

## **ORDINANCE NO. 5174**

An Ordinance memorializing the City Council's decision for the McMinnville Industrial Promotions appeal of the Planning Commission's approval of MP 6-25.

### **RECITALS:**

**WHEREAS**, on October 13, 2025, McMinnville Industrial Promotions, Inc. (MIP) applied for a minor partition of tax lot R4415 03100, an approximately 26-acre parcel of land into two parcels with the approximate size of 6.89 acres and 19.11 acres; and

**WHEREAS**, on December 23, 2025, the Planning Director issued an approval with conditions of the minor partition application (Docket MP 6-25); and

**WHEREAS**, on January 7, 2026, the City received an appeal of the Planning Director's decision from MIP, requesting amendment of some conditions of approval; and

**WHEREAS**, on March 19, 2026, MIP submitted a letter to the Planning Commission that took the position that certain sections of the McMinnville Municipal Code (MMC) apply to subdivisions and not to its minor partition application; and

**WHEREAS**, after conducting a public hearing, the Planning Commission voted to approve one of the condition of approval language amendments requested by the applicant in the appeal application and a new condition of approval #10, and rejected the requested amendments made by MIP during the Planning Commission public hearing on March 19, 2026 that would remove any requirement for public improvements at the time of minor partition; and

**WHEREAS**, on April 1, 2026, the City received an appeal of the Planning Commission's decision from McMinnville Industrial Promotions; and

**WHEREAS**, after conducting a public hearing on April 8, 2026, the McMinnville City Council considered all of the information in the public record and voted to support the Appellant's application by finding that Section 17.53.153 of the McMinnville Municipal Code only applies to subdivisions and not minor partitions.

### **NOW, THEREFORE, THE CITY OF MCMINNVILLE ORDAINS, as follows:**

1. That the appeal in Docket AP 3-26 is approved, and that the McMinnville City Council finds that Section 17.53.153 of the McMinnville Municipal Code only applies to subdivisions and not minor partitions, amending the decision and conditions of approval for AP 3-26 as the final decision of the City of McMinnville for MP 6-25.
2. That the Council votes to adopt the decision document for the City Council's decision on AP 3-26 as provided in Exhibit A; and





# City of McMinnville

PLANNING

**City of McMinnville  
Community Development**

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

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## **DECISION, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS OF THE McMINNVILLE CITY COUNCIL REVIEW OF AN APPEAL OF THE PLANNING COMMISSION'S DECISION ON AP 1-26, APPEAL OF THE DIRECTOR'S DECISION OF DOCKET MP 6-25.**

- DOCKET:** AP 3-26
- REQUEST:** An appeal of the Planning Commission's decision on the appeal of a Planning Director's decision for a Tentative Partition application (MP 6-25). The applicant is appealing the language of some of the conditions of approval of that land-use decision.
- LOCATION:** Tax Lot R4415 03100
- ZONING:** M-2 (General Industrial)
- APPLICANT:** Doug Hurl
- PROPERTY OWNER:** McMinnville Industrial Promotions
- STAFF:** Heather Richards, Community Development Director
- DATE DEEMED COMPLETE:** November 12, 2025. (120-day decision deadline extended by the applicant via email on 1.27.26 to April 11, 2026, and again via email to May 15, 2026)
- HEARINGS BODY:** McMinnville City Council
- DATE & TIME:** April 8, 2026 and May 12, 2026. A hybrid meeting, in person at McMinnville Civic Hall, 200 NE 2nd St and online via Zoom.
- PROCEDURE:** An appeal of a decision by the Planning Commission may be made within 15 days of the date the written notice of the decision was mailed. If an appeal is filed, the McMinnville City Council shall receive a report of the Planning Commission decision and shall hold a public hearing on the appeal, subject to the procedure stated in Section 17.72.130. .
- CRITERIA:** The applicable criteria for the appeal are the same criteria used in the original application review. The applicable criteria for a Tentative Partition are specified in Chapter 17.53, "Land Division Standards" of the Zoning Ordinance. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria

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

**APPEAL:** As specified in Section 17.72.190 of the McMinnville Municipal Code, the City Council's decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 (twenty-one) days of the date written notice of decision is mailed.

**COMMENTS:** Notification of the appeal and public hearing were mailed to surrounding property owners.

**I. DECISION**

Based on the findings and conclusionary findings, the City Council finds in favor of the Appellant and **REVISES THE APPROVAL WITH CONDITIONS FOR** Docket MP 6-25.

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**DECISION: APPROVAL WITH CONDITIONS**  
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May 12, 2026

City Council: \_\_\_\_\_ Date: \_\_\_\_\_  
Kim Morris, Mayor of McMinnville

## **II. APPLICATION SUMMARY:**

This is an appeal of the Planning Commission's decision for a Tentative Partition (MP 6-25) at a property with no address located at Tax Lot R4415 03100.

### ***Background***

The Tentative Partition (MP 6-25) was an application to partition an approximately 26-acre parcel of land into two (2) parcels: Parcel 1 (6.89 acres) and Parcel 2 (19.11 acres). The application was received on October 13, 2025, and deemed incomplete on October 29, 2025. Additional materials were received on November 11, 2025, and deemed complete on November 12, 2025. On November 13, 2025, notice of the application was referred to public agencies for review, and on November 14, 2025, notice of the application and a public comment period were noticed to surrounding property owners in accordance with Section 17.72.110. The Planning Director issued a decision on December 23, 2025. Written notification of the decision of the Planning Director was provided to the applicant and property owner's representative on December 23, 2025.

An appeal to the decision was received from the Applicant on January 7, 2026. On January 27, 2026, the applicant submitted a request for a 30-day extension to the 120-day processing deadline in ORS 227.178 and Section 17.72.050 of the McMinnville Zoning Ordinance. The 120-day decision deadline is now April 11, 2026.

The applicant requested the following from the Planning Commission in their appeal application:

The property owner/applicant is submitting this appeal of the Planning Director's Decision for City File MP 6-25. This appeal is submitted on January 7, 2026, within 15 days of the date of the City's Decision, and is therefore timely. The appeal concerns Condition of Approval No. 5 (including Condition of Approval No. 5.a.), listed on Page 2 and included on Page 7 of the Decision. Condition of Approval No. 5 requires construction of NE Miller Street along the western boundary of the site. The comments on Page 9 and findings included on Pages 19, 20, 21, 25, 26, 29, and 36 reference the City Transportation System Plan and a variety of provisions from the City Zoning Ordinance [e.g., MCC 17.53.060(C) and MCC 17.53.101(B)] as providing the basis for the condition. However, these citations and findings are insufficient to support Condition of Approval No. 5 as written. As evidenced in its application, the property owner is not opposed to constructing NE Miller Street. However, the property owner objects to building NE Miller Street in the manner required by Condition of Approval No. 5. Therefore, this appeal is filed.

The Applicant has no legal authority to invoke the terms of the non remonstrance agreement on the adjacent property owner. It is the City's responsibility to do so since they are a party to the agreement.

Below is the original Condition of Approval #5 from the Decision Document dated December 23, 2025:

5. Per MMC 17.53.060(C), MMC 17.53.101(B), the City's Transportation System Plan, the practical reconfiguration of the road to fall almost entirely on the subject property, and waiver of rights to remonstrance recorded date 7/24/2012 against tax lots R4415-02601 and R4415-02602, the applicant shall construct the full width improvements prior to plat.

- a. Improvements of NE Miller Street to include: sidewalk on the east side of the street, Curb and Gutter on both sides of the street, and a crowned street section with curb face to curb face of 28',
- b. Improvements of NE Orchard Avenue to include: sidewalk on the north and south side of the street, Curb and Gutter on both sides of the street, and a crowned street section with curb face to curb face of 32',
- c. Improvements at intersection of NE Orchard Avenue and NE Miller Street to include: curb ramps and full improvements to meet fire turn-around requirements.

Staff agreed with the applicant's request and recommended amended condition of approval language per the following:

5. Per MMC 17.53.060(C), the City's Transportation System Plan, and the practical reconfiguration of the road to fall almost entirely on the subject property, the applicant shall construct or secure the following improvements prior to the recording of the plat subject to the review and approval of the City Engineer:
  - a. Improvements on NE Miller Street to include: curb-tight sidewalk on the east side of the street, curb and gutter on east side of the street, a crowned street section with paved width of 24', and an interim stormwater drainage system to collect and convey stormwater appropriately till the ultimate designed street improvements can be made. Interim improvements shall be designed in a manner that accommodates ultimate design configuration which would consist of increasing the pavement width of 28' and installation of standard curb and gutter with catch basins on west side but would not require sidewalks on the west side.
  - b. Improvements on of NE Orchard Avenue to include: sidewalk on the north and south side of the street, Curb and Gutter on both sides of the street for the boundary of the partition and as needed to make appropriate connections to existing improvements, and a crowned street section with curb face to curb face of 32',
  - c. Improvements at intersection of NE Orchard Avenue and NE Miller Street to include: curb ramps and full improvements to meet fire turn-around requirements.
  - d. Sidewalks and street trees will be required for the street frontages in the partition per MMC 17.53, including the east side of NE Miller Street and the north side of NE Orchard Street. No sidewalk is required on the west side of NE Miller Street due to topography. Per MMC 17.53, Sidewalks and street trees can be deferred with appropriate security till the time of building permits for each lot in the partition, sidewalks shall be constructed along the applicable lot's associated street frontage(s).

And #10 was added as well to clarify the process for invoking the terms of the non-remonstrance on the adjacent property owner.

10. At the time of application for Construction Improvement Agreement, the City will prepare a report in accordance with MMC 3.14 and initiate the process to accommodate reimbursement of advance funding of the public improvements proportioned to the respective property owners in accordance with the waiver of rights to remonstrance recorded date 7/24/2012 against tax lots R4415-02601 and R4415-02602 unless an alternate agreement exists that will accommodate the design and construction of the ultimate street configuration. Absence a separate agreement, Applicant will be allocated and is responsible for permanent improvements east of the centerline of the road, and

tax lots R4415-020601 and R4415-02602 shall be responsible for all matters west of such center line.

At the Planning Commission public hearing, the applicant provided testimony requesting more changes to the condition of approval language, essentially removing all language requiring sidewalk improvements associated with the land-division decision, and deferring all sidewalk improvements for review at the time of building permits per McMinnville Municipal Code, Section 12.12, which provides three different scenarios when the City of McMinnville can require sidewalks improvements.

After hearing from legal counsel and planning staff that Section 17.53.153 of the McMinnville Municipal Code requires that the City condition all land-division applications with sidewalk requirements prior to filing of a final plat with the opportunity to defer improvements per 17.53.075(D) and (E) with an agreement and surety, the Planning Commission voted to approve the original condition of approval language amendment requested by the applicant in the appeal application, and not the requested amendments made during the Planning Commission public hearing on March 19, 2026.

When the City Council conducted a public hearing on April 8, 2026, and considered all of the facts and basis of the public record, they voted to approve MIP's application by finding that Section 17.53.153 of the McMinnville Municipal Code only applies to subdivisions and thus does not apply to minor partitions. This finding then removed all of the conditions of approval related to public improvements required of the minor partition, including utility improvements, street improvements, sidewalks and street trees that were a condition of approval per Section 17.53.153.

### ***Subject Property***

The subject site is zoned M-2 (General Industrial), is vacant, and contains a wetland in the northern portion. Surrounding uses are commercial and industrial. See the ***Vicinity Map (Figure 1) and Zoning Map (Figure 2) below.***

**Figure 1. Vicinity Map**



**Figure 2. Zoning Map**



**Summary of Criteria & Issues**

The application is subject to the standards and procedures established in Chapter 17.53 (Land Division Standards) of the Zoning Ordinance, which are intended to “[...] provide uniform procedures and standards for the subdivision and partitioning of land, and adjustment of property lines; to assure adequate width and arrangement of streets; to coordinate proposed development with plans for utilities and other public facilities; to avoid undue congestion of population; to assure adequate sanitation and water supply; to provide for the protection, conservation, and proper use of land; to secure safety from fire, flood, slides, pollution, drainage or other dangers; to provide adequate light and air, recreation, education, and adequate transportation; to promote energy conservation; to protect in other ways the public health, safety, and welfare; and to promote the goals and policies of the McMinnville Comprehensive Plan.” The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The specific criteria for reviewing tentative partition plans is Chapter 17.53, “Land Division” of Title 17, “Zoning Ordinance”, of the McMinnville Municipal Code. In particular, section 17.53.060 of the McMinnville Municipal Code (MMC), per below.

As a Type II land-use application, the criteria are clear and objective, and if the criteria are met the application needs to be approved.

17.53.060 **Submission of Tentative Partition Plan.** An application to partition land shall be submitted in accordance with the application submittal procedures as stated in Sections 17.72.020 through 17.72.070 and shall be reviewed and approved under the following procedure:

- A. There shall be submitted to the Planning Department, a completed tentative partition application, applicable fees, and 15 (fifteen) copies of a

tentative partition plan drawn to scale with sufficient information to show the following:

1. The date, north point, scale, a copy of recorded deed, and any conveyed rights to define the location and boundaries of the parcels to be partitioned;
  2. Name, address and phone number of the recorded owner(s), authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed by the applicant with the Corporation Commission;
  3. Approximate size of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the partitioning;
  4. For land adjacent to and within the parcel to be partitioned, show locations, names, and existing widths of all streets and easements of way; locations, width, and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways;
  5. Outline and location of existing buildings to remain in place;
  6. Parcel layout showing size and relationship to existing or proposed streets and utility easements;
  7. Location and dimension of any existing or planned curb-side planting strip which may border the subject site. (Amended 12/9/97 by Ordinance 4654B.)
  8. A Title Report or Partition Guarantee prepared within 60 (sixty) days of the application date.
  9. Contour lines related to City datum and having minimum intervals of two (2) feet.
  10. Location and direction of water courses, and the location of areas within the 100-year floodplain as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
  11. Location of any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
  12. Source, method and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all other utilities.
  13. Such additional information as required by the Planning Director.
- B. Upon receiving a complete application for a partition, notification and review shall be provided as stated in Section 17.72.110. The Director's decision shall be based upon a finding that the tentative plan substantially conforms to the requirements of this chapter.
- C. The Planning Director may require such dedication of land and easements and may specify such conditions or modifications in the plan as are deemed necessary to carry out the McMinnville Comprehensive Plan. In no event, however, shall the Planning Director require greater dedications or conditions than could be required if the entire parcel were subdivided.
1. If the parcel of land to be partitioned, being large in size, shall be divided into more than three parcels within any one calendar year, full compliance with all requirements for a subdivision plat may be required if the Planning Director should determine, in his judgment, that the entire parcel is in the process of being subdivided.

2. Where a parcel is proposed to be divided into units of one acre or more, the Planning Director shall require an arrangement of parcels and streets such as to permit future partitions or subdivision in conformity to the street requirements and other requirements contained in this ordinance. Refer to Section 17.53.080 for future development plan requirements.
  3. For notice of decision, effective date of decision and the appeal process, refer to Chapter 17.72 (Applications and Review Process).
  4. The effective date of the Planning Director's decision shall be 15 (fifteen) calendar days following the date the notice of decision is mailed unless an appeal is filed.
- D. Approval of a Tentative Partition Plat shall be valid for a one-year period from the effective date of approval. Upon written request, the Director may approve a one-year extension of the decision. Additional extensions shall require the approval of the Planning Commission.

Additionally, as required by the Land Division Standards, lots created by partition are required to conform to the zoning requirements of the area.

### **III. CONDITIONS**

1. The applicant shall secure all required state and federal permits, including, if applicable, those related to construction of the storm drain outfalls, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands, U.S. Army Corp of Engineers, and DEQ. Copies of the approved permits shall be submitted to the City prior to the City issuing permits.
2. That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.
3. The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.
4. The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate

50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

5. That approval of this tentative plan will expire 12 (twelve) months after the date of issuance of this letter. If the final plat has not been submitted prior to expiration of the tentative plan, or a written request for an extension of this approval has not been submitted and approved within that same period, the applicant must resubmit a tentative plan for further consideration and comply with regulations and conditions applicable at that time. (MMC 17.53.060(D))
6. That within twelve (12) months after the tentative plan is approved, the partitioner shall prepare a final plat and submit two (2) copies to the Community Development Center in care of the Planning Division, 231 NE Fifth Street, for the appropriate City signatures. The information required on the final plat shall be consistent with the requirements listed in ORS 92.050, ORS 209.250 and McMinnville Municipal Code Chapter 17.53.
7. That within thirty (30) days after the date the last required signature has been obtained, the final plat shall be recorded or the final plat shall be considered null and void. (MMC 17.53.063)

**IV. FUTURE DEVELOPMENT NOTES:** The following notes are not a condition of approval for the recording of the minor partition plat but are provided as a courtesy to the applicant relative to future development requirements of development of the site.

1. Any future development on the subject property will need to meet all applicable firefighting apparatus access and water supply standards as required by the Oregon Fire Code.
2. Per MMC Title 12 the developer may need to enter into a Construction Permit Agreement (CPA) with the City's Engineering Department prior to issuance of a public works permit. The CPA will be based on approved engineered plans and engineering estimate. Plans and estimate to be reviewed and approved by the City's Engineering Department.
3. At the time of application for the Construction Improvement Agreement, the City will prepare a report in accordance with MMC 3.14 and initiate the process to accommodate reimbursement of advance funding of the public improvements proportioned to the respective property owners in accordance with the waiver of rights to remonstrance recorded date 7/24/2012 against tax lots R4415-02601 and R4415-02602 unless an alternate agreement exists that will accommodate the design and construction of the ultimate street configuration. In the absence of a separate agreement, the developer will be allocated and is responsible for permanent improvements east of the centerline of the road, and tax lots R4415-020601 and R4415-02602 shall be responsible for all matters west of such centerline.
4. Per MMC Title 12 any future needed street grades and profiles should be designed and constructed to meet the adopted Land Division Ordinance standards and the requirements contained in the Public Right-of-Way Accessibility Guidelines (PROWAG).
5. ADA Sidewalk and Driveway Standards are applied to all new construction, remodels, and land divisions. These standards are intended to meet the current ADA Standards as

shown in the "PROWAG" Design Guidelines. The standards can be found at the following webpage: <https://www.access-board.gov/prowag/>.

6. That final development plans for the subject site should include a detailed storm drainage plan which incorporates the requirements of City's Storm Drainage Master Plan. This plan should be submitted to, and approved by, the City Engineering Department prior to plat to meet MMC 12.04.120 and MMC 13.04.090. If the final storm drainage plan incorporates the use of collection systems and easements, such must be private, rather than public, and private maintenance agreements must be approved by the City.
7. The final development plans for the subject site should include a detailed sanitary sewer collection plan which incorporates the requirements of City's Collection Systems Facilities Plan. This plan should be submitted to, and approved by, the City Engineering Department prior to building permits to meet MMC 12.04.120 and MMC 13.04.090. Any utility easements needed to comply with the structures located within the subject site are required to connect to the sanitary sewer systems as soon as service is available.
8. Per the City's Mercury TMDL appendix A Minimum Control Measure #4 BMP# CS-8 the developer shall provide the City with an approved 1200C Permit from DEQ or provide the City with written documentation from DEQ that a 1200C permit is not required prior to the issuance of a public works permit. The City's TMDL Implementation Plan can be found here <https://www.mcminnvilleoregon.gov/engineering/page/total-maximum-daily-load-tmdl>.
9. If final approved civil plans conflict with previously approved landscape and irrigation plans, the landscape and irrigation plans will need to be revised to reflect final civil design.

## **V. ATTACHMENTS**

1. Appeal Application (on file with the Planning Department)

## **VI. COMMENTS**

### ***Agency Comments***

The original application was referred to the following public agencies for comment: McMinnville Fire District, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas. The following comments were received:

- McMinnville Building Division
  - No building division concerns or comments
- McMinnville Engineering Department

- The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.
- The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate 50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.
- Per MMC 17.53.060(C), the City's Transportation System Plan, the practical reconfiguration of the road to fall almost entirely on the subject property, and waiver of rights to remonstrance recorded date 7/24/2012 against tax lots R4415-02601 and R4415-02602, the applicant shall construct the full width improvements prior to plat.
  - Improvements of NE Miller Street to include: sidewalk on the east side of the street, Curb and Gutter on both sides of the street, and a crowned street section with curb face to curb face of 28',
  - Improvements of NE Orchard Avenue to include: sidewalk on the north and south side of the street, Curb and Gutter on both sides of the street, and a crowned street section with curb face to curb face of 32',
  - Improvements at intersection of NE Orchard Avenue and NE Miller Street to include: curb ramps and full improvements to meet fire turn-around requirements.
- Per MMC Title 12 the applicant will enter into a Construction Permit Agreement (CPA) with the City's Engineering Department prior to issuance of a public works permit. The CPA will be based on approved engineered plans and engineering estimate. Plans and estimate to be reviewed and approved by the City's Engineering Department.
- Per the City's Mercury TMDL appendix A Minimum Control Measure #4 BMP# CS-8 the applicant shall provide the City with an approved 1200C Permit from DEQ or provide the City with written documentation from DEQ that a 1200C permit is not required prior to the issuance of a public works permit. The City's TMDL Implementation Plan can be found here <https://www.mcminnvilleoregon.gov/engineering/page/total-maximum-daily-load-tmdl>.
- ADA Sidewalk and Driveway Standards are applied to all new construction, remodels, and land divisions. These standards are intended to meet the current ADA Standards as shown in the "PROWAG" Design Guidelines. The standards can be found at the following webpage: <https://www.access-board.gov/prowag/> prior to final Plat, the applicant shall construct new driveways and sidewalks in the right-of way that conform to these standards. In lieu of constructing these improvements, a deferral agreement can be considered by the City Engineer.
- Per MMC Title 12 street grades and profiles shall be designed and constructed to meet the adopted Land Division Ordinance standards and the requirements contained in the Public Right-of-Way Accessibility Guidelines (PROWAG) prior to plat.

- The applicant shall secure all required state and federal permits, including, if applicable, those related to construction of the storm drain outfalls, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands, U.S. Army Corp of Engineers, and DEQ. Copies of the approved permits shall be submitted to the City prior to the City issuing permits.
- That final development plans for the subject site include a detailed storm drainage plan which incorporates the requirements of City's Storm Drainage Master Plan. This plan must be submitted to, and approved by, the City Engineering Department prior to plat to meet MMC 12.04.120 and MMC 13.04.090. Any utility easements needed to comply with the approved plan must be reflected on the final plat. If the final storm drainage plan incorporates the use of collection systems and easements, such must be private, rather than public, and private maintenance agreements must be approved by the City prior to recording.
- The final development plans for the subject site include a detailed sanitary sewer collection plan which incorporates the requirements of City's Collection Systems Facilities Plan. This plan must be submitted to, and approved by, the City Engineering Department prior to plat to meet MMC 12.04.120 and MMC 13.04.090. Any utility easements needed to comply with the structures located within the subject site are required to connect to the sanitary sewer systems as soon as service is available.
- If final approved civil plans conflict with previously approved landscape and irrigation plans, the landscape and irrigation plans will need to be revised to reflect final civil design.

Following the receipt of the Appeal by the Applicant of the Planning Director's decision, the following revised comment was received from the **Engineering Division**:

- The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.
- The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate 50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.
- Per MMC 17.53.060(C), the City's Transportation System Plan, and the practical reconfiguration of the road to fall almost entirely on the subject property, the applicant shall construct or secure the following improvements prior to the recording of the plat subject to the review and approval of the City Engineer:
  - Improvements on NE Miller Street to include: curb-tight sidewalk on the east side of the street, curb and gutter on east side of the street, a crowned street section with paved width of 24', and an interim stormwater drainage system to collect and convey stormwater appropriately till the ultimate designed street improvements can be

- made. Interim improvements shall be designed in a manner that accommodates ultimate design configuration which would consist of increasing the pavement width of 28' and installation of standard curb and gutter with catchbasins on west side but would not require sidewalks on the west side.
- Improvements on of NE Orchard Avenue to include: sidewalk on the north and south side of the street, Curb and Gutter on both sides of the street for the boundary of the partition and as needed to make appropriate connections to existing improvements, and a crowned street section with curb face to curb face of 32',
  - Improvements at intersection of NE Orchard Avenue and NE Miller Street to include: curb ramps and full improvements to meet fire turn-around requirements.
- Sidewalks and street trees will be required for the street frontages in the partition per MMC 17.53, including the east side of NE Miller Street and the north side of NE Orchard Street. No sidewalk is required on the west side of NE Miller Street due to topography. Per MMC 17.53, Sidewalks and street trees can be deferred with appropriate security till the time of building permits for each lot in the partition, sidewalks shall be constructed along the applicable lot's associated street frontage(s).
  - At the time of application for Construction Improvement Agreement, the City will prepare a report in accordance with MMC 3.14 and initiate the process to accommodate reimbursement of advance funding of the public improvements proportioned to the respective property owners in accordance with the waiver of rights to remonstrance recorded date 7/24/2012 against tax lots R4415-02601 and R4415-02602 unless an alternate agreement exists that will accommodate the design and construction of the ultimate street configuration. Absence a separate agreement, Applicant will be allocated and is responsible for permanent improvements east of the centerline of the road, and tax lots R4415-020601 and R4415-02602 shall be responsible for all matters west of such center line.
  - Per MMC Title 12 the applicant will enter into a Construction Permit Agreement (CPA) with the City's Engineering Department prior to issuance of a public works permit. The CPA will be based on approved engineered plans and engineering estimate. Plans and estimate to be reviewed and approved by the City's Engineering Department.
  - Per the City's Mercury TMDL appendix A Minimum Control Measure #4 BMP# CS-8 the applicant shall provide the City with an approved 1200C Permit from DEQ or provide the City with written documentation from DEQ that a 1200C permit is not required prior to the issuance of a public works permit. The City's TMDL Implementation Plan can be found here <https://www.mcminnvilleoregon.gov/engineering/page/total-maximum-daily-load-tmdl>.
  - ADA Sidewalk and Driveway Standards are applied to all new construction, remodels, and land divisions. These standards are intended to meet the current ADA Standards as shown in the "PROWAG" Design Guidelines. The standards can be found at the following webpage: <https://www.access-board.gov/prowag/> prior to final Plat, the applicant shall construct new driveways and sidewalks in the right-

of way that conform to these standards. In lieu of constructing these improvements, a deferral agreement can be considered by the City Engineer.

- Per MMC Title 12 street grades and profiles shall be designed and constructed to meet the adopted Land Division Ordinance standards and the requirements contained in the Public Right-of-Way Accessibility Guidelines (PROWAG) prior to plat.
- The applicant shall secure all required state and federal permits, including, if applicable, those related to construction of the storm drain outfalls, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands, U.S. Army Corp of Engineers, and DEQ. Copies of the approved permits shall be submitted to the City prior to the City issuing permits.
- That final development plans for the subject site include a detailed storm drainage plan which incorporates the requirements of City's Storm Drainage Master Plan. This plan must be submitted to, and approved by, the City Engineering Department prior to plat to meet MMC 12.04.120 and MMC 13.04.090. Any utility easements needed to comply with the approved plan must be reflected on the final plat. If the final storm drainage plan incorporates the use of collection systems and easements, such must be private, rather than public, and private maintenance agreements must be approved by the City prior to recording.
- The final development plans for the subject site include a detailed sanitary sewer collection plan which incorporates the requirements of City's Collection Systems Facilities Plan. This plan must be submitted to, and approved by, the City Engineering Department prior to plat to meet MMC 12.04.120 and MMC 13.04.090. Any utility easements needed to comply with the structures located within the subject site are required to connect to the sanitary sewer systems as soon as service is available.
- If final approved civil plans conflict with previously approved landscape and irrigation plans, the landscape and irrigation plans will need to be revised to reflect final civil design.

- McMinnville Fire District

Any future development on the subject property will need to meet all applicable firefighting apparatus access and water supply standards as required by the Oregon Fire Code.

- McMinnville Water and Light

Power: McMinnville Water & Light has existing easements and power facilities located in the future buildout and ROW. Coordinate with McMinnville Water and Light for pole relocation and easement conflicts with future buildout of proposed parcels.

Water: Although a 12" water main exists in the future Miller Street ROW extension to Orchard Avenue, water service does not currently exist to Tax Lot R4415 03100 and thus would not exist to the future partition without addition of water services.

- Yamhill Soil and Water Conservation District

**Staff Note:** *The Yamhill Soil and Water Conservation District has provided comments to inform the applicant of recommendations for the property owner. These recommendations are not required as a condition of approval for the partition request.*

- Noxious weeds have a negative economic impact on agricultural and forestry working lands and degrade wildlife habitat and public rights-of-way. The noxious weeds identified by the District as priorities for control can be found at: [Yamhill County Priority Noxious Weed List 2024/2025](#).
- Urban areas are prone to low biodiversity and often lack native vegetation to support wildlife. Creating "microhabitats" by planting native vegetation in urban areas can contribute to increasing biodiversity and habitat connectivity. The District owns and operates a native plant nursery at Miller Woods and offers free technical site visits to any resident in the county. More information on native vegetation can be found on the District's website at: <https://yamhillswcd.org/services/plant-database/>.

These landowner management recommendations help protect and conserve natural resources for current and future residents of Yamhill County. Thank you for considering the District's recommendations.

### **Public Comments**

Public notice was mailed to owners of properties within 300 feet of the subject site, as required by Section 17.72.120 of the McMinnville City Code. The Planning Division did not receive any public testimony prior to the public hearing.

### **Oral Testimony at the Public Hearing, April 8, 2026**

- Kate Gowell, Haugeberg, Rueter, Gowell, Fredricks & Higgins, P.C.
- Mike Morris
- Doug Hurl, Chair, McMinnville Industrial Promotions

## **VII. FINDINGS OF FACT – PROCEDURAL FINDINGS**

1. On March 19, 2026, the Planning Commission voted to approve AP 1-26 with conditions.
2. On March 20, 2026, the Notice of Decision and Decision Document was issued.
3. On March 20, 2026, a Precautionary Notice of City Council Public Hearing for an appeal of the Planning Commission decision was mailed to property owners within 300 feet of the subject property in accordance with Section 17.72.120 of the McMinnville Municipal Code.
4. On April 3, 2026, a Precautionary Notice of City Council Public Hearing for an appeal of the Planning Commission decision was published in the newspaper in accordance with Section 17.72.120 of the McMinnville Municipal Code.
5. The appeal application was submitted on April 1, 2026.

6. On April 8, 2026, the McMinnville City Council conducted a public hearing, closed the public hearing and deliberated. The City Council voted to remove the need for compliance with Section 17.53.153, finding that a minor partition is not subject to this provision of the code.
7. On May 12, 2026, the McMinnville City Council approved Ordinance No. 5174, ruling in favor of McMinnville Industrial Promotions and amending the decision document for MP 6 – 25, removing any improvements required per Section 17.53.153..

## **VI. FINDINGS OF FACT – GENERAL FINDINGS**

1. **Location:** R4415 03100
2. **Size:** 26 acres
3. **Comprehensive Plan Map Designation:** Industrial
4. **Zoning:**
  - a. **Subject Property:** M-2
  - b. **Surrounding Properties**
    1. North: M-2
    2. South: M-2
    3. East: M-2
    4. West: M-2
5. **Overlay Zones/Special Districts:** Northeast Industrial Area (Ordinance No. 4135), Airport Overlay Zone (Conical Zone)
6. **Current Use:** Vacant
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** Wetland on northern portion of the site.
8. **Other Features:**
  - a. **Slopes:** The property is relatively flat.
  - b. **Easements:** Power Easement (Film Vol. 134, Page 101), Water Easement (Film Vol. 186, Page 390)
9. **Utilities:**
  - a. **Water:** Water service is located in Miller Street and Orchard Avenue.
  - b. **Sewer:** Sewer service is located in Miller Street and Orchard Avenue.
  - c. **Stormwater:** Stormwater service is available in Miller Street.
  - d. **Other Services:** None.
10. **Transportation:** NE Mill Street and NE Orchard Avenue abut the project site; both streets are identified as local residential in the Transportation System Plan (TSP). The TSP Future Local Street Connections (Exhibit 2-1) identifies the extension of Local Streets through the subject site.

### **VIII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Minor Partition are specified in Chapter 17.53 of the Zoning Ordinance.

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

#### ***Comprehensive Plan Volume II:***

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

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

#### **GOAL 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 132.62.00 TSP as Legal Basis – The City of McMinnville shall use the McMinnville TSP as the legal basis and policy foundation for actions by decision-makers, advisory bodies, staff, and citizens in transportation issues. The goals, objectives, policies, implementation strategies, principles, maps, and recommended projects shall be considered in all decision-making processes that impact or are impacted by the transportation system.*

**APPLICANT'S RESPONSE:** None.

**FINDING: APPLICABLE.** The Transportation System Plan implements Goal VI 1 of the Comprehensive Plan and is considered and applied as part of Land Use actions. The Transportation System Plan has identified NE Miller Street and NE Orchard Avenue as Local Residential. The project is subject to the McMinnville TSP.

*Policy 132.62.00 TSP as Legal Basis – The City of McMinnville shall use the McMinnville TSP as the legal basis and policy foundation for actions by decision-makers, advisory bodies, staff, and citizens in transportation issues. The goals, objectives, policies, implementation strategies, principles, maps, and recommended projects shall be considered in all decision-making processes that impact or are impacted by the transportation system.*

**APPLICANT'S RESPONSE:** None.

**FINDING: APPLICABLE.** The Transportation System Plan implements Goal VI 1 of the Comprehensive Plan and is considered and applied as part of Land Use actions. The Transportation System Plan has identified NE Doran Drive and NE Hidden Meadow Drive as Local Residential. The project is subject to 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 McMINSVILLE URBAN GROWTH BOUNDARY.**

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

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The McMinnville Fire District was provided the opportunity to review and comment on the application. The Fire District provided comment, as is included under "Future Development Notes".

**CHAPTER IX URBANIZATION**

***Great Neighborhood Principles***

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

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

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

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

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The application is a current land-use application for a Minor Partition of the subject site, and Great Neighborhood Principles policies are applicable.

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

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

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #1 & 2.** The subject site contains potential wetlands and two trees. The project proposes a stormwater system that may impact the wetland, and the applicant will be responsible for obtaining any necessary permits from the Department of State Lands. In addition, two trees are identified on site. The City of McMinnville does not currently have adopted inventories of significant natural features, including riparian corridors, tree groves, tree species, or landmark trees. However, per Section 17.58 of the McMinnville Municipal Code, a condition of approval has been drafted to inventory and strive to preserve trees five inches or greater at a height of 4.5 feet above the ground (DBH).

**CONDITION OF APPROVAL #1:** The applicant shall secure all required state and federal permits, including, if applicable, those related to construction of the storm drain outfalls, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands, U.S. Army Corp of Engineers, and DEQ. Copies of the approved permits shall be submitted to the City prior to the City issuing permits.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

**GOAL X-1: 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.*

**APPLICANT'S RESPONSE:** The applicant did not provide a written response to this Comprehensive Plan Goal and Policy.

**FINDING: SATISFIED.** The process for a Minor Partition provides an opportunity for citizen involvement through the public notice and comment period. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials, and the completed staff report prior to the McMinnville Planning Director's review of the request. All members of the public have access to provide testimony and ask questions during the public review process.

The process for an appeal of a Planning Director's decision includes a duly noticed public hearing with the Planning Commission.

***McMinnville Municipal Code:***

The following Sections of the McMinnville Municipal Code provide criteria applicable to the request:

***Chapter 17.42 M-2 General Industrial Zone***

**17.42.010 Permitted Uses.** *In an M-2 zone, the following uses and their accessory uses are permitted:*

- A. A use permitted in the M-1 zone (except for Child Care Center and Day Care Facility (Adult));*
- B. Manufacturing, repairing, fabricating, processing, packing, or storage uses not listed in Chapter 17.39 (Light Industrial Zone) and which have not been declared a nuisance by statute, ordinance, or any court of competent jurisdiction;*
- C. Manufacture, processing, and storage of grains or fertilizer;*
- D. Airport. (Ord. 5104 §2, 2021; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

**17.42.020 Conditional Uses.** *In an M-2 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74:*

- A. Automobile wrecking yard;*
- B. Child Care Center, under the following provisions:*
  - 1. Operator must have the appropriate licenses required by state regulations, if applicable.*
- C. Day Care Facility (Adult), under the following provisions:*
  - 1. The structure is not a residence.*
  - 2. Requirements of the Oregon Building Codes (including any Fire Life Safety Code) as amended, are met.*
  - 3. Operator must have the appropriate licenses required by state regulations.*
- D. Disposal or reduction of waste materials, garbage, offal, or dead animals to include composting subject to the provisions of Oregon Revised Statute (ORS) 227.600;*
- E. Junkyard;*
- F. Manufacture, use or storage of explosives;*
- G. A privately owned and operated facility planned, located and laid out or modified and oriented for functional use for leisure time activities. The specific use and plan shall*

be enumerated at the time of application. (Ord. 5104 §2, 2021; Ord. 4977 §1, 2014; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**APPLICANT'S RESPONSE:** This application does not include new uses.

**FINDING: SATISFIED.** No new uses are proposed or approved with this application.

**17.42.030 Yard Requirements.** *Except as required in "A" and "B" below, there shall be no required yards in an M-2 zone:*

- A. *Side yard shall not be less than fifty feet when adjacent to a residential zone;*
- B. *Rear yard shall not be less than fifty feet when adjacent to a residential zone. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

**17.42.040 Building Height.** *In an M-2 zone, a building shall not exceed a height of eighty feet. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

**APPLICANT'S RESPONSE:** This application does not include new buildings, and no structures exist on the project site. As described previously, abutting properties are zoned M-2; therefore, there are no required yards for either parcel.

**FINDING: SATISFIED.** No new structures are proposed or approved with this application.

## **Chapter 17.53 Land Division Standards**

### **Land Division Standards - Partition**

**17.53.060 Submission of Tentative Partition Plan.** *An application to partition land shall be submitted in accordance with the application submittal procedures as stated in Sections 17.72.020 through 17.72.070 and shall be reviewed and approved under the following procedure:*

**17.53.060(A):** *There shall be submitted to the Planning Department, a completed tentative partition application, applicable fees, and 15 (fifteen) copies of a tentative partition plan drawn to scale with sufficient information to show the following:*

1. *The date, north point, scale, a copy of recorded deed, and any conveyed rights to define the location and boundaries of the parcels to be partitioned;*
2. *Name, address and phone number of the recorded owner(s), authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed by the applicant with the Corporation Commission;*
3. *Approximate size of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the partitioning;*
4. *For land adjacent to and within the parcel to be partitioned, show locations, names, and existing widths of all streets and easements of way; locations, width, and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways;*
5. *Outline and location of existing buildings to remain in place;*
6. *Parcel layout showing size and relationship to existing or proposed streets and utility easements;*
7. *Location and dimension of any existing or planned curb-side planting strip which may border the subject site. (Amended 12/9/97 by Ordinance 4654B.)*

8. *A Title Report or Partition Guarantee prepared within 60 (sixty) days of the application date.*
9. *Contour lines related to City datum and having minimum intervals of two (2) feet.*
10. *Location and direction of water courses, and the location of areas within the 100-year floodplain as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.*
11. *Location of any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.*
12. *Source, method and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all other utilities.*
13. *Such additional information as required by the Planning Director.*

**APPLICANT'S RESPONSE:** The information required above is provided within this narrative and by additional application materials included as Exhibits A through E.

**FINDING: SATISFIED.** The application was received on October 13, 2025, and deemed incomplete on October 29, 2025. Additional materials were received on November 11, 2025, and were deemed complete on November 11, 2025.

**17.53.060(B).** *Upon receiving a complete application for a partition, notification and review shall be provided as stated in Section 17.72.110. The Director's decision shall be based upon a finding that the tentative plan substantially conforms to the requirements of this chapter.*

**APPLICANT'S RESPONSE:** These provisions are understood and are to be carried out by the City review authority.

**FINDING: SATISFIED WITH CONDITIONS.** The application for a partition of the subject site was deemed complete on November 11, 2025. Notification was mailed to property owners within 100 feet of the subject site on November 14, 2025. No public comment was received during the notification period. Findings have been provided for applicable criteria and standards of this Chapter, and it was found that the tentative plan substantially conforms to the requirements of this chapter with the provided conditions. This criterion has been met.

**17.53.060(C).** *The Planning Director may require such dedication of land and easements and may specify such conditions or modifications in the plan as are deemed necessary to carry out the McMinnville Comprehensive Plan. In no event, however, shall the Planning Director require greater dedications or conditions than could be required if the entire parcel were subdivided.*

1. *If the parcel of land to be partitioned, being large in size, shall be divided into more than three parcels within any one calendar year, full compliance with all requirements for a subdivision plat may be required if the Planning Director should determine, in his judgment, that the entire parcel is in the process of being subdivided.*
2. *Where a parcel is proposed to be divided into units of one acre or more, the Planning Director shall require an arrangement of parcels and streets such as to permit future partitions or subdivision in conformity to the street requirements and other requirements contained in this ordinance. Refer to Section 17.53.080 for future development plan requirements.*
3. *For notice of decision, effective date of decision and the appeal process, refer to Chapter 17.72 (Applications and Review Process).*
4. *The effective date of the Planning Director's decision shall be 15 (fifteen) calendar days following the date the notice of decision is mailed unless an appeal is filed.*

**APPLICANT'S RESPONSE:** These provisions are understood and are to be carried out by the City review authority.

**FINDING: SATISFIED WITH CONDITIONS OF APPROVALS #3 AND #4.** The subject site has not been partitioned within the past calendar year. The subject site is greater than one acre in size, and the applicant has submitted a future development plan in compliance with Section 17.53.080. The project is subject to the standards of the McMinnville Transportation System Plan. The applicant is responsible for the dedication of the right-of-way to conform to the plan.

**CONDITION OF APPROVAL #3:** The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**CONDITION OF APPROVAL #4:** The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate 50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**17.53.060(D).** *Approval of a Tentative Partition Plat shall be valid for a one-year period from the effective date of approval. Upon written request, the Director may approve a one-year extension of the decision. Additional extensions shall require the approval of the Planning Commission.*

**APPLICANT'S RESPONSE:** This provision is understood.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #6:** A condition of approval has been included to confirm that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision consistent with this code requirement.

**CONDITION OF APPROVAL #6:** That approval of this tentative plan will expire 12 (twelve) months after the date of issuance of this letter. If the final plat has not been submitted prior to expiration of the tentative plan, or a written request for an extension of this approval has not been submitted and approved within that same period, the applicant must resubmit a tentative plan for further consideration and comply with regulations and conditions applicable at that time. (MMC 17.53.060(D))

**17.53.061 Submission of Final Partition Plat.** *Within 12 (twelve) months after approval of the tentative plan, the partitioner shall prepare a final plat in conformance with the tentative plan as approved and submit the final plat to the City Engineering Department. Information required on the final plat shall be consistent with the requirements listed in ORS 92.050 and ORS 209.250. The partitioner shall submit the original drawing and two (2) exact copies thereof, and any supplementary information to the City Engineer.*

**APPLICANT'S RESPONSE:** A final plat for this partition will be prepared, submitted, and filed in accordance with the provisions listed above, as required.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #7:** A condition of approval has been included to confirm that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of the decision.

**CONDITION OF APPROVAL #7:** That within twelve (12) months after the tentative plan is approved, the partitioner shall prepare a final plat and submit two (2) copies to the Community Development Center in care of the Planning Division, 231 NE Fifth Street, for the appropriate City signatures. The information required on the final plat shall be consistent with the requirements listed in ORS 92.050, ORS 209.250 and McMinnville Municipal Code Chapter 17.53.

***17.53.063 Filing of Final Partition Plat.*** *The partitioner shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within 30 (thirty) days after the date the last required signature has been obtained.*

**APPLICANT'S RESPONSE:** A final plat for this partition will be prepared, submitted, and filed in accordance with the provisions listed above, as required.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #8:** A condition of approval has been included to confirm that the final plat shall be null and void if the plant is not recorded within 30 days after the last required signature has been obtained.

**CONDITION OF APPROVAL #8:** That within thirty (30) days after the date the last required signature has been obtained, the final plat shall be recorded or the final plat shall be considered null and void. (MMC 17.53.063)

### ***Land Division Standards – Future Development Plan***

***17.53.080 Submission of Future Development Plan.*** *A future development plan is required when it is evident that the property to be subdivided or partitioned can be further divided. The future development plan shall be submitted at the same time that the tentative plan for either subdivision or partition is submitted and shall contain the following information:*

- A. Any potential future lots (lot size shall be depicted).*
- B. Existing and proposed utilities including water, sewer and storm drains.*
- C. Streets and access points for potential future lots.*

*It shall be the responsibility of the Engineering Department and Planning Department to review a future plan to ensure that it substantially conforms to the requirements of this chapter. The review body will ensure that infrastructure for the future plan is consistent with the current development requirements. The Planning Director may reject a future plan if it is found that it does not substantially conform to the requirements of this chapter. The review body may make any of the following recommendations:*

- A. The construction of streets and utilities or the dedication of right-of-way for future improvements.*
- B. Any easements as deemed necessary for the extension of utility services.*

**APPLICANT'S RESPONSE:** The Preliminary Partition Plat (Exhibit A) reflects planned right-of-way dedication and easements planned under this application. Additionally, the Future Development Plan (Exhibit A, Sheet 07) reflects street and utility improvements necessary to provide access and services to planned parcels. Also shown on the Future Development Plan are future improvements to be made by others (identified with blue hashed lines and as noted); as previously determined by City Staff. Those westerly

improvements that the City has already determined as required to be built by others, i.e. by owner of Tax Lot 2603, not by the Applicant, are shown solely to demonstrate that a full buildout of NE Miller Street and NE Orchard Avenue can ultimately be achieved. Conceptual full street buildouts are illustrated on the Future Street Cross Sections (Exhibit A, Sheet 08). That sheet is provided for illustrative purposes and to satisfy the requirements of 17.53.080.

For specific details of improvements included with this application, please refer to the Future Development Plan (Exhibit A, Sheet 07) and responses provided elsewhere in this narrative. Construction permits will be obtained for those improvements included with this application, as required. It is not anticipated that the parcels will be further divided in the future.

Should any future construction of streets and utilities not shown in Exhibit A (i.e. unanticipated infrastructure extension) occur, the alignment of the common boundary line between Parcel 1 and Parcel 2 and the centerline of NE Orchard Avenue will provide for the orderly extension of NE Orchard Avenue. These requirements are met.

**FINDING: SATISFIED.** The narrative and future development plan provided by the applicant adequately demonstrate compliance with this standard.

### ***Land Division Standards – Approval of Streets and Ways***

#### ***17.53.100 Creation of Streets.***

- A. *The creation of streets shall be in conformance with requirements for a subdivision except, however, the City Council shall recommend the creation of a street to be established by deed if any of the following conditions exist:*
1. *The establishment of the street is initiated by the City Council and is declared essential for the purpose of general traffic circulation, and the partitioning of land is an incidental effect rather than the primary objective of the street;*
  2. *The tract in which the street is to be dedicated is an isolated ownership of one acre or less;*
  3. *The tract in which the street is to be dedicated is an isolated ownership of such size and condition as to make it impractical to develop more than three (3) lots.*
- B. *In those cases where approval of a street is to be established by deed, a copy of the proposed deed shall be submitted to the City Engineer at least 15 (fifteen) days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Sections 17.53.060 to 17.53.079 and Section 17.53.101 of these regulations, shall be recommended for approval with such conditions as are necessary to preserve these standards.*

**APPLICANT'S RESPONSE:** As described previously, this application includes the planned dedication of right-of-way for NE Miller Street and NE Orchard Avenue. The area of preliminarily planned right-of-way dedication is shown on the Preliminary Partition Plat (Exhibit A), and the same information required above is provided within Exhibit A. Ultimately, right-of-way dedication associated with this partition will be reflected on and created with the final partition plat. Street standards of Section 17.53.101 are addressed below.

**FINDING: NOT APPLICABLE.** The creation of streets and dedication of right-of-way associated with this partition will be reflected on the final partition plat, not by deed.

**17.53.101 Streets.**

**17.53.101(A) General.** *The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. Where location is not shown in a comprehensive plan, the arrangement of streets in a subdivision shall:*

- 1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or*
- 2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; or*
- 3. Maximize potential for unobstructed solar access to all lots or parcels. Streets providing direct access to abutting lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features. The east-west orientation of streets shall be integrated into the design.*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), the planned extensions of NE Orchard Avenue and NE Miller Street align with the existing roadway system to the greatest practical extent, given those obstructions within the unimproved segment of NE Miller Street previously described. While topographical constraints and existing obstructions within that segment of NE Miller Street present challenges, the planned alignment of streets has been thoughtfully designed around those obstructions. As shown in Exhibit A, planned roadway extensions prioritize accessibility for pedestrians and vehicles, and ensure efficient traffic flow in the immediate area. These provisions are met.

**FINDING: SATISFIED.** The applicant has adequately demonstrated compliance with this standard.

**17.53.101(B) Rights-of-way and street widths.** *The width of rights-of-way and streets shall be adequate to fulfill city specifications as provided in Section 17.53.151 of this chapter. Unless otherwise approved, the width of rights-of-way and streets shall be as shown in the following table:*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Street & Utility Plan & Profile provided in Exhibit A, the width of preliminarily planned right-of-way dedication is adequate for the extension and improvement of NE Miller Street and NE Orchard Avenue in accordance with Section 17.53.151 and City design standards. These requirements are met.

**FINDING: SATISFIED WITH CONDITIONS OF APPROVALS # 3 AND 4.** The applicant shall dedicate appropriate right-of-way to meet the standards of a local residential street for NE Miller Street and NE Orchard Avenue, in compliance with both streets' McMinnville Transportation System Plan designation. In addition, the applicant shall make improvements as identified below to comply with Section 17.53.151 of this Chapter.

**CONDITION OF APPROVAL #3:** The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**CONDITION OF APPROVAL #4:** The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate 50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**17.53.101(C) Reserve strips.** *Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, in these cases, they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the Planning Commission under conditions approved by them.*

**APPLICANT'S RESPONSE:** Reserve strips or street plugs are not requested with this Partition application. This requirement does not apply.

**FINDING: NOT APPLICABLE.** Reserve strips or street plugs are not requested or required.

**17.53.101(D) Alignment.** *As far as practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet.*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), planned extensions of NE Orchard Avenue and NE Miller Street are aligned with existing centerlines as far as is practicable. As previously described and as shown in Exhibit A, the planned extension of NE Miller Street necessarily includes an easterly curve before straightening out to intersect with NE Orchard Avenue at a right angle, as required. This minor realignment to meet on and off site constraints does not result in a "T" intersection. This application does not include "T" intersections. These requirements are met.

**FINDING: SATISFIED.** Site constraints make alignment with the existing street centerlines impractical. The intersection of NE Miller Street and NE Orchard Avenue exceeds the minimum 100-foot distance requirement between the centerlines of streets with approximately the same direction, with the nearest intersection (NE Orchard Avenue and Alpha Drive) at 1,750 feet.

**17.53.101(E). Future extension of streets.** *Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision; and the resulting dead-end streets may be approved without a turnaround. Local streets shall provide connectivity as identified in Exhibit 2-1 of the McMinnville Transportation System Plan or connectivity that is functionally equivalent. Reserve strips and street plugs may be required to preserve the objectives of street extensions.*

**APPLICANT'S RESPONSE:** The preliminary planned northerly extension of NE Miller Street shown on the Preliminary Plans (Exhibit A) is identified as a Future Street Connection on Exhibit 2-1 of the McMinnville Transportation System Plan, providing the connectivity required here. As previously described, the preliminarily planned extension of NE Orchard Avenue is designed to provide serviceability and access for future improvements on the planned parcels; and while it is not anticipated, a future further extension of NE Orchard Avenue could occur, given that it is designed to be centered on a common parcel boundary. The design of both extensions was discussed with City staff

at a pre-application conference held on August 18th, 2025. The preliminary street improvement design shown on the Preliminary Plans (Exhibit A) was informed by comments received by City staff during that conference and substantially reflect the Pre-Application Plans (Exhibit E). This requirement is met.

**FINDING: SATISFIED WITH CONDITIONS #3 AND #4.** Exhibit 2-1 of the McMinnville Transportation System Plan identifies connectivity through the project site. The applicant has proposed extending NE Miller Street to NE Orchard Avenue to meet this requirement. Subject to the conditions of approval related to the dedication of the right-of-way and the required improvements, the proposal complies with this criterion.

**CONDITION OF APPROVAL #3:** The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**CONDITION OF APPROVAL #4:** The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate 50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

***17.53.101(F) Intersection angles.*** *Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 (sixty) degrees unless there is a special intersection design. The intersection of an arterial or collector street with another street shall have at least 100 feet of tangent, measured from right-of-way adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 (fifty) feet of tangent measured from property line adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than 80 (eighty) degrees, or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 (twenty) feet and maintain a uniform width between the roadway and the right-of-way line.*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), the extensions of NE Orchard Avenue and NE Miller Street are planned to intersect at a right angle. This requirement is met.

**FINDING: SATISFIED.** The proposed intersection is at a right angle.

***17.53.101(G) Existing streets.*** *Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision. The City may consider a reduction in arterial or collector street lane widths (lanes no less than 10 feet wide) by restriping existing travel lanes.*

**APPLICANT'S RESPONSE:** As described previously, this application includes the preliminarily planned dedication of right-of-way for extensions of NE Miller Street and NE Orchard Avenue, as required here. This requirement is met.

**FINDING: SATISFIED WITH CONDITIONS #3 AND #4.** Subject to the conditions requiring the dedication of right-of-way, the applicant meets this criterion.

**CONDITION OF APPROVAL #3:** The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**CONDITION OF APPROVAL #4:** The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate 50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

***17.53.101(H) Half streets.*** *Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.*

**APPLICANT'S RESPONSE:** As evidenced by the Preliminary Plans (Exhibit A), improvements to NE Orchard Avenue and NW Miller Street are planned on and off the subject site. As shown in Exhibit A, the NE Orchard Avenue extension is preliminarily planned to be improved within a 50-foot-wide right of way, and includes street tree planting areas, curb, 5-foot-wide sidewalks, a 24-foot-wide paved roadway, and ADA ramps; and the NE Miller Street extension is preliminarily planned to be improved within an up to ±66-foot-wide right of way, and includes street tree planting areas, curb, 5-foot-wide sidewalk, a 28-foot-wide paved roadway, and an ADA ramp.

Improvements to both roadways not included with this application (i.e. improvements the City has determined are required to be completed by the owner of Tax Lot 2603) include additional roadway paving and curb along the north side of NE Miller Street, as well as additional roadway paving, curb, an ADA ramp, and 5-foot-wide sidewalk on the south side of NE Orchard Avenue, just west of NE Miller Street. Those future pedestrian improvements to be built by others on the south side of NE Orchard Avenue are designed to align with those planned to be provided by the Applicant under this application, as shown on the Future Development Plan (Exhibit A, Sheet 07). Therefore, this application does not include half streets, though half streets may be approved.

**FINDING: NOT APPLICABLE.** No half streets are proposed or approved.

***17.53.101(I) Cul-de-sacs.*** *A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve not more than 18 (eighteen) dwelling units. A cul-de-sac shall terminate with a turnaround.*

***17.53.101(J) Eyebrows.*** *Where conditions do not warrant the use of cul-de-sacs and the land available in the proposed plan does not allow for a discontinuous minor street extension and where there are no more than three (3) dwelling units proposed to take access, the City Engineer or Planning Director may allow eyebrows. Eyebrows shall be limited to a maximum length of 125 feet, when measured from the main street right-of-way from which the eyebrow takes access. The City Engineer or Planning Director may allow less than that required in (d) above, after taking into consideration the effects upon traffic flows. The right-of-way width shall be 36 (thirty-six) feet, with a paved 10 (ten) foot curb-to-curb radius at the terminus. Sidewalks shall not be installed within eyebrows without additional right-of-way dedication.*

**APPLICANT'S RESPONSE:** The application does not include cul-de-sacs or eyebrows. These requirements do not apply.

**FINDING: NOT APPLICABLE.** No cul-de-sacs or eyebrows are proposed or required.

**17.53.101(K) Street names.** *Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the City. Street names shall be subject to the approval of the Planning Director. The naming of new streets with names of local historic significance and/or where appropriate in alphabetical order is encouraged.*

**APPLICANT'S RESPONSE:** This application does not include new streets. This requirement does not apply.

**FINDING: NOT APPLICABLE.** No new streets are proposed, extensions will maintain the existing name.

**17.53.101(L) Grades and curves.** *Grades shall not exceed six (6) percent on arterials, 10 (ten) percent on collector streets, or 12 (twelve) percent on any other street except as described below. Any local street grade exceeding 12 (twelve) percent shall be reviewed for approval by the Fire Code Official during the land use application process. When a local residential street is approved to exceed 12 (twelve) percent the following shall be required:*

- 1. A maximum of 200 feet of roadway length may be allowed with a grade between 12 (twelve) percent and 15 (fifteen) percent for any one section. The roadway grade must reduce to no more than 12 (twelve) percent for a minimum of 75 linear feet of roadway length between each such section for firefighting operations.*
- 2. Fire sprinklers shall be installed in all residential and commercial structures whose access road is constructed at a grade higher than 12 (twelve) percent. The approval of such fire sprinklers shall be accomplished in accordance with the provisions of ORS 455.610(6).*

*Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even 10 (ten) feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept sharper curves.*

**APPLICANT'S RESPONSE:** As shown on the Future Street Cross Sections provided in Exhibit A, grades of NE Miller Street and NE Orchard Avenue do not exceed 12 percent and meet the centerline curve radii standard described above. These requirements are met.

**FINDING: SATISFIED.** The applicant has demonstrated compliance with this standard.

**17.53.101 (M) Streets adjacent to a railroad right-of-way.** *Wherever the subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel with and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation, and to provide sufficient depth to allow screen planting along the railroad right-of-way.*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), NE Orchard Avenue, which runs parallel to the railroad right-of-way, provides adequate separation from the railroad. This requirement is met.

**FINDING: SATISFIED.** The applicant has demonstrated compliance with this standard. The railroad is located along the northern portion of the site, adjacent to the wetland any street extension would require removal of the wetland. It is not necessary for a street to be installed parallel to the roadway.

**17.53.101(N) Frontage roads/streets.** *Where a subdivision or partition abuts or contains an existing or proposed arterial street, the Planning Commission may require frontage streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property lines, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.*

**17.53.101(O) Alleys.** *Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission.*

**17.53.101(P) Private way/drive.** *This type of street will be allowed when the conditions of Section 17.53.100(D) are met. A private drive shall be constructed to the same structural standards that would apply to a public street. Storm runoff will be controlled to prevent damage to adjacent properties. A storm drainage plan shall be approved by the City Engineer. The right-of-way width will be determined based on-site conditions and proposed use and will be approved by the Planning Commission.*

**17.53.101(Q) Bikeways.** *Provisions shall be made for bikeways planned along arterial and collector streets and where shown on the Transportation System Plan. Arterial streets shall be designed to be wide enough to accommodate a six (6) foot wide bike lane adjacent to each outside traffic lane. All major collector and some minor collector streets (dependent upon available right-of-way) shall be designed with five-foot wide bike lanes. Where a proposed development abuts a collector street less than 40 feet (Minor Collector) or 44 feet (Major Collector) in width, the Planning Commission may require that on-street parking be restricted to one side of the street only or that the deed(s) of the lot(s) adjacent to the street show that on-street parking will be eliminated in the future for bikeway development. (Amended 11/8/94 by Ordinance 4573.)*

**17.53.101(R) Residential Collector Spacing.** *Generally, residential collector or arterial streets should be spaced no more than 1,800 feet from each other unless it is determined otherwise after consideration of the unique characteristics of the land including geography, topography, unique vegetation, and the relation of the site to developments already present or proposed in the area. (Amended 11/8/94 by Ordinance 4573.)*

**APPLICANT'S RESPONSE:** This application does not include frontage roads, alleys, private ways, collectors, or arterial streets.

**FINDING: NOT APPLICABLE.** The applicant has demonstrated compliance with this standard. No frontage roads, alleys, private ways, or bikeways are proposed or required as the project site does not abut an arterial, collector street, or has identified bikeway improvements in the Transportation System Plan.

**17.53.101(S) Sidewalks.** *Along arterials and along major collectors with bikeways in commercial areas, sidewalks shall be eight (8) feet in width or, where less than eight (8) feet of right-of-way is available, shall extend to the property line and be located adjacent to the curb. Sidewalks in all other locations shall be five (5) feet in width and be placed one (1) foot from the right-of-way line. Sidewalks adjacent to a cul-de-sac bulb shall be located adjacent to the curb.*

**APPLICANT'S RESPONSE:** As previously described, the design of planned street extensions was discussed with City staff at a pre-application conference held on August 18th, 2025. The preliminary street improvement design shown on the Preliminary Plans (Exhibit A) was informed by comments received by City staff during that conference and substantially reflect the Pre-Application Plans (Exhibit E), which included curb-tight sidewalk. As discussed at that conference, the 5-foot-wide curb-tight sidewalk included in this project is appropriate for the conditions of the site. Though very few street segments in the general vicinity of the subject site provide sidewalk, where they are provided, sidewalks are curb tight. Therefore, this requirement is met as practicable.

**FINDING: NOT APPLICABLE.** Sidewalks are not required at this time with the Minor Partition.

**17.53.101(T) Park strips.** *Park strips shall be provided between the curb and sidewalk along both sides of all streets except (a) commercial arterial and collector streets, in which case street trees may be placed in tree wells as specified by the McMinnville Street Ordinance; or (b) cul-de-sac bulbs. Street trees shall be planted and maintained within the park strip as specified in Chapter 17.58 (Trees) of the McMinnville Zoning Ordinance.*

**APPLICANT'S RESPONSE:** This requirement is intended to ensure street-tree planting areas. As previously described, this application includes curb-tight sidewalks. Park strips cannot be accommodated by curb-tight sidewalks. Requirements for park strips and street trees were discussed at the pre-application conference, where it was determined that street trees can be planted on the planned parcels, and will be allowed within the planned 10- foot-wide public utility easements.

Street tree planting plans are not required to be submitted with this Partition application; however, it is anticipated that a street tree plan will be required to be submitted prior to the filing of a final plat application. Accordingly, street tree standards are not required to be addressed by the Applicant in this narrative, though the Applicant notes that 17.58.90.D provides that "...where a street with sidewalk was previously constructed to a different standard, the Manager may authorize deviation to the street tree planting standards, with street trees planted in a narrower planter strip or behind the sidewalk". Therefore, as shown on the Preliminary Plans (Exhibit A), street tree planting area is planned to be provided in accordance with this code and insofar as it applies to this application, this requirement will be met.

**FINDING: SATISFIED.** The applicant has adequately demonstrated that park strips are not required as part of this project.

**17.53.101(U) Gates.** *Gates are prohibited within or across public rights-of-way. Gates are also prohibited across private streets that serve single-detached residential development of four or more lots or parcels, multi-dwelling housing complexes, manufactured home parks, or commercial or industrial subdivisions. The City may permit gates of limited duration for the purpose of facilitating public events, construction of public infrastructure, or other similar activities having a public interest or benefit at the discretion of the City Manager.*

**APPLICANT'S RESPONSE:** This application does not include gates.

**FINDING: NOT APPLICABLE.** No gates within the right-of-way are proposed or approved.

**17.53.103 Blocks.**

A. *General.* The length, width, and shape of blocks shall take into account the need for adequate lot size and street width and shall recognize the limitations of the topography.

**APPLICANT'S RESPONSE:** [STAFF NOTE – THE FOLLOWING RESPONSE WAS PROVIDED FOR 17.53.103(A) & (B)] As previously described, this project will connect NE Miller Street and NE Orchard Avenue. As shown on the Preliminary Plans (Exhibit A), planned street extensions follow the existing roadway pattern in an area where block length and perimeter are already established. These established blocks do not conform to block size requirements. Additionally, most properties in the immediate area are improved. Therefore, in this industrial-zoned area, desired block sizes are not likely to be achieved. As shown on the Existing Conditions Plan included in Exhibit A, there is a significant difference in grade difference between the subject property and the adjacent unimproved segment of NE Miller Street. This difference in grade prohibits the provision of mid-block pedestrian connection along NE Miller Street where it runs along the project site. However, as shown on the Preliminary Plans (Exhibit A), in addition to those ADA ramps planned to provide pedestrian connections across NE Orchard Avenue, this project includes preliminary planned construction of a west-facing ADA ramp at the intersection of NE Miller Street and NE Orchard Avenue. Therefore, although the existing non-conforming block sizes in the area cannot be brought into conformance under this two-parcel partition, the planned improvements will improve vehicle and pedestrian connectivity in the area. These requirements are met as practicable.

**FINDING: SATISFIED.** The applicant has adequately identified how topographic limitations and surrounding street infrastructure limit the proposed block development.

B. *Size.* No block shall be more than 400 feet in length between street corner lines or have a block perimeter greater than 1,600 feet unless it is adjacent to an arterial street, or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.

**APPLICANT'S RESPONSE:** [STAFF NOTE – THE FOLLOWING RESPONSE WAS PROVIDED FOR 17.53.103(A) & (B)] As previously described, this project will connect NE Miller Street and NE Orchard Avenue. As shown on the Preliminary Plans (Exhibit A), planned street extensions follow the existing roadway pattern in an area where block length and perimeter are already established. These established blocks do not conform to block size requirements. Additionally, most properties in the immediate area are improved. Therefore, in this industrial-zoned area, desired block sizes are not likely to be achieved. As shown on the Existing Conditions Plan included in Exhibit A, there is a significant difference in grade difference between the subject property and the adjacent unimproved segment of NE Miller Street. This difference in grade prohibits the provision of mid-block pedestrian connection along NE Miller Street where it runs along the project site. However, as shown on the Preliminary Plans (Exhibit A), in addition to those ADA ramps planned to provide pedestrian connections across NE Orchard Avenue, this project includes preliminary planned construction of a west-facing ADA ramp at the intersection

of NE Miller Street and NE Orchard Avenue. Therefore, although the existing non-conforming block sizes in the area cannot be brought into conformance under this two-parcel partition, the planned improvements will improve vehicle and pedestrian connectivity in the area. These requirements are met as practicable.

**FINDING: SATISFIED.** The proposed plans do not meet the length requirements identified within this Section. However, the applicant has justified an exception to this standard on the basis of topographic constraints and the location of adjoining streets.

C. Easements.

1. *Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever necessary. The easements shall be at least 10 (ten) feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six (6) feet in width. Easements of 10 (ten) feet in width shall be required along all rights-of-way. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The governing body of a city or county may not place additional restrictions or conditions on a utility easement granted under this chapter.*
2. *Water courses. If a subdivision is traversed by water courses such as a drainage way, channel, or stream, there shall be provided a storm unit easement or drainage right-of-way conforming substantially with the lines of the water course and of such width as will be adequate for the purpose, unless the water course is diverted, channeled, or piped in accordance with plans approved by the City Engineer's office. Streets or parkways parallel to major water courses may be required.*
3. *Pedestrian ways. When desirable for public convenience, safety, or travel, pedestrian ways not less than 10 (ten) feet in width may be required to connect to cul-de-sacs, to pass through unusually long or oddly shaped blocks, to connect to recreation or public areas such as schools, or to connect to existing or proposed pedestrian ways. (Ord. 4922, §4B, 2010)*

**APPLICANT'S RESPONSE:** :As shown on the Preliminary Plans (Exhibit A), the application includes utility easements designed pursuant to applicable City standards, as well as a planned 50-foot-wide reciprocal access easement centered on both parcels where they abut NE Orchard Avenue. This application does not include alteration to drainage ways and does not require pedestrian access tracts. These requirements are met, as applicable.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #3 AND 4.** The applicant is required to provide utility easements as part of this project to comply with subsection (1). No water courses are to be traversed by the project, and no pedestrian way is required.

**CONDITION OF APPROVAL #3:** The applicant shall dedicate 41.5' of Right-of-Way and 10' Public Utility Easement along the east property frontage of NE Miller Street prior to plat. This will be to accommodate 66.5' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**CONDITION OF APPROVAL #4:** The applicant shall dedicate 50' of Right-of-Way and 10' Public Utility Easement along the property frontage of NE Orchard Avenue prior to plat. This will be to accommodate 50' of Right-of-Way for local residential streets per MMC 17.53.060(C) and the City's Transportation System Plan.

**17.53.105 Lots.**

**17.53.105(A) Size and shape.** *Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. All lots in a subdivision shall be buildable.*

1. *Lot size shall conform to the zoning requirement of the area. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use contemplated. The depth of lot shall not ordinarily exceed two times the average width.*

**APPLICANT'S RESPONSE:** As demonstrated by the Preliminary Plans (Exhibit A), parcels are dimensioned appropriately for future industrial use. The MMZO does not establish minimum or maximum sizes for lots or parcels in the M-2 zoning district. These requirements are met.

**FINDING: SATISFIED.** The applicant has adequately demonstrated compliance with this criterion.

**17.53.105(B) Access.** *Each lot shall abut upon a street other than an alley for a width of at least 25 (twenty-five) feet or shall abut an access easement which in turn abuts a street for at least 15 (fifteen) feet if approved and created under the provisions of 17.53.100(C). Direct access onto a major collector or arterial street designated on the McMinnville Comprehensive Plan Map shall be avoided for all lots subdivided for single-family, common wall, or duplex residential use, unless no other access point is practical.*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), parcels are planned to abut streets other than an alley for at least 25 feet. This requirement is met.

**FINDING: SATISFIED.** The applicant has adequately demonstrated compliance with this criteria.

**17.53.105(C) Through Lots.** *Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 (ten) feet wide, and across which there shall be no right of access, may be required along the line of lots abutting such a traffic artery or other incompatible use.*

**APPLICANT'S RESPONSE:** This application does not include through lots.

**FINDING: SATISFIED.** The applicant has adequately demonstrated compliance with this criteria.

**17.53.105(D) Lot side lines.** *The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), parcel lines are planned to run at right angles to abutting streets. This requirement is met.

**FINDING: SATISFIED.** The applicant has adequately demonstrated compliance with this criteria.

**17.53.105(E) Flag lots.** *The creation of flag lots shall be discouraged and allowed only when it is the only reasonable method of providing access to the rear of a lot which is large enough to warrant partitioning or subdividing. [...]*

**APPLICANT'S RESPONSE:** This application does not include flag lots.

**FINDING: NOT APPLICABLE.** A flag lot is not proposed. Not applicable.

**17.53.110 Lot Grading.** *Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:*

- A. *Cut slopes shall not exceed one and one-half (1½) feet horizontally to one (1) foot vertically.*
- B. *Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.*
- C. *The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.*
- D. *The minimum elevation at which a structure may be erected, taking into consideration the topography of the lot, the surrounding area, drainage patterns, and other pertinent data shall be established by the City Building Official.*
- E. *The City Engineer shall determine whether a storm drainage system is necessary to control, manage, and dispose of water lying on or running over a subdivision. In addition, the subdivider shall be required to meet other standards and conditions imposed by state laws and city ordinances.*

**APPLICANT'S RESPONSE:** As demonstrated by the Preliminary Grading & Utilities Plan included in Exhibit A, these requirements are met as applicable.

**FINDING: SATISFIED.** No grading is approved as part of this application. Future development is subject to lot grading standards found within MMC 17.53.110.

**17.53.120 Building Lines.** *If special building setback lines are to be established in the subdivision or partition, they shall be shown on the plat or included in the deed restrictions.*

**APPLICANT'S RESPONSE:** This application does not include special building setback li

**FINDING: NOT APPLICABLE.** No special building setback lines are proposed as part of this partition application.

**17.53.130 Large Lot Subdivision.** *In subdividing tracts into large lots which at some future time are likely to be re-subdivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into lots, and contain such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of smaller size.*

**APPLICANT'S RESPONSE:** Please refer to the response previously provided to Section 17.53.080.

**FINDING: NOT APPLICABLE.** The proposal is not under review by the Planning Commission.

**17.53.140 Left-over Land.** *Islands, strips, or parcel of property unsuited for subdividing and not accepted by the City for appropriate use shall not be left unsubdivided but shall be identified as required in Section 17.53.075(A)(10).*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), the existing wetland on the project site is wholly located on planned Parcel 2, and that area has been specifically identified on the Preliminary Partition Plat. This requirement is met.

**FINDING: NOT APPLICABLE.** The proposed partition doesn't include left-over land. Parcel 2 contains sufficient area for development outside of the existing wetland.

### ***Improvements***

**17.53.150 Improvement Procedures.** *In addition to other requirements, improvements shall conform to the requirements of this ordinance and improvement standards, or specifications adopted by the City, and shall be installed in accordance with the following procedure:*

- A. Work shall not be commenced until plans have been reviewed for adequacy and approved by the City. To the extent necessary for evaluation of the subdivision proposal, the plans shall be required before approval of the final plat. All plans shall be prepared in accordance with requirements of the City;*
- B. Work shall not be commenced until the City has been notified in advance; and if work has been discontinued for any reason, it shall not be resumed until the City has been notified;*
- C. Required improvements shall be inspected by and constructed to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such change in the public interest;*
- D. Underground utilities, sanitary sewers, and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to lengths that will avoid the need to disturb street improvements and utilities when service connections are made;*
- E. Plans showing public improvements as built shall be filed with the City Engineer within 30 (thirty) days after acceptance of the improvements by the Engineer.*

**APPLICANT'S RESPONSE:** The applicant did not provide a written response.

**FINDING: NOT APPLICABLE.** The City Council finds that no improvements are required with this application, as explained below.

**17.53.151 Specifications for Improvements.** *The City Engineer has submitted, and the City Council has adopted the standard specifications for public works construction, Oregon Chapter A.P.W.A., and has included those special provisions that are, by their very nature, applicable to the City of McMinnville. The specifications cover the following:*

- A. Streets, including related improvements such as curbs and gutters, shoulders, and median strips, and including suitable provisions for necessary slope easements;*
- B. Drainage facilities;*
- C. Sidewalks in pedestrian ways;*
- D. Sewers and sewage disposal facilities.*

**APPLICANT'S RESPONSE:** The applicant did not provide a written response.

**FINDING: NOT APPLICABLE.** The City Council finds that no improvements are required with this application, as explained below.

***17.53.153 Improvement Requirements.*** *The following improvements shall be installed at the expense of the subdivider:*

- A. Water supply system. All lots within a subdivision shall be served by the City water supply system.*
- B. Electrical system. All lots within a subdivision shall be served by the City electrical system.*
- C. Sewer system. All lots within a subdivision shall be served by the City sewer system.*
- D. Drainage. Such grading shall be performed, and drainage facilities installed conforming to City specifications as are necessary to provide proper drainage within the subdivision and other affected areas in order to assure healthful, convenient conditions for the residents of the subdivision and for the general public. Drainage facilities in the subdivision shall be connected to drainage ways or storm sewers outside the subdivision. Dikes and pumping systems shall be installed, if necessary, to protect the subdivision against flooding or other inundations.*
- E. Streets. The subdivider shall grade and improve streets in the subdivision, and the extension of such streets to the paving line of existing streets with which such streets intersect, in conformance with City specifications. Street improvements shall include related improvements such as curbs, intersection sidewalk aprons, street signs, gutters, shoulders, and median strips to the extent these are required.*
- F. Pedestrian ways. A paved sidewalk not less than five (5) feet wide shall be installed in the center of pedestrian ways.*
- G. Private way/drive. The subdivider shall grade and improve to conform to City specifications in terms of structural standards.*
- H. Street trees consistent with the requirements of Chapter 17.58 of the McMinnville Zoning Ordinance and an approved street tree plan for the subdivision.*

**APPLICANT'S RESPONSE:** The applicant provided a written response that took the position that Section 17.53.153 does not apply to a minor partition application.

**FINDING: NOT APPLICABLE.** The City Council finds that Section 17.53.153 only applies to subdivisions and not minor partitions. The plain language of Section 17.53.153 includes many instances of the use of the words "subdivision" and "subdivider" throughout and does not use the work "partition" and "partitioner" at all. The City Council therefore finds that Section 17.53.153 only applies to a subdivision application and not to a minor partition application. Further context is provided in Section 17.53.060 to .063, which is the section of Section 17.53 that addresses partitions and uses the word "partitioner" when discussing the applicant, and Section 17.53.070 to .079, which is the section of Section 17.53 addressing subdivision applications and uses the word "subdivider" when discussing the applicant. Because Section 17.53.153 applies only to subdivisions and not to minor partitions, the improvements listed in Section 17.53.153 are not required to be installed with a minor partition.

### **Chapter 17.58 Trees**

***17.58.020. Applicability.*** *The provisions of this ordinance shall apply to:*

- A. Individual significant or historic trees as defined in this ordinance.*
- B. All trees with trunks located completely or partially within any public area or right-of-way;*
- C. All trees on developable land and subject to or undergoing development review such as site plan review, tentative subdivision review, or partition review; [...]*

**APPLICANT'S RESPONSE:** The applicant did not provide a written response.

**FINDING: SATISFIED.** The subject site is undergoing partition review to create new parcels with developable land and is subject to the standards of the Chapter.

**17.58.040. Tree Removal/Replacement**

*A. The removal or major pruning of a tree, if applicable under Section 17.58.020, shall require City approval, unless specifically designated as exempt by this ordinance. Persons wishing to remove or prune such trees shall file an application for a permit with the City. [...] Applications shall be reviewed by the City Manager or City Manager's Designee (hereafter "Manager") or the Landscape Review Committee as provided in this Chapter, including Section 17.58.050. [...] The Landscape Review Committee or Manager, as appropriate, may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. [...]*

**APPLICANT'S RESPONSE:** As shown on the Preliminary Plans (Exhibit A), two trees exist partially within existing and planned future right-of-way, making their preservation infeasible if the other requirements of this code are to be met. Therefore, this application seeks the removal of those two trees, as necessary for the preliminarily planned construction of streets and installation of public utilities. New street trees will serve to replace those trees that are removed to accommodate this project. As demonstrated by the Preliminary Plans (Exhibit A), other trees on the subject site will be preserved.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** Any tree removal or major pruning on the subject site or within the adjacent undeveloped right-of-way is applicable under 17.58.020 and would require City approval. No trees are approved for removal as part of this application. A separate tree protection plan must be submitted as detailed below.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

*B. Trees subject to this ordinance which are approved for removal or pruning shall be removed or pruned following accepted arboricultural pruning practices, such as those published by the International Society of Arboriculture (ISA) and any standards adopted by the City. The Manager, after consultation with appropriate city staff and/or a certified arborist, shall direct removal of downtown trees that are identified in a current Downtown Tree Zone inventory assessment as unhealthy, dangerous to the public, inappropriate for the downtown area, or otherwise in need of removal.*

- C. *The applicant shall be responsible for all costs associated with the tree removal or pruning, or as otherwise required by this ordinance, and shall ensure that all work is done in a manner which ensures safety to individuals and public and private property.*
- D. *Approval of a request to remove a tree may be conditioned upon replacement of the tree with another tree approved by the city, or a requirement to pay to the city an amount sufficient to fund the planting and establishment by the city of a tree, or trees, of similar value. The value of the existing tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. Every attempt should be made to plant replacement trees in the same general location as the tree being removed. In the event that a replacement tree cannot be planted in the same general location, a condition of approval may be required to allow for the replacement tree to be planted in another location in the City as part of the City's annual tree planting program.*
- E. *The applicant is responsible for grinding stumps and surface roots at least six inches below grade. At least a two-inch-thick layer of topsoil shall be placed over the remaining stump and surface roots. The area shall be crowned at least two inches above the surrounding grade to allow for settling and shall be raked smooth. The applicant shall restore any damaged turf areas and grades due to vehicular or mechanical operations. The area shall be re-seeded.*

**APPLICANT'S RESPONSE:** As described previously, this application seeks the removal of two trees located in existing and planned future right-of-way, as necessary for the preliminarily planned construction of streets and installation of public utilities. New street trees will serve to replace trees that are removed to accommodate this project. These requirements are understood and can be met as required.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** Any tree removal or major pruning on the subject site or within the adjacent undeveloped right-of-way is applicable under 17.58.020 and would require City approval. No trees are approved for removal as part of this application. A separate tree protection plan must be submitted as detailed below.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

- F. *Other conditions may be attached to the permit approval by the Manager or Landscape Review Committee as deemed necessary.*
- G. *The planting of street trees shall be subject to the design drawings and specifications developed by the City in May 2014, as may be subsequently amended. Specific design drawings and specifications have been developed for trees outside the Downtown Tree Zone. Such design specifications may be periodically updated by the City to include specifications*

*such as tree root barriers, watering tubes or structures, tree grates, and removable pavers, and shall graphically describe the proper method for planting trees to minimize the potential for sidewalk / tree root conflict.*

**APPLICANT'S RESPONSE:** As described previously, this application seeks the removal of two trees located in existing and planned future right-of-way, as necessary for the preliminarily planned construction of streets and installation of public utilities. New street trees will serve to replace trees that are removed to accommodate this project. These requirements are understood and can be met as required.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** Any tree removal or major pruning on the subject site or within the adjacent undeveloped right-of-way is applicable under 17.58.020 and would require City approval. No trees are approved for removal as part of this application. A separate tree protection plan must be submitted as detailed below.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

*H. The planting of street trees shall be subject to the design drawings and specifications developed by the City in May 2014, as may be subsequently amended. Specific design drawings and specifications have been developed for trees outside the Downtown Tree Zone. Such design specifications may be periodically updated by the City to include specifications such as tree root barriers, watering tubes or structures, tree grates, and removable pavers, and shall graphically describe the proper method for planting trees to minimize the potential for sidewalk / tree root conflict.*

**APPLICANT'S RESPONSE:** This provision is understood. Planting of street trees will be in accordance with applicable City standards, as required.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** Any tree removal or major pruning on the subject site or within the adjacent undeveloped right-of-way is applicable under 17.58.020 and would require City approval. No trees are approved for removal as part of this application. A separate tree protection plan must be submitted as detailed below.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5)

inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

17.58.050                      *Application Review and Criteria.*

*A. Application for Simple Tree Removal Permit.*

- 1. Review. Applications for simple tree removal permits shall be reviewed by the Manager in accordance with the requirements of this Chapter on a form containing information required by the Manager.*
- 2. Criteria. Each tree proposed for removal must meet at least one of the following criteria:*
  - a. The tree is a hazard as determined by a Certified arborist, and the arborist has demonstrated that less intensive options than removal, such as pruning, cabling, or bracing of limbs would not abate the hazard or would have a significant adverse effect on the health of the tree.*
  - b. The tree is dead or in an advanced state of decline.*
  - c. The tree species is on the nuisance list for Oregon or the list of invasive trees published by OSU Extension.*
  - d. Tree is infested with pests or disease.*
  - e. The tree roots are causing damage to sidewalks or other infrastructure, and the damage can't reasonably be abated without removing the tree. In evaluating whether the damage can be reasonably abated without removing the tree, consideration shall be given to impacts of the necessary abatement on the tree's health, further damage to infrastructure that would occur if the tree is retained, and alternative methods of abatement that would retain and protect the tree and prevent further damage. When considering reasonable abatement methods, greater priority shall be placed on retention of larger, healthy trees.*
  - f. The tree has sustained physical damage to an extent that necessitates its removal to address an issue of safety or tree health and aesthetics.*
  - g. The proposed removal is part of an approved development project, a public improvement project where no reasonable alternative is available, or is part of a street tree improvement program. When considering reasonable alternatives, greater priority shall be placed on retention of larger, healthy trees.*
  - h. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list the decision shall also meet any applicable requirements related to the protection of such trees.*
- 3. Arborist Verification. In order to meet any of the above criteria for removal verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City. The Manager may waive the requirement for verification by an Arborist if it is reasonable to determine a tree is dead by inspection or other documentation required by the Manager.*

**APPLICANT'S RESPONSE:** As described previously, a few small trees exist within existing and planned future right-of-way, making their preservation infeasible if the other requirements of this code are to be met. Therefore, this application includes tree-removal

as necessary for the preliminarily planned construction of streets and installation of public utilities. Upon approval of this application, at least one of the criteria above will be met.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** Any tree removal or major pruning on the subject site or within the adjacent undeveloped right-of-way is applicable under 17.58.020 and would require City approval. No trees are approved for removal as part of this application. A separate tree protection plan must be submitted as detailed below.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

4. *At the Manager's discretion, any simple tree removal permit application may be referred to the Landscape Review Committee for review, to be reviewed by the Committee within 30 days of submittal of the application.*

**APPLICANT'S RESPONSE:** As described previously, a few small trees exist within existing and planned future right-of-way, making their preservation infeasible if the other requirements of this code are to be met. Therefore, this application includes tree-removal as necessary for the preliminarily planned construction of streets and installation of public utilities. Upon approval of this application, at least one of the criteria above will be met.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** Any tree removal or major pruning on the subject site or within the adjacent undeveloped right-of-way is applicable under 17.58.020 and would require City approval. No trees are approved for removal as part of this application. A separate tree protection plan must be submitted as detailed below.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the

subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

*B. Application for Tree Major Pruning Permit.*

- 1. Review. Applications for major pruning of trees shall be reviewed by the Manager in accordance with the requirements of this Chapter on a form containing information required by the Manager.*
- 2. Criteria. Each tree proposed for major pruning shall meet all of the following criteria:*
  - a. The pruning is necessary to reduce risk of hazard, maintain or improve tree health and structure, or improve aesthetics in accordance with accepted arboricultural practices, or to achieve compliance with public standards such as vision clearance, vertical clearance above sidewalks or roadways, or separation from overhead utilities.*
  - b. The proposed pruning shall be consistent with the public purposes of Section 17.58.010 and shall not adversely affect the health of the tree. When pruning is necessary to reduce risk of hazard or achieve compliance with public standards, the tree structure and aesthetics shall be maintained to the extent practicable.*
  - c. The proposed pruning will be performed consistent with accepted arboricultural practices, such as those published by the International Society of Arboriculture (ISA).*
  - d. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list, the decision shall also meet any applicable requirements related to the protection of such trees.*
- 3. Arborist Verification. In order to meet any of the above criteria for major pruning, verification of the need and consistency with the criteria for the proposed pruning shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City.*
- 4. At the Manager's discretion, any application for major pruning of a tree may be referred to the Landscape Review Committee for review, to be reviewed by the Committee within 30 days of submittal of the application.*

**APPLICANT'S RESPONSE:** This application does not include a Complex Tree Removal Permit and such a permit is not anticipated to be required for this partition.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** Any tree removal or major pruning on the subject site or within the adjacent undeveloped right-of-way is applicable under 17.58.020 and would require City approval. No trees are approved for removal as part of this application. A separate tree protection plan must be submitted as detailed below.

**CONDITION OF APPROVAL #2:** That existing trees with trunks partially or wholly within Parcels 1 and 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than five (5) inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site. This applies to any improvements necessitated by this land-use action and future development of the site.

**17.58.080 Street Tree Planting - When Required.** *All new residential development, commercial or industrial development, subdivisions, partitions, or parking lots fronting on a public roadway which has a designated curb-side planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 17.58.090. (Ord. 4654B §1, 1997).*

**APPLICANT'S RESPONSE:** It is anticipated that street tree installation will be conditionally required to be installed. As described previously in this narrative, this partition and associated improvements are designed to accommodate future street tree planting, as required.

**FINDING: NOT APPLICABLE.** NE Miller Street and NE Orchard Avenue are not to be improved with a designated curb-site planting strip or planting island and therefore is not subject to the requirements of street tree planting, including the requirement for a Street Tree Plan.