DELIVERED 8-17-2017

RE: Docket Number ZC 11-17 (Zoning Change Request at NE Cumulus Avenue and NE Fircrest Drive)

Dear Planning Commission Members and Ms. Richards:

We are homeowners at 378 NE Fircrest Place and members of the Fircrest Village Condominiums Association. We are submitting this letter in response to the above referenced zoning change request. We would respectfully ask that your decision on this matter be postponed to allow a complete study and review of any proposed development plans for the subject property, with thorough consideration given to the effects those development plans will have on the surrounding neighborhood, community and any public utilities servicing the area. We are concerned about any construction design or density plans that widely deviate from existing development and construction in this neighborhood and community. We are concerned about access for emergency vehicles to our area which could be restricted by a substantial increase of traffic and on-street parking on narrow NE Fircrest Drive, and concerned about pedestrian and vehicle safety from increased traffic at the sometimes visually challenging intersection with NE Cumulus Avenue. (NOTE: The Fircrest Community Assisted Living and Memory Care Unit Facility, which utilizes NE Fircrest Drive, experiences frequent emergency vehicle traffic and regularly scheduled deliveries by large trucks, including semi-trailer trucks. There are residents of Fircrest Community who are wheelchair bound and regularly cross the intersection at NE Fircrest and NE Cumulus.) Finally, we are concerned about the environmental impact the proposed development would have on the vital old growth forest covering a large portion of the subject property, and the storm and water drainage tributary running through the property to the South Yamhill River. We also join in any concerns raised by our neighbors to this zoning change request.

Previous scheduling conflicts prevent our presence at the August 17th public hearing.

Hopefully you will consider our request to delay your decision on this matter until after a comprehensive study and review of any proposed development on the subject property, and its impact on adjacent property owners and facilities, the immediate neighborhood and this community. Thank you.

Handwritten signatures of Tom and Kathy Murtiashaw in black ink.

Tom & Kathy Murtiashaw
378 NE Fircrest Place
McMinnville, OR 97128

Ron Pomeroy

From: Heather Richards
Sent: August 22, 2017 1:08 PM
To: Ron Pomeroy
Subject: Fwd: Fircrest Village Condominiums

See below

Heather Richards
Sent from my Iphone

Begin forwarded message:

From: Lee <leggers111@comcast.net>
Date: August 22, 2017 at 12:36:36 PM PDT
To: <heather.richards@mcminnvilleoregon.gov>
Subject: **Fircrest Village Condominiums**

Be advised that a notice of property line encroachment has been sent to Mr. Denny Elmer in the matter of Docket ZC 11-17. This encroachment was discovered in October of 2013 when Fredrick Motor Company surveyed for future development. At that time, he did not want to deal with the issue and differed it to the new owner when it sold. Since Mr. Elmer is planning on the development, we have advised him of the encroachment of 557.16 feet of the west boundary line which consists of approximately .22 acres.

Lee Eggers, President Fircrest Village Condominiums

August 24, 2017
McMinnville Planning Department
231 NE Fifth Street
McMinnville, Or. 97128


Dear Sirs,

We have lived in the Kingwood neighborhood for almost 25 years. We have watched an awful lot of construction taken place since that time we moved in. Your decision to make this piece of land into a multifamily apartment building destroys the balance of the entire Cumulus stretch of land.

The area has truly reached the limit of growth. Please reconsider. Not every piece of green space needs to be destroyed. We were hoping the city would consider buying the land for a much needed park. There are many senior citizens nearby who would benefit from having a nice area to visit and enjoy the sunshine.

There is already a large sub division being constructed presently, and if the city approves this apartment complex, it will most assuredly detract from the livability of the area, and will show without a doubt that the city would like to see McMinnville be the next Beaverton.

Sincerely yours,



John and Sharon O'Gieblyn
201 NE Kingwood Street
McMinnville, Or. 97128

RECEIVED

AUG 24 2017

COMMUNITY DEVELOPMENT
CENTER

Ron Pomeroy

From: Heather Richards
Sent: August 24, 2017 10:31 PM
To: Ron Pomeroy
Subject: Fwd: Fircrest and Cumulus plans

Ron,

Please see below. Public testimony received for the Fircrest rezone.

Heather Richards
Sent from my Iphone

From: LaVerne <rick2lav@comcast.net>
Date: August 24, 2017 at 9:05:33 PM PDT
To: <heather.richards@mcminnvilleoregon.gov>
Subject: Fircrest and Cumulus plans

Hello, Planning Commission! I'm writing in regards to the planned development of the property on Fircrest and Cumulus. I'm a resident in the Fircrest Condo Village and have concerns.

1. The traffic study at the above intersection is much needed. It also needs to take into consideration the people who cross the non-existent cross-walk to walk/ride to the Vineyard to visit and watch the world go by on Cumulus..... they include people walking dogs, people with walkers, and a lot of people on motorized wheelchairs and scooters. All of these people also walk up and down Fircrest.
2. It boggles the mind to think the developer is in compliance when he says that shopping at the Evergreen Museum Gift Shop meets one of his criteria.
3. There is no public transportation on Cumulus or Hwy 18. Period. The developer cannot say that some day there will be transportation on said roads and, therefore, meets the criteria. Who knows if that will come to fruition? Again, the mind boggles.

Please vote against this proposed development. Please.
Thank You.

LaVerne Rickard
395 NE Fircrest Pl
MAC, OR 97128
503-883-9688

Ron Pomeroy

From: Denny Elmer [dennyselmer@gmail.com]
Sent: September 01, 2017 11:00 AM
To: Ron Pomeroy; Chuck Darnell; Heather Richards
Subject: Fircest Response
Attachments: Fircrest Response.docx; ZC 11-17 Memo - Bisset 082317.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Denny Elmer

Fircrest Response

McMinnville City Planning Commissioners thank you for taking the time to hear out the opposition and myself in the application for a zone change on the parcel located on Fircrest Ave. I have read the opposition letters and wish to respond to a few of their concerns. I do feel most of the concerns we answered or explained in the application and the recommendation response from the City Planning and other offices. As I re-read through the application the criteria is clearly explained. I have re-read the application I feel we meet the criteria set forth.

The concern that was most prominent from the opposition was traffic. I did a traffic study that covered the two main intersections

- Oregon Highway 18 at Cumulus Avenue (Salmon River Highway connection road) □
- □ NE Cumulus Avenue at Cumulus Avenue (Salmon River Highway connection road) □

The findings on these intersections were well below capacity after construction is complete. Please see the attachment from City of McMinnville Engineering that shows the capacity for the intersection at Fircrest Dr. and Cumulus Ave. This assessment shows that this development would stay well below the capacity that the city street was designed to handle. In conclusion, I have received professional assessments on the traffic impact and see no reason to hinder this zone change.

I am a local real estate and business owner and have been involved in a few committees on the city and county levels that are dealing with the housing need in McMinnville and Yamhill County. There is a need, we are all aware of this, this zone change would allow for some immediate development that would meet these needs. Please consider this approval as it comes before you recommended for approval from McMinnville City Planning Dept.



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

www.mcminnvilleoregon.gov

MEMORANDUM

DATE: August 23, 2017
TO: Heather Richards, Planning Director
FROM: Mike Bisset, Community Development Director
SUBJECT: ZC 11-17 (Zone Change) Land Use Resources, LLC

This memo is in response to questions regarding traffic on NE Fircrest Drive raised during public testimony, and by Planning Commissioners, during the public hearing for proposed ZC 11-17 held on August 17, 2017. Some concern was expressed that the traffic study prepared by the applicant's traffic engineer did not address the capacity of NE Fircrest Drive to handle the additional traffic generated from the proposed 95 unit multi-family development.

As I noted during the hearing, NE Fircrest Drive is local residential street in the City's transportation plan. The table below includes descriptions of street classifications adopted as part of the City's Transportation System Plan. As noted, local residential streets are intended to carry less than 1,200 vehicles per day, and they are intended to serve the adjacent land without carrying through traffic:

:

McMinnville Transportation System Plan

May 2010

Table 2-1 Street Functional Classification Descriptions

Street Classification	Description and Land Use Context
Expressway	The portion of Highway 18 through McMinnville west of Norton Lane is currently grade separated and functions as a single-lane expressway with speeds of 50-55 mph. The Highway 18 Corridor Refinement Plan (mutually adopted by ODOT and the City) recommends full grade separation for that section of Highway 18 east of Three Mile Lane. Upon completion of the Highway 18 Corridor Plan, Highway 18 can be re-classified from Major Arterial to Expressway. Expressways serve regional and statewide through-traffic at higher but managed speeds, with no or very limited local access.
Arterial (Major and Minor)	Arterial streets form the primary street network within and through McMinnville. They provide a continuous system which distributes traffic between different neighborhoods and districts. Highway 99W is a major arterial, typically with two lanes in each direction of travel. Major arterials are intended to carry no more than 32,000 vehicles per day. Lafayette Avenue, North Baker Street/Westside Road, Baker Creek Road, Hill Road and Old Sheridan Road are Minor Arterials. Minor arterials are intended to be 2- or 3-lane streets, and carry no more than 20,000 vehicles per day.
Collector (Major and Minor)	Collector streets are primarily intended to serve abutting lands and local access needs of neighborhoods. They are intended to carry from 3,000 (maximum for Minor Collector) to 10,000 (maximum for Major Collector) vehicles per day, including some through traffic. The collector street serves either residential, commercial, industrial, or mixed land uses.
Neighborhood Connector	Neighborhood Connector streets serve mostly residential or mixed land uses. They are intended to carry between 1,200 and 3,000 vehicles per day. While through traffic connectivity is not a typical function, they may carry limited amounts. Neighborhood Connector routes are identified in McMinnville to help prioritize pedestrian improvements along previously classified Local Residential Streets; and it is possible or likely that slightly higher traffic volumes are expected on a daily basis.
Local Residential Street	Local residential streets are intended to serve the adjacent land without carrying through traffic. These streets are designed to carry less than 1,200 vehicles per day. To maintain low volumes, local residential streets should be designed to encourage low speed travel. Narrower streets generally improve the neighborhood aesthetics, and discourage speeding as well. They also reduce right-of-way needs, construction cost, storm water run-off, and vegetation clearance. If the forecast volume exceeds 1,200 vehicles per day, as determined in the design stage, the street system configuration should either be changed to reduce the volume through the City's Neighborhood Traffic Calming Program, or the street shall be designed as a Neighborhood Connector route.
Alley	Alley streets provide secondary access to residential properties where street frontages are narrow; where the street is designed with a narrow width to provide limited on-street parking; or where alley access development is desired to increase residential densities. Alleys are intended to provide rear access to individual properties and may provide alternative areas for utility placement.
Cul-De-Sac	Cul-de-sac streets are a type of neighborhood street. They are intended to serve only the adjacent land in residential neighborhoods. These streets shall be short, serving a maximum of 20 single family houses. Because the streets are short and the traffic volumes relatively low, the street width can be narrow, allowing for the passage of two lanes of traffic when no vehicles are parked at the curb or one lane of traffic when vehicles are parked at the curb. To encourage local street circulation capability, the use of cul-de-sac streets shall be discouraged, and shall not be permitted if future connections to other streets are likely. Sidewalk connections from a new cul-de-sac shall be provided to other nearby streets and sidewalks.

Staff has reviewed the existing and proposed developments that access NE Fircrest Drive to verify that the expected traffic is within the 1,200 vehicle per day designation for local residential streets. Per the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (9th Edition, 2012), the expected traffic from the developments that access NE Fircrest Drive is as shown on the map below:



As shown, the existing traffic from Fircrest Village Condominiums and the Fircrest Community Living complex is approximately 426 vehicle trips per day. The expected daily traffic associated with ZC 11-17 (95 units of multi-family) is 632 vehicle trips per day. The total expected daily traffic on NE Fircrest Drive, including existing and proposed developments, is 1,058 trips per day. Thus, the expected traffic on NE Fircrest Drive is within the 1,200 vehicle per day designation for local residential streets and, as staff noted at the public hearing, there is adequate capacity to serve the proposed development.

Please let me know if you have any questions.

Mike Bisset, Director

City of McMinnville Community Development

231 NE Fifth Street | McMinnville, OR 97128

Office: 503.434.7312

<http://www.mcminnvilleoregon.gov>



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

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MINUTES

August 17, 2017
Planning Commission
Regular Meeting

6:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Vice-Chair Zack Geary, Commissioners: Martin Chroust-Masin, Susan Dirks, Roger Lizut, Lori Schanche, and Erica Thomas

Members Absent: Gary Langenwalter and Erin Butler

Staff Present: Mike Bisset – City Engineer, Chuck Darnell – Associate Planner, David Koch – City Attorney, Ron Pomeroy – Principal Planner, and Heather Richards – Planning Director

1. Call to Order

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

2. Citizen Comments

None

3. Approval of Minutes:

A. June 15, 2017 Work Session

Chair Hall called for action on the Planning Commission minutes from the June 15, 2017 Work Session. Commissioner Schanche MOVED to APPROVE the minutes as presented; SECONDED by Commissioner Geary. Motion CARRIED 7-0.

B. July 20, 2017 Public Hearing

Chair Hall called for action on the Planning Commission minutes from the June 20, 2017 Public Hearing. Commissioner Schanche MOVED to APPROVE the minutes as presented; SECONDED by Commissioner Dirks. Motion CARRIED 7-0.

4. Public Hearing (Quasi-Judicial)

A. Zone Change (ZC 9-17/ZC 10-17) (Exhibit 2)

Request: Approval of a zone change from R-1 (Single-Family Residential) to R-4 PD (Multiple-Family Residential Planned Development) on an approximately 0.22 acre parcel of land. Concurrently, the applicant is requesting a Planned Development amendment to amend an existing R-4 PD (Multiple-Family Residential Planned Development) zone on an approximately 0.89 acre parcel of land. The two parcels are located immediately adjacent to each other, with the smaller parcel adjacent to 2nd Street and the larger parcel to the south extending down to SW Apperson Street. The rezoning and planned development amendment would result in the ability to develop 21 (twenty-one) multiple-family residential dwelling units on the two parcels.

Location: 1730 SW 2nd Street and more specifically described as Tax Lots 101 and 100, Section 20CB, T. 4 S., R. 4 W., W.M.

Applicant: Ray Kulback

Chair Hall opened the public hearing and read the quasi-judicial hearing procedure. He asked if there was any objection to the Commission's jurisdiction to hear this matter. There was none. He asked if any Commissioner had a disclosure to declare or wished to abstain from participating or voting on this application. There was none. He asked if any Commissioner needed to declare any contact prior to the hearing with the applicant, any other party involved with the hearing, or any other source of information outside of staff regarding the subject of this hearing. There was none. Several Commissioners had visited the site.

Associate Planner Darnell delivered the staff report. This was a request for a zone change and a planned development amendment for property on SW 2nd Street. The zone change was for the northern parcel to go from R-1, single family residential, to R-4, multi-family residential planned development. The planned development amendment would amend the existing planned development that applied to the southern parcel to expand and cover both parcels which would result in both being zoned R-4 and underneath the planned development overlay. He described the existing parcel and the proposed changes. The current planned development was adopted in 1980. It rezoned the southern parcel to R-4 and adopted the planned development overlay. The overlay limited the site to no more than five dwelling units due to sewer capacity issues. Infrastructure improvements and easements were also required. Since that time, the infrastructure improvements had either been completed or would be required at build out of the site. He reviewed the zone change criteria. The application was consistent with the goals and policies of the Comprehensive Plan in providing a variety of housing in the City. The area could be buffered by landscaping from adjacent low density residential areas and a condition had been included for a landscape plan to be provided and that it would include buffering. There was another condition that if the building height was greater than 35 feet one foot setbacks for every foot over the 35 feet would be required. The site had access to an arterial street. There were no development limitations as it was a flat site with no natural features. Existing facilities had the capacity to support the development. The site had access to transit, was near a property zoned for commercial use in the future, and there were parks nearby. There were higher density uses such as apartments and duplexes surrounding the site. The proposed zone change was not inconsistent with the surrounding development pattern. He discussed the planned development amendment. The specific requests were to repeal the existing planned development as it was outdated and some of the requirements were irrelevant and adopt the new planned development which would increase the size and cover the north parcel as well as the southern parcel. This

site was a uniquely shaped lot as it was narrow and deep. One of the main reasons for the change was to allow for multiple duplex units to be distributed throughout the site instead of a large cluster in one area. The applicant intended to transition from the multi-family development to the east and the single family residential to the west. It was consistent with the Comprehensive Plan objectives for the area and the proposed density was more consistent with the density requirements in the R-4 zone. The proposal was to go from six dwelling units to 21 dwelling units which was a density of 18.9 units per acre. The locational characteristics of the surrounding amenities were consistent with the higher density. The sewer capacity issues had been addressed since the time of the original planned development. The applicant submitted a site plan that provided for some contiguous open space on the site. There would be a stand-alone single unit on the north that would allow for a larger open space on the north. To make that work, the applicant had requested a 5 foot reduction in the front and rear yard setbacks. The site accessed directly on public right-of-way on both sides and there would be a one way access through the site, entering on 2nd and exiting on Apperson. That would reduce the traffic impacts on 2nd. The traffic drive aisle would meander through the site to spread out the dwelling units and reduce speeds. The applicant intended to begin the project soon after it was approved. There was a condition that work had to begin within two years and completed in seven years. The streets were adequate to support the anticipated traffic from the development. A traffic analysis was done for this application and the increases in the pm peak hour delays were minimal. The level of service did not change for the surrounding intersections. The engineering and utility providers were comfortable with providing adequate facilities to serve the site. The maximum density that could be constructed on the site was up to 32 dwelling units and the applicant was proposing 21. Some additional testimony had been received that he entered into the record. The first was a letter from a nearby resident who was concerned about the impacts to traffic on 2nd and asked if a traffic light was warranted. The traffic analysis showed minimal impacts on the surrounding network and a traffic signal was not warranted at this time. Another letter was received from the Fair Housing Council of Oregon who asked the City to look at this proposal in terms of its impact on Statewide Planning Goal 10, the housing needs analysis, and buildable lands inventory. Staff responded that the Goal 10 analysis was not required in this case because the proposal was consistent with the Comprehensive Plan map which allowed for residential use, the proposal implemented the Comprehensive Plan policies, and met the zone change criteria. Staff recommended approval of the application with conditions.

Commissioner Chroust-Masin suggested it would be better to enter the site on Apperson and exit onto 2nd. Associate Planner Darnell said the intent was to prevent movements coming out of the site onto 2nd. City Engineer Bisset said the traffic study concluded that the adjacent street network had capacity for the direction that was submitted and was well below the capacity threshold in the adopted Transportation System Plan.

Commissioner Schanche asked what the percentage was of open space they were supposed to provide. Associate Planner Darnell said there was no specific percentage, they just had to provide open space. The area proposed by the applicant was 2,300 square feet or 5% of the overall site. All of the combined open space was 28% which included landscaping.

Commissioner Schanche was also concerned about the radius for fire trucks.

Public Testimony:

Ray Kulback, applicant, thanked staff for working with him on this application. Staff supported the application and found that it met all of the relative criteria. He asked the Commission to approve it. Regarding the traffic flow, he was required to give an additional 18 feet for future development of 2nd should it be required to be widened. They chose the traffic flow because it would take traffic off of 2nd and it would enter onto a lower volume street. He did not see the need to reverse it. Regarding the open space, the radius worked for fire trucks.

Commissioner Schanche thought some amenities should be included in the open space like benches. Mr. Kulback gave his vision for the open space which included benches, covered barbecue and picnic area, and covered bike parking.

Commissioner Dirks asked if he was going to put in patios behind the units. Mr. Kulback said there would be patios for every unit that would be privately fenced.

Frank Maynard, McMinnville resident, wanted to know if there would be a paved alley behind the units and if there would be a stop sign on 2nd Street. He thought Apperson would be overloaded and wanted to make sure the development did not affect the neighborhood. Chair Hall said there would be no alley or stop sign.

Commissioner Chroust-Masin clarified the driveway for the development would be right behind his property line and would be paved.

Bill Bordeaux, McMinnville resident, asked if the Commission was planning to vote on the application tonight. Chair Hall said the Commission would decide that after all of the testimony was received.

Mr. Bordeaux had come before the Commission several years ago when they were considering a 400 unit housing development on the west side of Hill Road. He warned the Commission about the potential effects of that decision at that time and now there was overcrowding on 2nd Street and in schools. Newby Elementary School was expanded and remodeled and Dunaway had additional units put in and yet both were vastly overcrowded. There was a 48 multi-family unit apartment complex immediately adjacent to this property, there was a 50 unit apartment complex 100 feet northwest of this property, a 28 unit condo complex 700 feet down Cypress, and to the immediate east there were multiple duplexes. This area was already replete with multi-family units and had no need for another 21 unit complex. The schools did not need to deal with 40 plus students added to their rolls. Regarding safety and congestion, 2nd Street had become congested over the past few years. Cypress and Agee had become major arterials that fed into 2nd. To add this additional development would compound the issue. Cypress and 2nd was a choke point and there were auto accidents there on a regular basis. Having another ingress on 2nd would jam things up more. People turning left into the development would cause back-ups and the people turning right would slow down traffic. The physical and natural contours of the area would add to the problem. There was a blind hill on both sides of Cypress and many people were speeding on the hill and there was already a choke point on Cypress and 2nd. Another egress would add to the complication. In the morning and evening there was direct sunlight going into drivers' eyes on 2nd. He cautioned adding to this difficult area. He did not think the 36 parking spaces proposed would accommodate 21 new units in this area. There was no adjacent parking on 2nd. The only potential was parking across the street which meant pedestrians walking across the dangerous street and opening car doors into the bike lane. He thought this plan failed to meet criteria number 1, the purpose on number 2, and failed to meet

17.74.070 a, b, and e. He suggested the Commission personally observe this stretch of 2nd. It was not safe and was highly congested.

Mr. Kulback gave rebuttal. Twice a month he had the property maintained so it looked presentable for the last twelve years. The reason it had not been developed in twelve years was the economy was so bad he could not afford it. He was now actively pursuing development. He had recently done a development next to Newby School and experienced the traffic. He lived about three blocks from 2nd and drove it every day. It had been improved over the years, and would be improved again. There were a lot of kids going to school and it was busy in the morning. He agreed the speed should be reduced on the hill and there should be more police enforcement. There were sidewalks and bike lanes on 2nd. There was congestion on 2nd because it was a busy street. He suggested traffic lights be put in in the future. He did not think traffic would back up when people were entering the development as a lot of the traffic was turning on Cypress and people were already slowing down. He thought it would be a good flow. The traffic study had addressed many of these issues.

Mr. Kulback waived the seven day period to submit final written arguments.

Chair Hall closed the public hearing.

Commissioner Schanche was in support of the application. It was creative and there was a need for housing in McMinnville. Traffic engineers had looked at the traffic issues and she thought this development would work. She suggested adding open space amenities to the conditions.

Commissioner Chroust-Masin had concerns with the traffic flow. He thought it would add to the current problems and again suggested reversing the flow of the traffic on the property.

Commissioner Dirks thought this was cleverly designed in a limited space. The applicant had done the best he could to get open space. She was sympathetic to the traffic issues on 2nd, but it was an arterial and they should expect traffic there. She thought moving the traffic as designed was appropriate.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Schanche MOVED to recommend the City Council approve Zone Change (ZC 9-17/ZC 10-17) and to add in Condition #1 that the details in the site plan include open space amenities. SECONDED by Commissioner Dirks. The motion PASSED 6-1 with Commissioner Chroust-Masin opposed.

B. Zone Change (ZC 11-17) (Exhibit 3)

Request: Approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.

Location: North of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M.

Applicant: Land Use Resources, LLC

Chair Hall opened the public hearing and read the quasi-judicial hearing procedure. He asked if there was any objection to the Commission's jurisdiction to hear this matter. There was none.

He asked if any Commissioner had a disclosure to declare or wished to abstain from participating or voting on this application. There was none. He asked if any Commissioner needed to declare any contact prior to the hearing with the applicant, any other party involved with the hearing, or any other source of information outside of staff regarding the subject of this hearing. There was none. Several Commissioners had visited the site.

Principal Planner Pomeroy presented the staff report. He entered two items into the record. One was Attachment B to the staff report which was a memorandum provided to the Commission on August 16 which responded to testimony received from John Baker on August 11. The other was a letter from Tom and Kathy Murdeshaw dated August 16 and he read the letter into the record. They asked the Commission to postpone their decision until a complete study and review of any proposed development plans for the subject property occurred to review the affects the development plans would have on the surrounding neighborhood, community, and public utilities servicing the area. They were concerned about access to emergency vehicles, pedestrian and vehicle safety, and environmental impacts. This letter was Attachment C to the staff report. Regarding the application, the site was located east of Fircrest Drive and north of Cumulus Avenue. The current zoning of the property was EF-80 and a small piece of FP, which was flood plain zoned property of approximately one-tenth of an acre in size located on the north edge of the property. If the zone change was approved, 5.2 of the 5.3 acres would be rezoned to R-4 which matched the existing zoning of the properties to the west. The flood plain would remain in the flood plain zone. He then reviewed the zone change criteria. The application was consistent with the goals and policies of the Comprehensive Plan. The proposal was orderly and timely and able to be effectively served by utilities and services. The property was adjacent to medium density development. The northern part of the property had a drainage swale that ran to the northwest to the Yamhill River. That did not impact the balance of the site at this time. There was public transit that in the future would run along Cumulus. The site was within 200 feet of the planned transit route and was a quarter mile from commercial services. The facilities had adequate capacity for additional development. The property was within 200 feet of a collector street, which was Cumulus Avenue. Cumulus could accommodate maximum daily traffic of 10,000 trips and could accommodate the trips anticipated with this rezone. To the west of the site was the Fircrest Assisted Care and Alzheimer's facility, to the northwest was the Fircrest Village condominium development, to the south and west was the Fircrest Community Assisted Living and Memory Care apartment complex and further to the west of that was Parkland Village independent and assisted living. These were in the medium density range. He then discussed Attachment B, public comments. Most of the public comment that had been received was concerns about adequate provision of police and fire protection, the need for an environmental impact study for the property, question regarding review by Yamhill County, availability of materials for public review, questions regarding the specifics of the future development proposal for the property, and the appropriateness of the requested zoning given the adjacent development. The adjacent development was already zoned R-4 and the density would be limited based on the applicant's traffic impact analysis. Yamhill County had no jurisdiction on this property as it was within the McMinnville UGB and City limits. An environmental impact study was not required. The police and fire departments had reviewed the request and had issued no concerns. The materials for the project were made available on the City's webpage and the staff report and decision document were provided at least seven days prior to the hearing and were available at the Community Development Department counter. Staff recommended approval of the application subject to the conditions. One condition was that prior to development of the property the applicant had to submit a preservation plan relative to the natural drainage swale and wooded area of the site to be reviewed and approved by the Planning Director prior to

approval of any development plan. The limitation on development came from the traffic impact analysis which determined that there would be a maximum of 48 morning peak hour trips generated from this property and 59 evening peak hour trips. The City Engineer reviewed the analysis and concluded that the surrounding street network could accommodate all of the anticipated traffic. This allowed 95 multiple family dwelling units on the site. Other conditions identified the street improvements that were required when the property was developed and the need for acquiring erosion control permits and wetland and waterway permits as necessary.

Chair Hall said the concerns in the letter that had been read into the record were more appropriate for a development proposal than a zone change. Principal Planner Pomeroy concurred with that.

Public Testimony:

Denny Elmer, applicant, was requesting a zone change from AH to R-4 for a parcel located on Fircrest Drive. He agreed with staff's recommendation and the conditions of approval. He was seeking approval.

Commissioner Dirks asked if he would be developing the property. Mr. Elmer was not sure at this time and was not sure what the development plans would be.

Commissioner Chroust-Masin asked if there was a timeframe for development. Mr. Elmer replied he would like to start next year.

Someone from the audience asked why an environmental impact study was not required. Principal Planner Pomeroy answered because there was no development being proposed at this time. Planning Director Richards said there were two conditions of approval that required a preservation plan and wetlands study at the time of a development application. If this zone change was approved, there were permitted uses in the zone that did not require a public hearing, one of which was a multi-family complex. There were other uses that did require a public hearing, such as a subdivision. Based on what the developer chose to do, it could come back for a public hearing or for staff review and approval. Whatever was chosen, the conditions of approval would have to be followed.

Another question from the audience was confirming they could not develop a motel or hotel, that these would be residential units with people living there. Planning Director Richards said in the R-4 zone there could be single family dwelling units, two family dwelling units, multiple family dwelling units, residential facility, or social relief facility. The land west of this property was also R-4.

Chair Hall said whatever was developed would have to follow the criteria in the code with regard to what was permitted in this zone.

Another question was raised about the preservation plan and wetlands study and if the public could comment on any issues that were found. Planning Director Richards said if the application did not go through a land use process, those studies did not go into public review.

Principal Planner Pomeroy said they had capped the development of multi-family units to 95 maximum units. There was no development plan yet, and staff made a condition that capped any development in the future.

Lee Eggers, McMinnville resident and president of the Fircrest Village condominiums, said they became an HOA in 2004 and were proud of their complex. Many changes had taken place over the last 13 years that had impacted the nature of the complex. These were the addition of Fircrest Community, American Avenue housing, medical clinic, and low cost housing. They had especially had an impact on the intersection of Fircrest Drive and Cumulus Avenue. The proposed zone change indicated a traffic study was done that showed no impact. He took exception to that, especially when the study did not include the intersection of Fircrest and Cumulus. There were only a few accesses onto Cumulus which exacerbated the problem. Fircrest Community used a private street and he had done a traffic count that showed 200 plus cars per day coming from that development. If another 95 cars were added to that plus the 28 unit development going in on American Avenue, he found exception to the traffic count. Cumulus and Fircrest was a complex intersection. Fircrest Community had a sign that blocked the west view of oncoming traffic. You had to make a 90 degree turn over your shoulder to see oncoming traffic on Cumulus. There was a lot of speeding on Cumulus as well. He proposed the traffic study show the impact of traffic based on the development plans for the area and the Fircrest Drive and Cumulus Avenue intersection. He also requested that parking be restricted to only one side of Fircrest Drive to allow passage of fire trucks and ambulances. Since this was a privately owned property, could it be considered spot zoning? Did the developer have the proposed plans for these 95 units? Were there any open space resources or wetlands on the property? How many parking spaces were planned? He asked that the tree area and gully be put into a green zone in perpetuity so it would not be developed. The zoning of plot 1000 and 1001 were still zoned as AH. There was a blue metal building there that he assumed was a grow operation which would follow the AH zone.

Janice Gray, McMinnville resident, was concerned about not having a say in this if it was a multi-family development. She lived nearby and the properties around her were zoned R-4, but medium density had been built there. She thought this lot should be limited to medium density as well. By adding another street coming out onto Fircrest Drive, it would hold up traffic. She would like to see the old growth trees preserved. Cumulus was currently a dead end street. If that was not changed, it would be a problem. She did not think there were commercial services nearby. Grocery stores were far away.

Dan Wollam, McMinnville resident, had recently moved to McMinnville and one of the reasons he moved to Fircrest Place was because of the environment that surrounded it. He liked being on the edge of town and the openness and wooded areas. Without a development plan for this site, it was hard to get a concept and understanding of what the zone change would mean other than to assume the worst case possible. He did not want to deny the property owner reasonable development rights, but if it was developed to the maximum possible it would be a travesty to this area. On the one side of the property was wide open agricultural area and on the other side there was medium density. According to this proposal, high density would be sandwiched in between. Good planning did not go from an extremely low density to a high density to a medium density. He suggested looking at a different zone and not allowing the highest density and use. He discussed Policy 71.09, and how this type of residential development should be directed towards the center of the City. This property was far from the center of the City. It was not a good location for transit and commercial services either. It did not seem like a good use for the

property. There was likely an environmental impact and it was not prohibited from the Commission's consideration. This area was full of large and small mammals, birds, and wildlife. They did not know if the developer would clear cut that area and fill it all in. If this was to be a multi-family development, this would be the last public hearing for this property. He thought staff would apply the standards carefully, but was concerned that standards did not measure adequately the impact to the quality of life in the area or measure the beauty of the area. He asked the Commission to postpone the decision until the developer could give an idea of what would be done on the property. The intersection of Fircrest and Cumulus was a dangerous intersection. There were many disabled in the area as well as traffic and difficult visibility.

Gioia Goodrum, McMinnville resident, would like to know what the developer planned to do with the trees and if there would be a buffer between Fircrest Place and this development. She believed the community needed more housing.

Tom Wolf, McMinnville resident, said they were not just talking about people, but also the environment and animals. He had not heard a reason to change the zoning from agricultural to residential. He bought his property with the understanding that there was agricultural behind him. He knew things could change, but he did not think it needed to change. There was no public transportation and he thought there would not be for some time. The intersection of Fircrest and Cumulus was dangerous.

Patricia Parker, McMinnville resident, said over the last few years there had been considerable changes to the area, especially with the care facility addition. The street was short with people coming and going into a driveway that immediately split and there were many close calls. If there was more development the street would need to be widened. It could also get spill over from the housing development and apartments and there would be parking on the street. She was concerned about the trees and the gully being preserved. The areas that were not developable on the property could stay the way they were and the area up front near the street that had no trees and did not have to be dug up or changed could be developed. The trees and gully enhanced her neighborhood and the museum property. She asked that the decision be postponed until further studies were made.

Planning Director Richards said the intersection of Fircrest and Cumulus was not studied in the traffic impact analysis and staff could ask that it be done. Fircrest Drive would be required to be improved when the property developed. The improvement would be a landscape strip and sidewalk. It was a local road classification and they could explore the suggestion for parking on only one side.

City Engineer Bisset said the current standard for 26 foot wide residential streets was to allow parking on both sides, but it could be modified with a request from public safety. Fircrest was a residential street and with the addition of this development at the maximum amount of units that was studied there would not be any capacity issues with Fircrest. Cumulus was a collector street and there were not capacity issues on it either. They had reviewed the safety of the intersection, specifically the site distance concerns that had been raised. There was a temporary real estate sign and vegetation to the east that they were addressing to improve the site distance in that direction. There was a Fircrest sign that was in the site distance area and they were working with the property owner to have it moved. Once those were resolved the site distance fell within the design criteria. The intersections that were studied were studied at the direction of the Engineering Department.

Planning Director Richards said in McMinnville a property owner could request a zone change without a planned development land use application. For this property, the developer had been in dialogue with the City and had many ideas for the site. He wanted to see what he could do to preserve the wooded area as well. The traffic impact analysis was based on the development of 3.8 acres of the 5.3 acre site because there was recognition that not all of the site would be fully developed. This property had always been identified in the Comprehensive Plan map as future residential development. The AH zone was a holding zone, and it was always intended to be developed. When the Comprehensive Plan map was put together it was based on future growth needs and that was how properties were identified for residential zoning verses commercial and industrial zoning. It was in the City limits and had been identified to accommodate future residential growth.

Mr. Elmer provided rebuttal. He discussed how this process had been in evolution. The concept of using the land that was flat and not many trees related to the amount of units he was asking for. He did not plan to cut down the trees as he saw the beauty in them as well. He did not know if he could design 95 units with the parking requirements, but he planned to build on the land suggested. The City had required him to do a preservation easement over the trees and gully that would preserve that area so it could not be developed.

Mr. Wollam asked if the applicant would be open to reducing the area that would be rezoned to the area that would be used for the development and leaving the rest of it zoned as it was.

Planning Director Richards said that would require an amended application. An AH zone could be rezoned in the future. It was not the same as an easement.

Mr. Eggers asked how confident the applicant was in the traffic study as Mr. Eggers' traffic counts were higher. There was only one area they could come out onto from the property. City Engineer Bisset confirmed Mr. Elmer had used Lancaster Engineering to do the traffic study to the criteria required by the City.

There was discussion regarding the request to continue the hearing until the developer submitted a plan for the property.

City Attorney Koch said the Commission was required to apply the laws as they existed today and in this case the City allowed an applicant to apply for a zone change without having to commit to any particular development or use. A request to continue the hearing for the developer to jump through additional hoops that were not required was not something that could lawfully be imposed. The decision before the Commission was whether or not to continue the hearing to allow for additional evidence, testimony, or argument to be submitted by any party. The record could be left open until next month's Planning Commission meeting or the record could be left open for seven days for written evidence only. There would be an additional seven days for the applicant to respond to the written testimony.

Planning Director Richards said the testimony should be based on the criteria in the Code.

Mr. Eggers requested a continuance with the record left open.

Commissioner Lizut MOVED to CONTINUE the hearing to September 21 and allow written testimony to be submitted until August 25 at 5 p.m. The applicant would have an additional seven days after that to respond to any of the testimony received after which the record would be closed. SECONDED by Commissioner Geary. The motion PASSED 6-1 with Commissioner Schanche opposed.

C. Conditional Use Permit (CU 4-17) (Exhibit 4)

Request: Approval of a conditional use permit to allow for the expansion of the existing MMS campus. The school has purchased the property next to the existing MMS building, and intends to renovate the existing building on the property to operate as the elementary school classroom. The existing MMS building would continue to operate as school classrooms and facilities. The rear of the existing school and the new property would be combined to operate as one open play yard in the backyard areas.

Location: The property is located at 1045 SE Brooks Street, and is more specifically described as Tax Lot 1202, Section 21CA, T. 4 S., R. 4 W., W.M.

Applicant: McMinnville Montessori School

Chair Hall opened the public hearing and read the quasi-judicial hearing procedure. He asked if there was any objection to the Commission's jurisdiction to hear this matter. There was none. He asked if any Commissioner had a disclosure to declare or wished to abstain from participating or voting on this application.

Commissioner Schanche declared she was a friend of the applicant and recused herself from the hearing.

Chair Hall asked if any Commissioner needed to declare any contact prior to the hearing with the applicant, any other party involved with the hearing, or any other source of information outside of staff regarding the subject of this hearing. There was none. Several Commissioners had visited the site.

Associate Planner Darnell gave the staff report. This was a conditional use request for the expansion of McMinnville Montessori School. The property was located on SE Brooks Street. The surrounding zoning of the area was residential with a commercial property to the north. He reviewed the proposed site plan. They were proposing to keep the existing structure in place and renovate it. The application was consistent with the Comprehensive Plan policies due to the need for additional educational facilities in the City. The use was permitted conditionally in the R-4 zone. The existing structure met all of the required setbacks. They were proposing to expand the existing driveway to accommodate three new parking spaces which met the requirement for an elementary school. The development was compatible with the surrounding area. The proposed floor plan showed no changes to the exterior walls of the building. The interior would be renovated to add one classroom and the main entry door was being relocated to the east side of the building. Parents dropped students off at the curb and they were escorted in as there was no parking on site for parents which helped minimize congestion. There had been no complaints about this system. Their hours of operation were from 8:30 to 3:00 so there were no early morning or late evening impacts. The expansion would have no significant adverse impacts on the surrounding area. One condition was that a landscape plan be submitted to the Landscape Review Committee. The structure would maintain the appearance of a single family

residence and would blend in with the surrounding area. Another condition was that a pedestrian walkway be added to connect to the main entry door. Additional testimony had been received, which was a letter of support for the application. Staff recommended approval with conditions. Commissioner Schanche had suggested an additional condition that required a connection between the two buildings. He thought that was the applicant's intent.

Public Testimony:

Lisa Neal, representing the applicant, discussed the background of McMinnville Montessori School which had been in the community for 30 years. They had existing waiting lists and with the expansion they would be able to accommodate additional students. It would also help with licensing issues in allowing animals in the classrooms. They were planning to extend the native garden to the property as well. They currently had 25 primary students and 27 elementary students. They were not planning to use the renovated building until next fall and a full primary class would be added at that time.

Anna Matzinger, McMinnville resident, said the school was started in 1987 by two families with the intent to provide a Montessori based early education school for 3, 4, and 5 year olds and in 1997 they moved to the current location and added an elementary classroom for 1st through 6th grades. They focused on the development of the whole child and the goals were to give the child a love of learning, strong sense of self, responsibility, and a deep sense of community and contribution. As a parent of two Montessori students, she could attest to the positive impacts the school has had on her family, children, and community. The existing building had space for two classrooms, a primary classroom for 3, 4, and 5 year olds and an elementary classroom. There was a need in the community with several years of waitlists to provide space for another primary classroom. The adjacent property had been in a state of neglect for a number of years and she thought their ownership would benefit the neighborhood. She hoped that their commitment to the stewardship and expansion of the native garden would be a positive attribute to the street and surrounding area. She asked for approval.

Ms. Neal waived the seven day period to submit final written arguments.

Chair Hall closed the public hearing.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Lizut MOVED to approve CU 4-17 subject to staff's amended conditions of approval. SECONDED by Commissioner Geary. The motion CARRIED 6-0-1 with Commissioner Schanche recused.

D. Zoning Text Amendment (G 4-17) (Exhibit 5)

Request: Approval to amend Chapter 17.55 (Wireless Communications Facilities) of the McMinnville Zoning Ordinance to update provisions related to wireless telecommunications facilities to achieve a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations.

Applicant: City of McMinnville

Chair Hall opened the public hearing.

Principal Planner Pomeroy provided the staff report. This ordinance was adopted 17 years ago and needed to be updated. It also allowed the opportunity to address better community aesthetics when it came to wireless facilities. The current requirements allowed some things that would be amended with the new language. One of those was that the regulations currently allowed towers in industrial zones without height limitations and antennas were allowed to be placed on existing structures located in the historic downtown through a conditional use permit. He gave some local examples of current tower heights and alternative support structures for wireless antennas. Staff recommended replacing in entirety the existing ordinance with the new draft. There were a number of things exempted from the ordinance, such as mobile broadcasting, ham radio operations that were licensed, and antennas that were used to receive TV and radio broadcast transmissions. Staff recommended that SCADA system operations also be exempted. There were two alternatives for that exemption, alternative 1 which would add the language "public SCADA and similar systems" or alternative 2 which offered broader language that said "all military, federal, state, and local government communication facilities except for towers in residential zones." Some of the other changes were the towers would be limited to 100 feet in height, mounting on historic structures would require review by the Historic Landmarks Committee, in the public right-of-way all vaulted equipment pedestals would be undergrounded as much as possible and outside of public right-of-way utility buildings would be limited to 12 feet in height and 200 square feet in size unless granted a conditional use permit. In residential zones and the downtown historic district, all utility cabinets and similar equipment would need to be undergrounded. There was also language that restricted signs, banners, advertising, or other logos on the towers. There were also regulations regarding color and requiring the maximum height added for new antennas in areas that were not residential would be limited to an additional ten feet. Façade mounted antennas and wiring would need to architecturally blend in with the building or be made compatible as much as possible. Roof mounted antennas should be set back as far as they could be from the edge of the roof to blend in. No artificial lighting would be allowed unless it was required by the FAA or other agency. There would be setback requirements. Facilities would co-locate as much as possible and studies by a telecommunications engineer would be submitted to justify why they could not co-locate before new towers or other structures were put in place. He showed some examples of stealth options. Staff recommended that the Commission recommend approval of the proposed amendments to the City Council. Staff received email communication, which was entered into the record, from Patrick Evans from Crown Castle, a leading provider of wireless facilities in the country, who provided a section of the FCC regulations as an attachment.

Commissioner Dirks said the email accused them of being provincial and that they had unfounded concerns regarding the impact of wireless technology on aesthetics and livability. Principal Planner Pomeroy said there was a wide range in how other cities viewed wireless technology. They did have an aesthetic and livability impact and McMinnville was proposing adopting standards to address those issues. The proposed draft had been reviewed by legal counsel and found to be legally sound in Oregon. He thought that comment was largely based on opinion.

Patrick Evans, McMinnville resident, said there was no intent in the letter to suggest McMinnville residents were provincial. He thought these changes needed to be looked at in a broader context than just aesthetics. What separated cities that grew and those that did not was infrastructure. One of the biggest issues was the way the restrictions worked together from setbacks to distances between towers, heights of towers, and location of towers. The

cumulative effect was the ability for the community to have broadband coverage everywhere. This was the future and they would not be able to use the technology if it was forced into limited areas such as industrial. They needed to be able to broadcast where the people were. He was not suggesting that they did not apply new regulations or new stealth or improvements to aesthetics. He did not think aesthetics should be at the expense of coverage. He did not want to see the community left in the lurch because the ordinance was unnecessarily prohibitive. They needed to look at where there were deficiencies and need for infrastructure and then deal with the aesthetic issues.

Commissioner Dirks asked what percentage of coverage Mr. Evans' company had in McMinnville and how many competitors they had.

Mr. Evans said the other major competitor was SPA who also had towers in the area. He did not know how many towers his company had in McMinnville, but they had the majority of them.

Chair Hall asked if there were specific items in the proposed ordinance that Mr. Evans recommended to change. Commissioner Dirks said they were detailed in his letter.

Mr. Evans was not opposed to the proposed ordinance, but thought there was room for additional clarity and focus so it not only addressed aesthetics, but coverage issues and provided clear standards that could be complied with.

Planning Director Richards recommended staff revise the ordinance and bring it back for deliberation.

There was consensus to the continue the hearing to October 19, 2017.

E. Zoning Text Amendment (G 5-17) (Exhibit 6)

Request: Approval to amend Chapter X, (Citizen Involvement) of the Comprehensive Plan to update goals and policies related to citizen engagement and involvement in planning processes and programs.

Applicant: City of McMinnville

Chair Hall opened the public hearing.

Planning Director Richards presented the staff report. This was a Comprehensive Plan text amendment to Chapter 10. It would add one goal to the chapter, amend three policies which created the Planning Commission as the committee for citizen involvement, add four policies that made the Comprehensive Plan more in line with Oregon Revised Statutes and Administrative Rules for Land Use Goal 1, and add two proposals in the Comprehensive Plan for actions staff should take, which were evaluating the citizen involvement program and reporting annually to the Council.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Schanche MOVED to recommend approval of Zoning Text Amendment G 5-17 to the City Council. SECONDED by Commissioner Dirks. The motion CARRIED 7-0.

5. Old/New Business

Commissioner Dirks suggested changing the code to require a development plan to be submitted for multi-family zone change applications. Planning Director Richards recommended creating site and design review standards for multi-family developments. Based on the standards, they could create size thresholds for when administrative review happened and for when Planning Commission review happened.

Chair Hall thought if there had been a neighborhood meeting hosted by the proposed developer, most of the issues and complaints would have already been addressed. He thought they should require or strongly encourage developers to hold neighborhood meetings. Planning Director Richards said staff would review what types of land use actions warranted neighborhood meetings and how to require the meetings in the process and still maintain the 120 day clock.

6. Commissioner Comments


None.

7. Staff Comments

None.

8. Adjournment

Chair Hall adjourned the meeting at 10:30 p.m.



Heather Richards
Secretary



City of McMinnville
Planning Department
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MINUTES

September 21, 2017
Planning Commission
Regular Meeting

6:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Vice-Chair Zack Geary, Commissioners: Erin Butler, Martin Chroust-Masin, Susan Dirks, Gary Langenwalter, Roger Lizut, and Lori Schanche

Members Absent: Erica Thomas

Staff Present: Mike Bisset – City Engineer, David Koch – City Attorney, Ron Pomeroy – Principal Planner, and Heather Richards – Planning Director

1. Call to Order

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

2. Citizen Comments

Mark Davis – Mark Davis, referring to the sign code discussion that occurred at the earlier work session, encouraged the Planning Commission to not amend the sign code to extend the deadline for the amortization program for free-standing signs. He feels that the city should move forward with the enforcement program so that the Planning Commission and planning staff could start to focus on the extensive work plan of needs that the Planning Director presented in the early spring.

3. Approval of Minutes:

A. July 20, 2017 Work Session

Commissioner Schanche MOVED to approve the July 20, 2017 Work Session Planning Commission minutes. SECONDED by Commissioner Geary. The motion CARRIED 8-0.

4. Public Hearing (Quasi-Judicial)

A. Zone Change (ZC 11-17) (Exhibit 2) - *(Continued from August 17, 2017 Meeting)*

Request: Approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.

Location: North of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M.

Applicant: Land Use Resources, LLC

Principal Planner Pomeroy presented the staff report. This hearing was continued from the August 17 Planning Commission meeting and the public testimony portion had been closed.

All of the residential uses surrounding this property were R-4 and there was no need to buffer from low density residential. The Fircrest Village condominiums were medium density residential. If they included the memory care and assisted living facilities that rounded out the overall neighborhood, it equaled high density for the area. The trip cap included in the traffic impact analysis and the condition that was placed on the property landed this property as high density. Staff recommended approval of the zone change with conditions.

Commissioner Dirks said some of the residents were concerned about the additional traffic on Cumulus. She clarified that ODOT would not allow any new access onto Cumulus. Principal Planner Pomeroy said that was correct.

Commissioner Dirks said that would mean all of the access would be on Fircrest and one of the other concerns was parking on both sides of Fircrest. She asked if the City would only allow parking on one side due to the width of Fircrest.

City Engineer Bisset cautioned the Commission from getting into parking conditions. A 26 foot wide street standard was a historically adopted street standard and did allow parking on both sides. At the request of public safety, they had restricted parking where there was a need for better access. It was a traffic calming effect to have narrow residential streets and only allowing parking on one side did increase speeds.

Commissioner Dirks asked about the conditions requiring a preservation plan and permits, was it the same as doing an environmental impact study. Could they require an environmental impact study? Principal Planner Pomeroy said the permits had to do with drainage and grading issues. Environmental impacts could come into play depending on what was proposed, and the Planning Director would review the preservation plan. It was not the same as an environmental impact study.

Commissioner Schanche asked about the traffic concerns at the intersection of Fircrest and Cumulus and how the developer did not go back to the traffic engineer but asked staff for the information. She thought he had not received the professional assessment on the traffic impact as requested. City Engineer Bisset said engineering staff gave direction on which intersections to include in the traffic study and he did not believe the capacity of Fircrest and Cumulus was an issue. He provided additional information to the Commission as background, but the applicant did not study that intersection at his direction. Principal Planner Pomeroy said the memorandum from City Engineer Bisset for the additional traffic analysis was done as staff's response to the issue, not at the request of the applicant.

Commissioner Dirks thought this proposal as a whole was a good one, as there was a need for more housing in McMinnville and this was a reasonable location. The applicant intended to maintain the wooded area at the back of the property and there was a condition that ensured that would happen. She was concerned about the lack of commercial development, but this area was in the process of being developed and services would come. The traffic studies were sufficient. Measuring the number of cars was a science and it was different from what people perceived was the use of the street. She thought they should go by the professional evaluation. She suggested an environmental impact study be required.

Commissioner Schanche said that was a huge study and only undertaken for federal projects and could take years. She thought the conservation plan that was being proposed would suffice.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Butler MOVED to recommend the City Council approve Zone Change (ZC 11-17) subject to the conditions of approval as recommended by staff. SECONDED by Commissioner Geary. The motion CARRIED 8-0.

B. Zoning Text Amendment (G 6-17) (Exhibit 3)

Request: Approval to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.

Applicant: City of McMinnville

Chair Hall opened the public hearing and read the hearing procedure.

Commissioner Butler recused herself from the hearing due to a conflict of interest.

Principal Planner Pomeroy delivered the staff report. He entered into the record, Attachment 6, which was a letter received today from Friends of Yamhill County in support of the proposed code modifications. The Affordable Housing Task Force had been looking at opportunities to increase efficiencies for affordable housing in McMinnville. One was Accessory Dwelling Units. These amendments had been discussed at a Planning Commission work session and the suggestions made at that meeting had been incorporated into the document before the Commission tonight. The changes included: adding how ADUs could be established by construction of a new primary residence with the existing dwelling being designated as the ADU, amending the language for the square footage of ADUs which would be changed to not exceed 50% instead of 40% of the primary dwelling exclusive of the garage or 1,000, instead of 800, square feet as a maximum, adding a statement that the minimum area would be determined by the State of Oregon Building Code Division, and removing the statement that the minimum area would not be less than 300 square feet. Another new item stated the building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling. Additionally the maximum height allowed for detached ADUs was the lesser of 25 feet or the height of the primary dwelling. The structure's appearance would coincide with what was being used on the primary dwelling unit including roof pitch, eaves, and window fenestration patterns. One additional off street parking space would be provided for the ADU. Staff recommended striking the statement that said ADUs had to have independent service connections. Those connections would not be required until the time the property was partitioned. Staff also proposed to strike the current requirement that the property owner had to reside on site within the primary dwelling unit. Not more than one ADU was allowed per lot or parcel; the ADU would contain a kitchen, bathroom, living, and sleeping area that were independent from the primary dwelling; and manufactured homes, recreational vehicles, motor vehicles, travel trailers, and all other forms of manufactured structures not to include modular structures would not be used as ADUs. Three new standards would also be added: ADUs would be exempt from the residential density standards, occupancy and use standards for ADUs would be the same as those that were applicable to a primary dwelling on the same site, and legally non-conforming accessory structures located on residentially zoned land may be converted to an ADU in accordance with the requirements of Chapter 17.63. Staff recommended approval of these changes.

Commissioner Langenwaller asked if they did not require the property owner to reside on site within the primary dwelling unit, did that mean both dwellings could be rented? Principal Planner Pomeroy said that was correct. There were situations where the property owner wanted to allow his or her children to live on the property instead and this would allow that situation. The land use impact was identical whether the property owner lived on the premises or not.

Planning Director Richards said most communities were removing the requirement from their codes because it was not something that was easily enforced. The intention of ADUs was to bring in smaller units on properties, which was typically used for an extension of family. They were also an affordable housing product.

Commissioner Geary asked about regulations for ADUs that were being used as vacation rentals. Principal Planner Pomeroy said that discussion had not taken place yet. Commissioner Dirks thought those regulations should be included in the vacation rental code. Planning Director Richards said if a vacation rental permit application came through, if it was an ADU it would be denied.

Commissioner Lizut discussed the recommendation from the Mid-Willamette Valley representative of the Oregon Department of Land Conservation and Development to either get rid of the requirement for one off street parking space as it was a barrier to affordable housing or allowing it to be met by on street parking. Planning Director Richards said staff's concern was creating congested parking conditions on streets. There were costs involved in providing off street parking.

Commissioner Lizut asked if it was possible for someone to get a variance to have the parking requirement waived. Principal Planner Pomeroy said it was possible.

Public Testimony:

Kellen Lignier, McMinnville resident, shared her observations of what was happening in her neighborhood on Birch Street. There were two air B&Bs across from each other and a house and ADU next door to her where the house was being rented by multiple people who only stayed a couple of months. The street was narrow and it was difficult for her to get in and out of her driveway and guests did not have a place to park. She would like the Commission to take this situation into account when making decisions on ADUs and vacation home rentals. She thought the vacation rentals and ADUs needed to be limited to a certain concentration, that off street parking should be required, and that the property owner should live on the property. She thought there would be a lot of enforcement problems if property owners were not required to live on the property.

Planning Director Richards said state law required allowing ADUs in all residential zones by June 30, 2018.

Terry Sherwood, McMinnville resident, also lived next to this ADU. It was tall enough that they could see into his backyard. He concurred with the house being used as a rental, and there were plans that the ADU would become a rental as well. People were coming in and out of the main house with new renters every few months. Parking was an issue as well. How these regulations would affect the neighborhoods needed to be taken into consideration. They took away from the character of the neighborhood, especially for older neighborhoods where the ADUs did not look like the original dwellings.

Chair Hall said the ADU was supposed to resemble as closely as possible the existing unit. In the case where the materials were no longer available, they had to do the best they could.

Commissioner Dirks asked if the ADU was taller than the original house. Mr. Sherwood said no, it had more to do with the slope of the ground. The original house was taller.

Chair Hall closed the public hearing.

Commissioner Schanche thought they should keep the requirement for one off street parking space. There was consensus to keep that requirement.

Commissioner Geary was concerned about deleting the requirement for the property owner to live on site.

Planning Director Richards said the problem was how staff would know over time whether or not the owner was still living there. There was not enough staff to enforce it. City Attorney Koch said they also had to define residing on the property. Some groups, like the snow birds, were only here for six months out of the year. Did they reside here or somewhere else? It was time consuming to do an investigation to verify if a person lived in a certain place. Principal Planner Pomeroy said enforcing on a residency basis could also have an effect on affordable housing as the ADU would be taken off the books if the property owner was not residing in the original dwelling.

Commissioner Geary did not want to create a way for the affluent to increase their rental stock.

Commissioner Dirks said who lived there was not a land use issue.

Commissioner Schanche supported not requiring the property owner to live there. She asked if there was a reason the current code required it.

Planning Director Richards suspected it was because it was originally to serve the need for aging parents to move into the ADU and the children moving into the original house to take care of them. It was now shifting to being hard to enforce and meeting a need for affordable housing.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Dirks MOVED to recommend the City Council approve Zoning Text Amendment (G 6-17). SECONDED by Commissioner Schanche. The motion PASSED 7-0-1 with Commissioner Butler recused.

5. Old/New Business

Planning Director Richards said the Department of Land Conservation and Development issued a request for grant proposals. They had \$250,000 for technical assistance grants and she would like to apply for a buildable lands inventory and housing needs analysis. There were funds in the budget to provide the local match. The grant is due on October 13, 2017 and we will start soliciting for letters of support in the community. She will be requesting a letter from the Commission as well. The City recently received a Transportation Growth Management grant to look at the Three Mile Lane corridor. The work would begin in July 2018. On December 12, 2017 there will be a Green Cities program presentation to the City Council.

6. Commissioner Comments

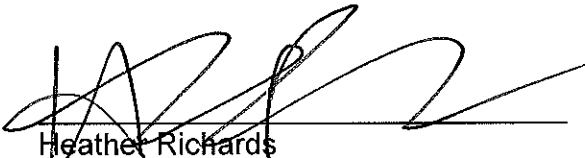
None

7. Staff Comments

None

8. Adjournment

Chair Hall adjourned the meeting at 7:42 p.m.



Heather Richards
Secretary

Fircrest Response

McMinnville City Planning Commissioners thank you for taking the time to hear out the opposition and myself in the application for a zone change on the parcel located on Fircrest Ave. I have read the opposition letters and wish to respond to a few of their concerns. I do feel most of the concerns we answered or explained in the application and the recommendation response from the City Planning and other offices. As I re-read through the application the criteria is clearly explained. I have re-read the application I feel we meet the criteria set forth.

The concern that was most prominent from the opposition was traffic. I did a traffic study that covered the two main intersections

- Oregon Highway 18 at Cumulus Avenue (Salmon River Highway connection road) □
- □ NE Cumulus Avenue at Cumulus Avenue (Salmon River Highway connection road) □

The findings on these intersections were well below capacity after construction is complete. Please see the attachment from City of McMinnville Engineering that shows the capacity for the intersection at Fircrest Dr. and Cumulus Ave. This assessment shows that this development would stay well below the capacity that the city street was designed to handle. In conclusion, I have received professional assessments on the traffic impact and see no reason to hinder this zone change.

I am a local real estate and business owner and have been involved in a few committees on the city and county levels that are dealing with the housing need in McMinnville and Yamhill County. There is a need, we are all aware of this, this zone change would allow for some immediate development that would meet these needs. Please consider this approval as it comes before you recommended for approval from McMinnville City Planning Dept.



City of McMinnville
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STAFF REPORT

DATE: October 24, 2017
TO: Mayor and City Councilors
FROM: Ron Pomeroy, Principal Planner
SUBJECT: **Ordinance No. 5040 - G 6-17:** Zoning Text Amendments to amend Chapter 17.12.010(D) (Accessory Dwelling Unit (ADU))

Council Goal:

Promote Sustainable Growth and Development

Report in Brief:

This action is the consideration of Ordinance No. 5040, an ordinance amending Chapter 17.12.010(D) (Accessory Dwelling Unit (ADU)) of the McMinnville Zoning Ordinance to remove local barriers for affordable housing and to encourage additional residential opportunities.

Background:

The proposed amendments began as a recommendation of the McMinnville Affordable Housing Task Force (MAHTF). As part of their efforts to remove barriers for affordable housing in McMinnville, the MAHTF reviewed the McMinnville Zoning Ordinance for affordable housing initiatives and efficiencies. They used the State of Oregon's Affordable Housing Measures checklist as a framework for their discussions. (Decision Document Attachment 1).

At their January 25, 2017 meeting, the MAHTF started their evaluation of the current McMinnville Zoning Ordinance to identify additional development code efficiency measures as they pertain to affordable housing. The discussion resulted in direction being provided to Planning Department staff to assemble an analysis evaluating comparable cities' development codes as they pertain to barriers and incentives to affordable housing with the goal of identifying potential efficiency measures that could be incorporated into the McMinnville Zoning Ordinance.

The multi-jurisdictional analysis included a review of development codes from the cities of Newberg, Ashland, Bend, Redmond, Corvallis, and Grants Pass.

Attachments:

Ordinance No. 5040 including:

Exhibit A – G 6-17 Decision Document

Attachments and Public Testimony Received

Planning Commission Draft Minutes, 09.21.17

At the February 22, 2017 MAHTF meeting an analysis of the first set of potential efficiency measures was provided and discussed. Those measures included:

- Accessory Dwelling Units
- Multi-Family Off-Street Parking Requirements
- Under Four Units Off-Street Parking Requirements
- Residential Street Standards
- Minimum Density Standards
- Limitations on Low Density Housing Types
- Amount of High Density Zoning Districts
- Duplexes in Low Density Zones, and
- Attached Units Allowed in Low Density Zones

That analysis showed that McMinnville's efficiency measures are generally better for affordable housing than similar sized cities. However, there are some opportunities for improvements. One of those opportunities would be to consider modifications to McMinnville's current ADU regulations. Staff was asked to bring proposed draft amendments to the Zoning Ordinance governing ADUs to the MAHTF for consideration potentially resulting in a MAHTF recommendation to the Planning Commission for review of those modifications.

On July 26, 2017, the recommended amendments were presented to the McMinnville Affordable Housing Task Force for review, comment, and direction. At that meeting, the Task Force reviewed and discussed the proposed amendments and directed staff to move this recommendation forward for Planning Commission review at the August 17, 2017 work session.

At the August 17, 2017 Planning Commission work session the recommended amendments were presented for review, comment and direction. During that discussion, the Commission was additionally interested in considering the possibility of allowing modular buildings to be used as ADUs as well as limiting the height of ADUs under certain circumstances. Following discussion, the Planning Commission directed staff to bring this proposed amendment forward as a hearing item for public review, comment, and consideration in a public hearing to be held on September 21, 2017. At the culmination of that hearing, the Planning Commission voted unanimously to recommend that the Council consider and approved the recommended amendments at their October 24, 2017 public meeting.

Planning Department staff conducted an analysis across six similarly sized Oregon cities regarding opportunities to accommodate Accessory Dwelling Units on otherwise developed residential lots. (See Decision Document Attachment 2). Notable observations resulting from that comparative analysis were that by allowing ADUs as a permitted use on otherwise already developed single-family lots in *all* of its residential zones, McMinnville is more lenient than some jurisdictions which require either conditional use approvals or employ other limitations such as establishing minimum lot sizes in certain zones before ADUs are allowed. Regarding dwelling type, McMinnville is fairly similar to other cities by allowing the ADU to be either attached to or part of the main home or to be designed as a detached dwelling as long as applicable zoning setbacks were met.

Where McMinnville is more restrictive than most other surveyed cities is that the current McMinnville regulations require that an ADU be a minimum of 300 square feet in size while most of the other cities have not established a minimum size requirement for such a dwelling. Additionally, McMinnville's regulations cap the maximum size of an ADU to either 800 square feet or 40% of the size of the main

Attachments:

Ordinance No. 5040 including:

Exhibit A – G 6-17 Decision Document

Attachments and Public Testimony Received

Planning Commission Draft Minutes, 09.21.17

residence, whichever is smaller. While this size/percentage ratio relationship is not unique to McMinnville, those established by other cities commonly allow a maximum of 1,000 square foot or 50% of the main house as a maximum size limitation.

Another notable difference can be experienced as a disincentive, or even a barrier, to affordable housing as it directly impacts the economic viability of constructing the ADU. To point, McMinnville currently requires an ADU to be provided with independent services that include, but are not limited to, water, sewer, and electricity. This means that, unlike a residential duplex that shares a common private sanitary sewer line that connects both dwellings to the public right-of-way, an ADU in McMinnville must install a separate sanitary sewer line directly to the public sewer line located in the right-of-way. This results in two sanitary sewer laterals being extended from one lot rather than one shared lateral in the case of a duplex dwelling.

The rationale behind this requirement is to proactively address the potential future partitioning of the residential lot into two lots enabling the sale of each dwelling unit separately. In this instance, the utilities would already be separate making the partitioning effort easier and less costly. However, this requirement does add costs to the project, and the costs are borne by the ADU applicant based upon a potential effort in the future and not in response to that effort. So the question to consider is if this requirement should be modified to allow an ADU to connect to the existing sanitary sewer lateral of the main residence and, in that manner, operate similarly to a duplex. The cost of extending a separate sewer lateral would then only be borne by those choosing to later move forward with a request to partition the units onto their own separate lots.

The City's Engineering Department has been consulted on this matter and is supportive of removing this requirement, noting that the costs for separation will need to be incurred at the time of a partition. While this is accurate, there are only a minor number of such properties that would, or could, actually partition the dwelling units on to their own lots while meeting all of the necessary remaining planning requirements relative to lot size, setbacks, etc. So, on balance, most ADU owners would experience a development savings over this life of the ADU as they are likely to remain on the same parcel. The Engineering Department concurs with this observation.

A third efficiency that could be provided would be to remove the current local zoning requirement that the property owner must reside on site within the primary dwelling unit. While this requirement was most likely adopted for reasons related to neighborhood social stability, the question of who lives in any given residential unit has no actual land use impact as they would yet remain two dwelling units regardless of who lives in each dwelling. There was some discussion of this by the MAHTF but no clear direction provided. That said, staff is supportive of this amendment and is comfortable bringing it forward as a proposed amendment for consideration.

Work Session Summary:

During the Planning Commission work session held on August 17th, the Commission discussed the possibility of allowing modular buildings to be used as ADUs as well as potentially limiting the height of ADUs under certain circumstances.

An email was submitted by Patty O'Leary on August 17, 2017 (See Decision Document Attachment 3), raising two questions: 1) could "prefab houses" (modular homes) be allowed as ADUs; and 2) could an existing smaller home be considered as the ADU if a larger home was constructed on the site and considered the main dwelling?

Attachments:

Ordinance No. 5040 including:

Exhibit A – G 6-17 Decision Document

Attachments and Public Testimony Received

Planning Commission Draft Minutes, 09.21.17

Modular Homes –

The Commission discussed the idea of allowing modular homes as ADUs and asked staff to bring back information relative to the differences between these two types of dwelling units. Staff inquired of the McMinnville Building Official as to the difference between a manufactured home (currently prohibited for use as an ADU) and a modular home. The Building Official's response is provided (See Decision Document Attachment 4) and, in sum, clarifies that manufactured and modular homes are both constructed at a State of Oregon licensed manufacturing plant and each receive a different insignia upon completion. The main construction difference between the types of units is that manufactured homes are supported on rails placed on pads and secured are with anchors while modular homes transfer building loads to the exterior walls and are placed on permanent foundations. Modular homes are seen by lenders as a single-family dwelling while manufactured homes are recognized by lenders as real property (like an automobile) even if placed on a permanent foundation because of the insignia required by the State of Oregon. All other design differences between these types of units are individual design and customer preference based.

ADU and main dwelling designations –

Currently the construction of an ADU is limited in size not to approximate the size of the existing main dwelling unit. In the case of a small existing residence, this regulation could hamper the desired size of an ADU. The Commission discussed this situation and the idea of allowing the designation of these units to flip. In that instance, the small existing residence would become the ADU upon completion of the construction of a larger, new main dwelling unit. The size relationship between the two dwelling units would need to comply with current ADU regulations in place at that time.

Other direction-

The Planning Commission also discussed the possibility of limiting the height of a detached ADU such that it would not exceed the height of the main residence. This idea is based on an interest in ensuring design compatibility between residential structures on adjacent lots and within the surrounding neighborhood. In discussion, it was recognized that the only instances where this would come into play would be: 1) construction of a stand-alone detached ADU; and, 2) construction of an ADU above a detached structure (garage, for example). In the instance where the main residence is single story in design, this requirement would eliminate the possibility of constructing an ADU above a detached garage. If the main residence was two-story in design, the peak of the ADU would be required to be no higher than that of the two-story residence.

In researching detached ADU height regulations in the six Oregon cities previously reviewed for this project, staff finds that only the City of Bend places a limitation on detached ADU building height as shown in the table below. This analysis is provided only as a comparison of how other communities similar to McMinnville address this concern discussed by the Commission.

Attachments:

Ordinance No. 5040 including:

Exhibit A – G 6-17 Decision Document

Attachments and Public Testimony Received

Planning Commission Draft Minutes, 09.21.17

COMPARATIVE DETACHED ADU BUILDING HEIGHTS							
Detached ADU Height in Low and Medium Density Residential Zones	McMinnville	Newberg	Bend	Ashland	Redmond	Corvallis	Grants Pass
	35 Feet	30 Feet	25 Feet if Primary Dwelling is 25 Feet or taller	35 Feet	35 Feet	30 Feet	35 Feet
			Height of Primary Dwelling if Primary Dwelling is less than 25 Feet				

Additional Agency Comment:

Additional comment was received from the Oregon Department of Land Conservation and Development (DLCD) on September 8, 2017 (See Decision Document Attachment 5). In sum, DLCD makes two recommendations: 1) Remove the on-site parking requirement for ADUs; and, 2) State that legally non-conforming structures are eligible to be converted to ADUs.

While DLCD has recently encouraged and recommended the reduction or removal of parking requirements for various land uses, the Planning Department would discourage this amendment as it would apply to ADUs. In recent years, much citizen testimony has been received at public hearings concerning the sufficiency of currently required on-site residential parking. As the Commission may recall, this was one of the more prominent concerns raised by citizens regarding the Baker Creek Development zone change and subdivision proposal reviewed last winter. Allowing the creation of an additional dwelling unit without requiring the provision of at least one parking stall to serve the new resident(s) needs would further place additional pressure for that parking need to be met on the public right-of-way.

Regarding a declaration that legal non-conforming structures be eligible to be converted to ADUs, this ability is already allowed and generally addressed in Chapter 17.63 (Nonconforming Uses) of the McMinnville zoning ordinance. Specifically, 17.63.030 (Structures – Alteration or extension) states:

“Structures conforming as to use but nonconforming as to height, yard requirements, setback, lot size, or density may be altered or extended, provided the alteration or extension does not result in a violation of this title, except as provided below:

- A. Dwellings may be altered or extended subject to the provision of Section 17.54.050 [Yards]
- B. Dwellings located in residential zones may be altered or extended so long as the alteration or extension does not result in a violation of this title or so long as the alteration or extension is confined within the existing building lines.

Since ADUs are currently allowed on all legally platted residential parcels and lots in McMinnville, the Planning Department would rely on Section 17.63.030, above, to allow the conversion of a legally non-

Attachments:

Ordinance No. 5040 including:

Exhibit A – G 6-17 Decision Document

Attachments and Public Testimony Received

Planning Commission Draft Minutes, 09.21.17

conforming structure to an ADU. However, to make this explicitly clear, staff would suggest that the following be considered as an addition to the ADU standards:

9. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).

This suggested standard is included in the Recommendation section below for your consideration.

Additional Public Comment:

Additional public comment was received from the Friends of Yamhill County (FYC) on September 21, 2017, (See Decision Document Attachment 6). FYC is supportive of the proposal and notes "The entire community will benefit from a housing mix that is financially accessible to the widest possible range of citizens."

Proposed Amendments:

The amendments being proposed are as follows. As the requirements for ADU's are found in the R-1 (Single-Family Residential) chapter of the zoning ordinance (Chapter 17.12) and referenced by the other residential zones, the proposed amendments are specific to Chapter 17.12. Text to be deleted is identified with a ~~**bold-strikeout**~~ font and text to be added is identified with a **bold underlined** font.

McMinnville Zoning Ordinance (Ordinance 3380)

"Chapter 17.12.010 (Permitted Uses) – (D) Accessory dwelling unit (ADU) subject to the following standards."

1. The accessory dwelling unit may be established by:
 - a. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - b. Adding floor area to the primary dwelling, including a second story; ~~or~~
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling; ~~or~~
 - d. **Construction of a new primary dwelling with the existing dwelling being designated the ADU and found in compliance with all requirements of this Section.**
2. The square footage of the accessory dwelling shall not exceed ~~4050~~ percent of the primary dwelling exclusive of the garage, or ~~8001,000~~ square feet, whichever is less. **The minimum area shall be as determined by the State of Oregon Building Codes Division. The minimum area shall not be less than 300 square feet.**
3. **The building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling.**
4. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction. **The maximum height allowed for a detached ADU is the lesser of 25 feet or the height of the primary dwelling.**
5. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, **including roof pitch, eaves, window fenestration patterns, etc.**

Attachments:

Ordinance No. 5040 including:

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6. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
- ~~6. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.~~
- ~~7. The property owner shall reside on site within the primary dwelling unit.~~
- ~~7.~~ Not more than one accessory dwelling unit shall be allowed per lot or parcel.
8. The accessory dwelling unit shall contain a kitchen, bathroom, living, and sleeping area that are completely independent from the primary dwelling.
9. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures, not to include modular structures, shall not be used as an accessory dwelling unit.
- 10. ADUs are exempt from the residential density standards of this code.**
- 11. Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.**
- 12. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).**

Discussion:

The Planning Commission conducted a public hearing on September 21, 2017. At that time there was public testimony in opposition of the proposal. Please see attached planning commission minutes from the September 21, 2017 meeting.

Fiscal Impact:

None to Municipality
Reduced private utility construction cost

Alternative Courses of Action:

- 1) **ADOPT** Ordinance No. 5040, approving G 6-17 and adopting the Decision, Findings of Fact and Conclusionary Findings.
- 2) **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting.
- 3) **DO NOT ADOPT** Ordinance No. 5040.

Recommended/Suggested Motion:

Staff recommends that the Council adopt Ordinance No. 5040 which would approve the zoning text amendments as recommended by the Planning Commission.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5040.

Attachments:

Ordinance No. 5040 including:
Exhibit A – G 6-17 Decision Document
Attachments and Public Testimony Received
Planning Commission Draft Minutes, 09.21.17

ORDINANCE NO. 5040

AN ORDINANCE AMENDING THE MCMINNVILLE ZONING ORDINANCE SPECIFIC TO SECTION 17.12.010(D) ACCESSORY DWELLING UNIT (ADU) TO HELP REMOVE LOCAL BARRIERS TO AFFORDABLE HOUSING AND TO ENCOURAGE ADDITIONAL RESIDENTIAL OPPORTUNITIES.

RECITALS:

The City of McMinnville has adopted a FY 2017-2018 Goal to Promote Sustainable Growth and Development supported by the Objective of "Working with partners e.g. the County, COG, and others, identify economic opportunities for addressing affordable housing, homelessness, and growth."; and

As part of their efforts to remove barriers for affordable housing in McMinnville, the McMinnville Affordable Housing Task Force (MAHTF) reviewed the Zoning Ordinance to identify opportunities for increased affordable housing efficiencies. This effort resulted, in part, in a recommendation to amend the portion of the McMinnville Zoning Ordinance governing Accessory Dwelling Units (ADUs) to allow for additional zoning flexibility and reduced infrastructure cost; and

The recommended text amendments were reviewed by the McMinnville Planning Commission at a work session held on August 17, 2017 and at a public hearing held on September 21, 2017, where the Commission unanimously recommended that the Council approve the following amendments to Chapter 17.12.010(D) of the McMinnville Zoning Ordinance.

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

Section 1: That the Council adopts the Findings of Fact, Conclusionary Findings and Decision as documented in Exhibit A for G 6-17; and

Section 2: That Chapter 17.12.010(D) (Accessory Dwelling Units (ADU) subject to the following standards:) is amended as provided below. Text that is added is shown in **bold underlined** font while text that is removed is shown in ~~strikeout~~ font. The specific adopted amendments are as follows:

1. The accessory dwelling unit may be established by:
 - a. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - b. Adding floor area to the primary dwelling, including a second story; ~~or~~
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling; or
 - d. **Construction of a new primary dwelling with the existing dwelling being designated the ADU and found in compliance with all requirements of this Section.**
2. The square footage of the accessory dwelling shall not exceed **4050** percent of the primary dwelling exclusive of the garage, or ~~8001,000~~ square feet, whichever is less. **The minimum area shall be as determined by the State of Oregon Building Codes Division.—The minimum area shall not be less than 300 square feet.**
3. **The building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling.**
4. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction. **The maximum height allowed for a detached ADU is the lesser of 25 feet or the height of the primary dwelling.**

5. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, **including roof pitch, eaves, window fenestration patterns, etc.**
6. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
- ~~6. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.~~
- ~~7. The property owner shall reside on site within the primary dwelling unit.~~
- 7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.**
8. The accessory dwelling unit shall contain a kitchen, bathroom, living, and sleeping area that are completely independent from the primary dwelling.
9. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures, **not to include modular structures**, shall not be used as an accessory dwelling unit.
- 10. ADUs are exempt from the residential density standards of this code.**
- 11. Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.**
- 12. That a legally non-conforming accessory structure located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).**

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

Passed by the Council this 24th day of October 2017, by the following votes:

Ayes: _____

Nays: _____

MAYOR

Attest:

Approved as to form:

CITY RECORDER

CITY ATTORNEY

EXHIBIT A



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

503-434-7311
www.mcminnvilleoregon.gov

**DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF
LEGISLATIVE AMENDMENTS TO CHAPTER 17.12.010(D) (ACCESSORY DWELLING UNITS)**

DOCKET: G 6-17

REQUEST: The City of McMinnville is proposing to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Ron Pomeroy, Principal Planner

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: September 21, 2017. Meeting held at 6:30 p.m. at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

**DECISION MAKING
BODY:** McMinnville City Council

DATE & TIME: October 10, 2017. Meeting held at 7:00 p.m. at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

COMMENTS: This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. Their comments are provided in this exhibit. No comments in opposition have been provided.

DECISION

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 6-17) to the McMinnville City Council.

////////////////////////////////////
DECISION: APPROVAL
 //////////////////////////////////////

City Council: _____
Scott Hill, Mayor of McMinnville

Date: _____

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

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

Application Summary:

The City of McMinnville is proposing to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.

The McMinnville Affordable Housing Task Force (MAHTF) reviewed the proposed amendments to Chapter 17.12 at a meeting on January 25, 2017, provided feedback and forwarded a recommendation for adoption to the Planning Commission. At the August 17, 2017 Planning Commission work session, the Commission reviewed the recommended amendments and indicated additional interest in the possibility of additionally allowing modular buildings to be used as ADUs as well as limiting the height of ADUs under certain circumstances. Following discussion, the Planning Commission directed staff to bring the proposed amendments, and information and recommendations relative to the new items, forward as a hearing item for public review, comment and consideration.

Proposed Amendments:

The amendments being proposed are as follows. As the requirements for ADU's are found in the R-1 (Single-Family Residential) chapter of the zoning ordinance (Chapter 17.12) and referenced by the other residential zones, the proposed amendments are specific to Chapter 17.12. Text to be deleted is identified with a **~~bold-strikeout~~** font and text to be added is identified with a **bold underlined** font.

McMinnville Zoning Ordinance (Ordinance 3380)

"Chapter 17.12.010 (Permitted Uses) – (D) Accessory dwelling unit (ADU) subject to the following standards."

5. The accessory dwelling unit may be established by:
 - e. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - f. Adding floor area to the primary dwelling, including a second story; ~~or~~
 - g. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling; or
 - h. Construction of a new primary dwelling with the existing dwelling being designated the ADU and found in compliance with all requirements of this Section.
6. The square footage of the accessory dwelling shall not exceed ~~4050~~ percent of the primary dwelling exclusive of the garage, or ~~8001,000~~ square feet, whichever is less. The minimum area shall be as determined by the State of Oregon Building Codes Division. The minimum area shall not be less than 300 square feet.
7. The building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling.
8. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction. The maximum height allowed for a detached ADU is the lesser of 25 feet or the height of the primary dwelling.
5. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, including roof pitch, eaves, window fenestration patterns, etc.
6. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
- ~~10. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.~~
- ~~11. The property owner shall reside on site within the primary dwelling unit.~~

7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.
12. The accessory dwelling unit shall contain a kitchen, bathroom, living, and sleeping area that are completely independent from the primary dwelling.
13. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures, **not to include modular structures**, shall not be used as an accessory dwelling unit.
- 10. ADUs are exempt from the residential density standards of this code.**
- 11. Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.**
- 12. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).**

CONDITIONS OF APPROVAL

None.

ATTACHMENTS

- Attachment 1: Affordable Housing Efficiency Measures
- Attachment 2: Accessory Dwelling Units Comparable Matrix
- Attachment 3: Email received from Patty O'Leary on August 17, 2017
- Attachment 4: Email received from the McMinnville Building Official on August 24, 2017
- Attachment 5: Email received from DLCD Regional Representative Angela Carnahan on September 8, 2017
- Attachment 6: Letter received from Kathryn Jernstedt, Friends of Yamhill County, on September 21, 2017

COMMENTS

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. Their comments are provided in this exhibit. No comments in opposition have been provided.

FINDINGS OF FACT

- A. The City of McMinnville is proposing to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.
- B. The McMinnville Affordable Housing Task Force (MAHTF) reviewed the proposed amendments to Chapter 17.12 at a meeting on January 25, 2017, provided feedback and forwarded a recommendation for adoption to the Planning Commission. At the August 17, 2017 Planning Commission work session, the Commission reviewed the recommended amendments and indicated additional interest in the possibility of additionally allowing modular buildings to be used as ADUs as well as limiting the height of ADUs under certain circumstances. Following discussion, the Planning Commission directed staff to bring the proposed amendments, and information and recommendations relative to the new items, forward as a hearing item for public review, comment and consideration.

- C. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. Their comments are provided in this exhibit. No comments in opposition have been provided.
- D. Public notification of the public hearing held by the Planning Commission was published in the September 12, 2017 edition of the News Register. No comments in opposition were provided by the public prior to the public hearing.

CONCLUSIONARY FINDINGS

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

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

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

Finding: Goal V 1 and Policy 58.00 are met by this proposal in that approval of the proposed legislative amendments to ADU standards will promote additional flexibility in the provision and design of accessory dwelling units and reduce the cost of connecting ADUs to the public sanitary sewer system

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

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

Finding: Goal V 2 and Policy 70.00 are met by this proposal in that the proposed legislative amendments to ADU standards will help to encourage innovative approaches to residential development and encourage a more land intensive residential development pattern. In addition, updating the zoning ordinance to allow an increasing variety of housing types at various densities is encouraged by the McMinnville Comprehensive Plan.

Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:

- 1. Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.*
- 2. Storm sewer and drainage facilities (as required).*

3. *Streets within the development and providing access to the development, improved to city standards (as required).*
4. *Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light). (as amended by Ord. 4796, October 14, 2003)*
5. *Deleted as per Ord. 4796, October 14, 2003.*

Finding: Policy 99.00 is satisfied by this proposal as adequate levels sanitary sewer collection, storm sewer and drainage facilities, and municipal water distribution systems and supply will be required in order to adequately serve each ADU. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of ADUs within the McMinnville city limits. Required street improvements shall be required at the time of development as may be necessary.

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

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

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

Finding: Policies 126.00 and 127.00 are satisfied by this proposal in that the addition of off-street parking sufficient to support an ADU is currently required by Section 17.12.010(D(5) of the McMinnville Zoning Ordinance.

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

Policy 136.00 The City of McMinnville shall insure that urban developments are connected to the municipal sewage system pursuant to applicable city, state, and federal regulations.

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

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

Policy 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

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

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

Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:

- 1. Facilities are placed in locations and in such manner as to insure compatibility with surrounding land uses.*
- 2. Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.*
- 3. For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized;*
- 4. Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.*

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

Finding: Goal VII 1 and Policies 136.00, 139.00, 142.00, 143.00, 144.00, 145.00, 147.00 and 151.00 are satisfied by the request as ADUs can only be established where single-family residences currently exist demonstrating adequate provision of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities. Adequate service levels will continue to be assessed by the appropriate service providers at the time an ADU is proposed. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of ADUs within the city. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas and in making land-use decisions.

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

Policy 155.00 The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.

Finding: Policies 153.00 and 155.00 are satisfied in that emergency services departments have reviewed this legislative amendment request and no concerns were raised.

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

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

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

Finding: Policies 173.00 and 177.00 are satisfied in that McMinnville Water and Light and Northwest Natural Gas were provided opportunity to review and comment regarding this proposal to modify language relative to ADUs and no concerns were raised.

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

Finding: Policy 178.00 is satisfied in that the proposed legislative amendments to the zoning ordinance would allow a greater opportunity for establishment of an additional dwelling unit on some already developed single-family residential lots thereby conserving energy and development cost while encouraging a more compact form of residential development.

GOAL X1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

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

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

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

General Provisions:

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

Finding: Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.

RP:sjs

Measures to Encourage Affordable and Needed Housing (within existing UGB) - HB 4079 Pilot Program

Affordable Housing Measures (23 total points) OAR 660-039-0060(3)(a)

Density Bonus (max 3 points)

- 3 points – Density bonus of at least 20%, no additional design review
- 1 point – Density bonus with additional design review

Systems Development Charges (max 3 points)

- 3 points – At least 75% reduction on SDCs
- 1 point – Defer SDCs to date of occupancy

Property Tax Exemptions

- 3 points – Property tax exemption for low income housing
- 3 points – Property tax exemption for non-profit corp. low income housing
- 3 points – Property tax exemption for multi-unit housing

Other Property Tax Exemptions/Freeze

- 1 point – Property tax exemption for housing in distressed areas
- 1 point – Property tax freezes for rehabilitated housing

Inclusionary Zoning

- 3 points – Imposes inclusionary zoning

Construction Excise Tax

- 3 points – Adopted construction excise tax

Cities must have adopted measures totaling at least 3 points of affordable housing measures

- and -

at least 12 points overall

cities may apply for up to 6 points of credit for alternative measures

Needed Housing Measures (30 total points) OAR 660-039-0060(3)(b)

Accessory Dwelling Units (max 3 points)

- 3 points – ADUs allowed in any zone without many constraints
- 1 point – ADUs with more constraints

Minimum Density Standard (max 3 points)

- 3 points – Minimum density standard at least 70% of maximum
- 1 point – Minimum density standard at least 50% of maximum

Limitations on Low Density Housing Types

- 3 points – No more than 25% of residences in medium density to be detached
- 1 point – No detached residences in high density zones
- 1 point – Maximum lots for detached homes medium/high zones $\leq 5,000$ sq ft

Multifamily Off-street Parking Requirements (max 3 points)

- 3 points – ≤ 1 parking space/unit for multi-unit dwelling and ≤ 0.75 spaces/unit for units within one-quarter mile of high frequency transit
- 1 point – ≤ 1 parking space/unit in multi-unit dwellings

Under Four Unit Off-street Parking Requirements

- 1 point – ≤ 1 space/unit required for detached, attached, duplex, triplexes

Amount of High Density Zoning Districts (max 3 points)

- 3 points – At least 15% of all residential land is zoned for high density
- 1 point – At least 8% of all residential land is zoned for high density

Duplexes in Low Density Zones (max 3 points)

- 3 points – Duplexes are allowed in low density zones
- 1 point – Duplexes are allowed on corner lots in low density zones

Attached Units Allowed in Low Density Zones

- 1 point – Attached residential units allowed in low density zones

Residential Street Standards

- 3 points – Allowed minimum local residential street width 28 feet or less

Mixed-Use Housing

- 3 points – At least 50% of commercial zoned land allows residential

Low Density Residential Flexible Lot Sizes

- 1 point – Minimum lot size in low density zones is 25%+ less than the minimum lot size corresponding to maximum density

Cottage housing

- 1 point – Allows cottage housing

Vertical housing

- 1 point – Allows vertical housing

Topic	McMinnville	Newberg ¹	Bend ²	Ashland ³	Redmond ⁴	Corvallis ⁵	Grants Pass ⁶
ADU							
Type Allowed	- Conversion of attic, basement, or garage - Adding floor area to primary dwelling - Detached ADU	- Attached or detached - Addition to primary dwelling	- Attached or detached - Conversion of portion of primary dwelling	- Attached or detached	- Attached or detached	- Attached or detached - Conversion of garage	- Attached or detached - Conversion of attached or detached (garage or shed) space - Addition to primary dwelling
Zoning Districts Allowed	- All Residential districts as permitted use - Only allowed on lots w/ a detached single family dwelling	- R-1 as conditional use - R-2 & R-3 as permitted use	- All Residential districts as permitted use - Only allowed on lots w/ single family detached or attached dwelling unit	- Permitted w/ special use standards in all residential districts - Allowed on lots w/ single family residential dwelling as primary use	- Allowed in all residential zones - Permitted in R-4 & R-5 - Conditional use in R-1, R-2, R-3 & R-3A	- Allowed in all residential zones, but must meet minimum lot sizes: - RS-1: 8,000 sf - RS-3.5/RS-5: 6,000 sf - RS-6/RS-9/RS-12/RS-20: 3,500 sf for detached 2,500 sf for attached	- Only allowed on lots w/ single family detached dwelling unit
Size Limitations	- Max ADU Size: 40% of the primary dwelling square footage or 800 square feet, whichever is less - Min. ADU Size: 300 square feet	- Max ADU size: 50% of the primary dwelling, up to 1,000 square feet	- Lot 6,000 sf or less: max. ADU size of 600 sf - Lot greater than 6,000 sf: max ADU size of 800 sf	- R-1 Zone: Max ADU size of 50% of the primary dwelling, up to 1,000 sf - R-2/R-3 Zone: Max ADU size of 50% or the primary dwelling, up to 500 sf	- Max detached ADU size: 50% of the primary dwelling, up to 800 sf - Above garage ADU: may not exceed garage footprint	- Max ADU size: 40% of the primary dwelling up to 900 sf	- Max ADU size: 1,000 sf - Height max of 18 feet - ADU footprint shall not be larger than footprint of primary dwelling
Setback/Development Standards	- Follows underlying zoning district standards	- Follows underlying zoning district standards	- Exempt from max FAR if certain size	- Follows underlying zoning district standards - Exempt from density and min. lot area requirements	- Follows underlying zoning district standards	- Follows underlying zoning district standards - Entry & walkway must be 5’ from side yard lot line	- Exempt from density requirements
Material Requirements/Design Standards	- Siding, roofing, materials, and color shall coincide w/ primary dwelling - Definition of ADU states that ADU will “generally” have its own outside entrance, but not specifically required	- Entry may not be located on front façade of primary dwelling - 2 nd story windows 10’ or less from property line must be privacy glass	- Max height of 25’ or height of primary dwelling - 2 nd story doorways, outdoor living areas, and staircases setback of 10’	- Independent entry - Certain design standards apply in neighborhoods w/ adopted small area plans: visual buffers, second floor detailing or step-back design	- Independent entry - If entry is accessed by stairs, a covered porch is required	- Architecturally integrated (roof, exterior materials, windows, color) w/ primary dwelling unit - 2 nd story windows opaque - Balconies only allowed to face nearest side yard	- Entry located in side/rear - Compatible w/ primary dwelling (roof, exterior materials, windows, eaves) - New detached ADUs must be located at least 6 feet behind the primary dwelling

¹ Newberg Development Code 15.440.030

² Bend Development Code Table 2.1.200, 2.1.400, 2.1.600 (B)(2), 3.3.300, 3.6.200 (B)

³ Ashland Development Code Table 18.2.3.040, 18.4.3.040, 18.6.1

⁴ Redmond Development Regulations 8.0135, 8.0325, 8.0500

⁵ Corvallis Land Development Code 4.1.30, 4.9.40. Corvallis allows ministerial and general development options for ADUs, which have different requirements. Ministerial is a staff level review w/ no public hearing or notification. Ministerial requirements listed above. General development option requires property owner notification, but allows for no minimum lot size in low density residential zones, no setbacks for entrance doors/walkways, less restriction on architectural integration w/ primary dwelling.

⁶ Grants Pass Development Code 22.720, 25.042

Parking Requirement	- 1 space for the ADU	- 1 space for the ADU	- 1 space for the ADU	- Studio or 1 BR < 500 sf: 1 space/unit - 1 BR > 500 sf: 1.5 spaces/unit - 2 BR: 1.75 spaces/unit - 3 BR+: 2 spaces/unit	- 1 space for the ADU	- If parking requirement for primary dwelling is met, no additional off-street parking required - If ADU parking provided, cannot be in front/side yard	- 1 space for the ADU
Utilities	- Must have independent water, sewer, and electricity services	- Utilities can be shared with primary dwelling	- Utilities can be shared with primary dwelling	- No specific requirement that utilities be separate from primary dwelling	- Utilities can be shared with primary dwelling	- No specific requirement that utilities be separate from primary dwelling	- Utilities can be shared with primary dwelling
Number/Density	- 1 ADU allowed per lot	N/A	- 1 ADU allowed per lot	- 1 ADU allowed per lot	N/A	- 1 ADU allowed per lot	- 1 ADU allowed per lot
Facilities	- ADU must include kitchen, bathroom, living, and sleeping area that are completely independent from primary dwelling	- ADU must have one or more rooms, bathroom, and kitchen	N/A	- ADU must have independent, permanent provisions for living, sleeping, eating, cooking, and sanitation	- Kitchen w/ oven, stove w/ 2 burners, sink, refrigerator w/ 6 cubic feet capacity, & freezer - Bathroom w/ sink, toilet, & shower	N/A	N/A
Ownership	- Property owner must reside in primary dwelling	N/A	N/A	N/A	- Property owner must reside in either primary dwelling or ADU	- Property owner must reside in either primary dwelling or ADU - Deed restriction required	- Ownership of ADU shall not be subdivided or separated from ownership of primary residence
RV/Trailer/Manufactured Home	- Not allowed as an ADU	N/A	N/A	N/A	N/A	N/A	N/A

Ron Pomeroy

From: P O'Leary [poleary847@aol.com]
Sent: August 17, 2017 4:05 PM
To: Ron Pomeroy; Heather Richards
Subject: G 6-17 ADU working meeting

I know it's just at the working stage but I hope these two items might be considered at the working meeting tonight.

1. Elimination of all manufactured housing as ADUs doesn't make sense to me. I understand that trailers and traditional moveable manufactured homes are to be avoided, but the description (towable or [off-site] manufactured structures) eliminates prefab houses as well. Prefabs can be an excellent cost-effective and time-sensitive way to build and they have won numerous international design awards. A quick glance through Dwell website or magazine can give you a feel of the high quality of this kind of construction.

2. The 50% or 1,000sf, whichever is less, requirement knocks out several potential infill lots that have existing small homes on them. If those houses had the option to become the ADU rather than remaining the primary dwelling, more options would be available. There are a couple of smaller houses on Second between Newby School and Cypress St. that are representative.

Patty O'Leary

Ron Pomeroy

From: Robert Poskin
Sent: August 24, 2017 8:58 AM
To: Ron Pomeroy
Subject: FW: Differences between a Mfg Home and Modular Home

From: Robert Poskin
Sent: Wednesday, August 23, 2017 03:15 PM
To: 'Robert'
Subject: Differences between a Mfg Home and Modular Home

A manufactured home is constructed at a State of Oregon Licensed manufacturing plant, and upon approval the unit meets State Guide Lines for a Mfg. Home, a Mfg Home Insignia is applied. A Mfg Home is then installed on a lot or park using the Mfg Home regulations and is supported on rails under placed pads and anchors. Depending on the size (double wide) (triple wide etc) the marriage lines are then bolted together. Lenders do not recognize these units a single family dwellings even if a permanent foundation is used, because of the insignia.

A modular Home undertakes construction as above, however loads on the unit are based exterior walls and a permanent foundation, and the insignia indicates the unit is modular. Lenders do recognize these units as a single family dwelling.

Poskin

Ron Pomeroy

From: Heather Richards
Sent: September 08, 2017 5:24 PM
To: Ron Pomeroy
Subject: Fwd: McMinnville ADU Recommendations - Local File No G 6-17

Heather Richards
Sent from my Iphone

Begin forwarded message:

From: "Carnahan, Angela" <angela.carnahan@state.or.us>
Date: September 8, 2017 at 5:02:42 PM PDT
To: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>
Cc: "Howard, Gordon" <gordon.howard@state.or.us>
Subject: McMinnville ADU Recommendations - Local File No G 6-17

Hi Heather,

We have some recommendations for you to consider as the city reviews draft amendments to the McMinnville Zoning Ordinance (Ordinance 3380) specific to Accessory Dwelling Units (ADUs). Please enter this email in the record for proceedings on this matter.

Our understanding is that this review was to identify additional measures as they pertain to affordable housing, in that spirit we have found a few items that speak directly to making ADU's affordable and offer the following:

- Remove the requirement for off-street parking, this is a barrier to affordable housing and is, in some cases, physically impossible to provide, especially for properties in older neighborhoods. If the City is not ready to remove this requirement, they could allow it to be met by on-street parking if it's available adjacent to the property, or is available within a certain distance of the property.
- Explicitly state that legal non-conforming structures (e.g., those that don't meet current setback or height requirements) are eligible to be converted to ADUs. This is to be clear that any structure that is already built has the potential to be converted to an ADU.

Please let me know if you have any questions.

Best,

Angela Carnahan | Mid-Willamette Valley Regional Representative
Community Services Division
Oregon Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540



P.O Box 1083
McMinnville, OR 97128

September 21, 2017

Helping to shape the use of our natural resources to protect the quality of life in Yamhill County.

McMinnville Planning Commission
Planning Department
231 NE Fifth Street
McMinnville, Oregon 97128



RE: Zoning Text Amendment (G 6 -17)

Chair Hall, Commissioners, and Staff;

Friends of Yamhill County works to protect natural resources through the implementation of land use planning goals, policies, and laws that maintain and improve the present and future quality of life in Yamhill County for both urban and rural residents. We applaud and support City of McMinnville efforts to take these concrete steps to align actions with goals and aspirations to address the complex issue of housing affordability.

The McMinnville Affordable Housing Task Force has done an admirable job of analysis. The advantages of building where infrastructure is already in place will be enhanced by not requiring independent services until such time that a request for partition is made. It is important that this initiative not be used to create short term rentals or vacation properties to the detriment of affordable housing for the long term residents. The entire community will benefit from a housing mix that is financially accessible to the widest possible range of citizens. Employees need homes that are affordable while working for the compensation that the local employers can sustain. A broad housing mix can support families and individuals remaining in the community as their own circumstances evolve over time.

Sincerely,

Kathryn Jernstedt

Kathryn Jernstedt
Friends of Yamhill County

Cc: heather.richards@mcminnvilleoregon.gov



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

www.mcminnvilleoregon.gov

MINUTES

September 21, 2017
Planning Commission
Regular Meeting

6:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Vice-Chair Zack Geary, Commissioners: Erin Butler, Martin Chroust-Masin, Susan Dirks, Gary Langenwalter, Roger Lizut, and Lori Schanche

Members Absent: Erica Thomas

Staff Present: Mike Bisset – City Engineer, David Koch – City Attorney, Ron Pomeroy – Principal Planner, and Heather Richards – Planning Director

1. Call to Order

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

2. Citizen Comments

Mark Davis – Mark Davis, referring to the sign code discussion that occurred at the earlier work session, encouraged the Planning Commission to not amend the sign code to extend the deadline for the amortization program for free-standing signs. He feels that the city should move forward with the enforcement program so that the Planning Commission and planning staff could start to focus on the extensive work plan of needs that the Planning Director presented in the early spring.

3. Approval of Minutes:

A. July 20, 2017 Work Session

Commissioner Schanche MOVED to approve the July 20, 2017 Work Session Planning Commission minutes. SECONDED by Commissioner Geary. The motion CARRIED 8-0.

4. Public Hearing (Quasi-Judicial)

A. Zone Change (ZC 11-17) (Exhibit 2) - *(Continued from August 17, 2017 Meeting)*

Request: Approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.

Location: North of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M.

Applicant: Land Use Resources, LLC

Principal Planner Pomeroy presented the staff report. This hearing was continued from the August 17 Planning Commission meeting and the public testimony portion had been closed.

All of the residential uses surrounding this property were R-4 and there was no need to buffer from low density residential. The Fircrest Village condominiums were medium density residential. If they included the memory care and assisted living facilities that rounded out the overall neighborhood, it equaled high density for the area. The trip cap included in the traffic impact analysis and the condition that was placed on the property landed this property as high density. Staff recommended approval of the zone change with conditions.

Commissioner Dirks said some of the residents were concerned about the additional traffic on Cumulus. She clarified that ODOT would not allow any new access onto Cumulus. Principal Planner Pomeroy said that was correct.

Commissioner Dirks said that would mean all of the access would be on Fircrest and one of the other concerns was parking on both sides of Fircrest. She asked if the City would only allow parking on one side due to the width of Fircrest.

City Engineer Bisset cautioned the Commission from getting into parking conditions. A 26 foot wide street standard was a historically adopted street standard and did allow parking on both sides. At the request of public safety, they had restricted parking where there was a need for better access. It was a traffic calming effect to have narrow residential streets and only allowing parking on one side did increase speeds.

Commissioner Dirks asked about the conditions requiring a preservation plan and permits, was it the same as doing an environmental impact study. Could they require an environmental impact study? Principal Planner Pomeroy said the permits had to do with drainage and grading issues. Environmental impacts could come into play depending on what was proposed, and the Planning Director would review the preservation plan. It was not the same as an environmental impact study.

Commissioner Schanche asked about the traffic concerns at the intersection of Fircrest and Cumulus and how the developer did not go back to the traffic engineer but asked staff for the information. She thought he had not received the professional assessment on the traffic impact as requested. City Engineer Bisset said engineering staff gave direction on which intersections to include in the traffic study and he did not believe the capacity of Fircrest and Cumulus was an issue. He provided additional information to the Commission as background, but the applicant did not study that intersection at his direction. Principal Planner Pomeroy said the memorandum from City Engineer Bisset for the additional traffic analysis was done as staff's response to the issue, not at the request of the applicant.

Commissioner Dirks thought this proposal as a whole was a good one, as there was a need for more housing in McMinnville and this was a reasonable location. The applicant intended to maintain the wooded area at the back of the property and there was a condition that ensured that would happen. She was concerned about the lack of commercial development, but this area was in the process of being developed and services would come. The traffic studies were sufficient. Measuring the number of cars was a science and it was different from what people perceived was the use of the street. She thought they should go by the professional evaluation. She suggested an environmental impact study be required.

Commissioner Schanche said that was a huge study and only undertaken for federal projects and could take years. She thought the conservation plan that was being proposed would suffice.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Butler MOVED to recommend the City Council approve Zone Change (ZC 11-17) subject to the conditions of approval as recommended by staff. SECONDED by Commissioner Geary. The motion CARRIED 8-0.

B. Zoning Text Amendment (G 6-17) (Exhibit 3)

Request: Approval to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.

Applicant: City of McMinnville

Chair Hall opened the public hearing and read the hearing procedure.

Commissioner Butler recused herself from the hearing due to a conflict of interest.

Principal Planner Pomeroy delivered the staff report. He entered into the record, Attachment 6, which was a letter received today from Friends of Yamhill County in support of the proposed code modifications. The Affordable Housing Task Force had been looking at opportunities to increase efficiencies for affordable housing in McMinnville. One was Accessory Dwelling Units. These amendments had been discussed at a Planning Commission work session and the suggestions made at that meeting had been incorporated into the document before the Commission tonight. The changes included: adding how ADUs could be established by construction of a new primary residence with the existing dwelling being designated as the ADU, amending the language for the square footage of ADUs which would be changed to not exceed 50% instead of 40% of the primary dwelling exclusive of the garage or 1,000, instead of 800, square feet as a maximum, adding a statement that the minimum area would be determined by the State of Oregon Building Code Division, and removing the statement that the minimum area would not be less than 300 square feet. Another new item stated the building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling. Additionally the maximum height allowed for detached ADUs was the lesser of 25 feet or the height of the primary dwelling. The structure's appearance would coincide with what was being used on the primary dwelling unit including roof pitch, eaves, and window fenestration patterns. One additional off street parking space would be provided for the ADU. Staff recommended striking the statement that said ADUs had to have independent service connections. Those connections would not be required until the time the property was partitioned. Staff also proposed to strike the current requirement that the property owner had to reside on site within the primary dwelling unit. Not more than one ADU was allowed per lot or parcel; the ADU would contain a kitchen, bathroom, living, and sleeping area that were independent from the primary dwelling; and manufactured homes, recreational vehicles, motor vehicles, travel trailers, and all other forms of manufactured structures not to include modular structures would not be used as ADUs. Three new standards would also be added: ADUs would be exempt from the residential density standards, occupancy and use standards for ADUs would be the same as those that were applicable to a primary dwelling on the same site, and legally non-conforming accessory structures located on residentially zoned land may be converted to an ADU in accordance with the requirements of Chapter 17.63. Staff recommended approval of these changes.

Commissioner Langenwaller asked if they did not require the property owner to reside on site within the primary dwelling unit, did that mean both dwellings could be rented? Principal Planner Pomeroy said that was correct. There were situations where the property owner wanted to allow his or her children to live on the property instead and this would allow that situation. The land use impact was identical whether the property owner lived on the premises or not.

Planning Director Richards said most communities were removing the requirement from their codes because it was not something that was easily enforced. The intention of ADUs was to bring in smaller units on properties, which was typically used for an extension of family. They were also an affordable housing product.

Commissioner Geary asked about regulations for ADUs that were being used as vacation rentals. Principal Planner Pomeroy said that discussion had not taken place yet. Commissioner Dirks thought those regulations should be included in the vacation rental code. Planning Director Richards said if a vacation rental permit application came through, if it was an ADU it would be denied.

Commissioner Lizut discussed the recommendation from the Mid-Willamette Valley representative of the Oregon Department of Land Conservation and Development to either get rid of the requirement for one off street parking space as it was a barrier to affordable housing or allowing it to be met by on street parking. Planning Director Richards said staff's concern was creating congested parking conditions on streets. There were costs involved in providing off street parking.

Commissioner Lizut asked if it was possible for someone to get a variance to have the parking requirement waived. Principal Planner Pomeroy said it was possible.

Public Testimony:

Kellen Lignier, McMinnville resident, shared her observations of what was happening in her neighborhood on Birch Street. There were two air B&Bs across from each other and a house and ADU next door to her where the house was being rented by multiple people who only stayed a couple of months. The street was narrow and it was difficult for her to get in and out of her driveway and guests did not have a place to park. She would like the Commission to take this situation into account when making decisions on ADUs and vacation home rentals. She thought the vacation rentals and ADUs needed to be limited to a certain concentration, that off street parking should be required, and that the property owner should live on the property. She thought there would be a lot of enforcement problems if property owners were not required to live on the property.

Planning Director Richards said state law required allowing ADUs in all residential zones by June 30, 2018.

Terry Sherwood, McMinnville resident, also lived next to this ADU. It was tall enough that they could see into his backyard. He concurred with the house being used as a rental, and there were plans that the ADU would become a rental as well. People were coming in and out of the main house with new renters every few months. Parking was an issue as well. How these regulations would affect the neighborhoods needed to be taken into consideration. They took away from the character of the neighborhood, especially for older neighborhoods where the ADUs did not look like the original dwellings.

Chair Hall said the ADU was supposed to resemble as closely as possible the existing unit. In the case where the materials were no longer available, they had to do the best they could.

Commissioner Dirks asked if the ADU was taller than the original house. Mr. Sherwood said no, it had more to do with the slope of the ground. The original house was taller.

Chair Hall closed the public hearing.

Commissioner Schanche thought they should keep the requirement for one off street parking space. There was consensus to keep that requirement.

Commissioner Geary was concerned about deleting the requirement for the property owner to live on site.

Planning Director Richards said the problem was how staff would know over time whether or not the owner was still living there. There was not enough staff to enforce it. City Attorney Koch said they also had to define residing on the property. Some groups, like the snow birds, were only here for six months out of the year. Did they reside here or somewhere else? It was time consuming to do an investigation to verify if a person lived in a certain place. Principal Planner Pomeroy said enforcing on a residency basis could also have an effect on affordable housing as the ADU would be taken off the books if the property owner was not residing in the original dwelling.

Commissioner Geary did not want to create a way for the affluent to increase their rental stock.

Commissioner Dirks said who lived there was not a land use issue.

Commissioner Schanche supported not requiring the property owner to live there. She asked if there was a reason the current code required it.

Planning Director Richards suspected it was because it was originally to serve the need for aging parents to move into the ADU and the children moving into the original house to take care of them. It was now shifting to being hard to enforce and meeting a need for affordable housing.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Dirks MOVED to recommend the City Council approve Zoning Text Amendment (G 6-17). SECONDED by Commissioner Schanche. The motion PASSED 7-0-1 with Commissioner Butler recused.

5. Old/New Business

Planning Director Richards said the Department of Land Conservation and Development issued a request for grant proposals. They had \$250,000 for technical assistance grants and she would like to apply for a buildable lands inventory and housing needs analysis. There were funds in the budget to provide the local match. The grant is due on October 13, 2017 and we will start soliciting for letters of support in the community. She will be requesting a letter from the Commission as well. The City recently received a Transportation Growth Management grant to look at the Three Mile Lane corridor. The work would begin in July 2018. On December 12, 2017 there will be a Green Cities program presentation to the City Council.

6. Commissioner Comments

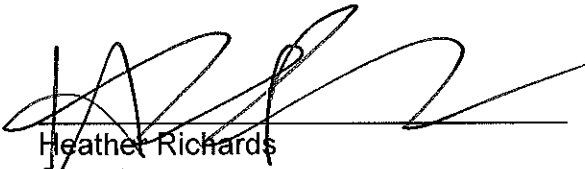
None

7. Staff Comments

None

8. Adjournment

Chair Hall adjourned the meeting at 7:42 p.m.



Heather Richards
Secretary

CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND
July 2017

FUND #	FUND NAME	GENERAL OPERATING		TOTAL
		CASH IN BANK	INVESTMENT	
01	General	\$287,271.15	\$6,171,123.64	\$6,458,394.79
05	Special Assessment	787.92	150,618.82	151,406.74
07	Transient Lodging Tax	751.10	146,000.00	146,751.10
10	Telecommunications	796.70	1,030.00	1,826.70
15	Emergency Communications	742.40	203,094.81	203,837.21
20	Street (State Tax)	917.74	1,814,281.27	1,815,199.01
25	Airport Maintenance	736.66	714,749.03	715,485.69
40	Public Safety Facility Construction	77.38	2,805.24	2,882.62
45	Transportation	983.64	11,735,362.91	11,736,346.55
50	Park Development	229.79	1,191,664.93	1,191,894.72
58	Urban Renewal	957.24	1,390,736.92	1,391,694.16
59	Urban Renewal Debt Service	627.52	316,205.79	316,833.31
60	Debt Service	87.36	163,686.79	163,774.15
70	Building	227.62	975,000.00	975,227.62
75	Sewer	617.94	875,924.73	876,542.67
77	Sewer Capital	748.98	20,145,103.65	20,145,852.63
79	Ambulance	480.47	(208,164.72)	(207,684.25)
80	Information Systems & Services	71.50	243,713.61	243,785.11
85	Insurance Reserve	269.72	1,644,290.54	1,644,560.26
CITY TOTALS		297,382.83	47,677,227.96	47,974,610.79

MATURITY DATE	INSTITUTION	TYPE OF INVESTMENT	INTEREST	CASH VALUE
			RATE	
N/A	Key Bank of Oregon	Checking & Repurchase Sweep Account	0.20%	\$ 297,382.83
N/A	Key Bank of Oregon	Money Market Savings Account	0.02%	7,004,417.62
N/A	State of Oregon	Local Government Investment Pool (LGIP)	1.45%	27,293,969.81
N/A	State of Oregon	Park Improvement Bonds (LGIP)	1.45%	693,284.83
N/A	State of Oregon	Transportation Bond (LGIP)	1.45%	10,414,713.62
N/A	State of Oregon	Urban Renewal Loan Proceeds (LGIP)	1.45%	1,597,040.21
N/A	MassMutual Financial Group	Group Annuity	3.00%	673,801.87
				<u>\$ 47,974,610.79</u>