



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

www.mcminnvilleoregon.gov

Planning Commission
McMinnville Civic Hall, 200 NE 2nd Street
August 15, 2019

5:30 PM Work Session
6:30 PM Regular Meeting

Welcome! All persons addressing the Planning Commission will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. Public Hearings will be conducted per the outline on the board in the front of the room. The Chair of the Planning Commission will outline the procedures for each public hearing.

If you wish to address Planning Commission on any item not on the agenda, you may respond as the Planning Commission Chair calls for "Citizen Comments."

Commission Members	Agenda Items
Roger Hall, Chair	5:30 PM - WORK SESSION – CONFERENCE ROOM
Lori Schanche, Vice-Chair	1. Call to Order
Erin Butler	2. Discussion Items
Martin Chroust-Masin	<ul style="list-style-type: none">Public Hearing Procedures – Review and Discussion
Susan Dirks	3. Adjournment
Christopher Knapp	
Gary Langenwaller	
Roger Lizut	
Amanda Perron	

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 24 hours in advance by contacting the City Manager (503) 434-7405 – 1-800-735-1232 for voice, or TDY 1-800-735-2900.

*Please note that these documents are also on the City's website, www.mcminnvilleoregon.gov. You may also request a copy from the Planning Department.



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Commission Members	Agenda Items
Roger Hall, Chair Lori Schanche, Vice-Chair Erin Butler Martin Chroust-Masin Susan Dirks Christopher Knapp Gary Langenwalter Roger Lizut Amanda Perron	6:30 PM – REGULAR MEETING - COUNCIL CHAMBERS <ol style="list-style-type: none"> 1. Call to Order 2. Citizen Comments 3. Approval of Minutes <ul style="list-style-type: none"> • June 27, 2019 Planning Commission Minutes - (Exhibit 1) 4. Public Hearings <ol style="list-style-type: none"> A. <u>Quasi-Judicial Hearing. Variance (VR 1-19)- (Exhibit 2)</u> Request: Variance to the front yard setback of the R-3 zone from the required 15 (fifteen) feet to ten (10) feet to allow for the construction of a new porch. Location: The subject site is zoned R-3 (Two Family Residential) and is located at 1032 NE Hembree Street. It is more specifically described as Tax Lot 12000, Section 16CD, T.4 S., R. 4 W., W.M. Applicant: Hans Van Dale 5. Commissioner/Committee Member Comments 6. Staff Comments 7. Adjournment

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MINUTES – Exhibit 1

June 27, 2019
Planning Commission
Regular Meeting

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

Members Present: Chair Roger Hall, Commissioners: Erin Butler, Martin Chroust-Masin, Susan Dirks, Christopher Knapp, Gary Langenwalter, Roger Lizut, Amanda Perron, and Lori Schanche

Members Absent: None

Staff Present: Chuck Darnell – Senior Planner, David Koch – City Attorney, Heather Richards – Planning Director, and Tom Schauer – Senior Planner

1. Call to Order

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

2. Citizen Comments

None

3. Approval of Minutes

- May 16, 2019 Planning Commission Minutes

6:32 Commissioner Dirks moved to approve the May 16, 2019 Planning Commission minutes. The motion was seconded by Commissioner Langenwalter and passed unanimously.

4. Public Hearing:

A. Legislative Hearing. G 3-19 (Zoning Ordinance Amendment “Floating Zone)” (Exhibit 2)

Request: Amendment to the McMinnville Zoning Ordinance to add a new Section, Chapter 17.49: Innovative Housing Pilot Project Floating Zone. This amendment would establish provisions for the Innovative Housing Pilot Project Floating zone, but it would not rezone any properties. It would establish a designated eligibility area. Only property owners within this area would be eligible to apply to have the floating zone designation applied to a property through a future land use application, which would require a separately noticed public hearing process.

Applicant: City of McMinnville

6:33 Opening Statement: Chair Hall read the opening statement and described the application.

6:35 Disclosures: Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter.

John Ashton, McMinnville resident, had talked with neighbors bordering the proposed floating zone who had not been notified of this hearing. Before a decision was made he thought they needed to be contacted for input as it directly impacted them.

Planning Director Richards said they had extended the notification procedures for this application by sending letters out to every property owner in this area. They could do another notice with a larger surrounding area since the hearing was being recommended to be continued.

City Attorney Koch clarified the City met what was legally required for notifications. He thought the Commission had jurisdiction to proceed with this matter.

There was consensus to direct staff to extend the notification to the properties bordering the proposed floating zone area.

Chair Hall asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

6:40 Staff Presentation: Planning Director Richards said this was a recommendation from the Affordable Housing Task Force to address housing deficiencies in McMinnville especially for lower income housing. There was a surplus of industrial land in the City and a deficit of residential land. It was not intended to rezone any property, but this was an overlay zone to encourage select projects on a few pieces of property within this specific area. It was a combination zoning ordinance amendment to put in place a floating zone and a competitive Request For Proposals process for specific projects. This was one potential solution to the housing issues in the City.

Senior Planner Schauer said this would create a new chapter in the zoning ordinance for a floating zone. The chapter would create provisions for the floating zone and would establish the area to be eligible to apply for the designation. It did not rezone any properties or approve any pilot projects. If approved, the City would solicit two pilot projects through a Request For Proposals process and the projects selected would be able to apply for the floating zone designation. That would happen concurrently with a development plan for the property. The applicant would be required to follow all of the requirements for a rezone application. He described the work of the Affordable Housing Task Force and the Homelessness Subcommittee in bringing forward opportunities for affordable housing for lowest income residents as well as to address homelessness for seniors, veterans, youth, and victims of domestic violence. The Task Force recommended that the floating zone and RFP process as well as associated fees be sent to the Planning Commission for consideration and public input. The objectives of the proposal were to provide innovative solutions to critical needs, provide opportunities for willing property owners to come forward with solutions, and provide services to house people and help them transition to permanent housing. There would be an RFP process to make sure the projects fit with the sites where they would be located and the regulations would be more flexible but they would still have to follow design and development standards so the projects matched the quality and character of the surrounding area. The hope

was that these projects would become best practice and used as a model and replicated to meet needs. There was a shortage of residential land and the Economic Opportunities Analysis identified a surplus of industrial land, some of which could be used for this purpose. However, they wanted to make sure there were no adverse impacts on the industrial uses in the area.

Senior Planner Schauer then discussed the applicable approval criteria. The application had to be consistent with the Comprehensive Plan, compatible with surrounding uses, used innovative land use and regulations to address housing needs in the community, addressed adequate urban services, addressed transportation facilities, and was vetted by a public process. The application also had to comply with the purpose of the zoning ordinance including meeting all of the minimum requirements. Staff thought this application met all of the criteria. The number of pilot projects was limited to a maximum of two, there were criteria to address site selection, and there were design and development standards in place so the projects avoided conflicts and mitigated any potential impacts. Staff recommended a continuance of the hearing to July to provide an additional opportunity for public testimony.

7:04 Commission Questions: Commissioner Chroust-Masin asked if other cities had used this program before.

Senior Planner Schauer said they were putting two tools together, pilot projects and floating zone. The floating zone dated back to the 1930s and there had been recent proposals to use it for LEED sustainability standards in neighborhoods. Pilot projects were used fairly extensively for different housing types where they limited the number of projects to look at something that could be considered for a broader application, such as standards for Accessory Dwelling Units or cottage clusters.

Commissioner Chroust-Masin asked who the applicants would be.

Planning Director Richards said they had dialogue with non-profits like Hope on the Hill who wanted to do a transitional housing/vocational work force project and United Way who also wanted to do a project and were looking for property owners to partner with.

Commissioner Chroust-Masin said most likely the funding would come from these organizations.

Planning Director Richards said that was correct. The City did not have a project nor did they have funding for a project. The City's role was regulatory to help provide a tool for this need in the community. These projects had already been conceptualized and were out in the community.

Commissioner Chroust-Masin asked what the minimum expectations were for these projects.

Senior Planner Schauer said that was in the RFP criteria. There were minimum thresholds applications had to meet to qualify and there was ranking criteria that would evaluate which projects would rise to the top that would be selected.

Commissioner Dirks asked if the language in the RFP would be fleshed out, such as who would be reviewing the proposals and how they would decide on the issue of compatibility since it was not part of the ordinance to be approved.

Senior Planner Schauer said there were criteria for selecting the pilot projects and those selected would apply for land use approval where there were also applicable criteria and a public hearing. They had not established who the RFP review committee would be.

Planning Director Richards said the review committee would be established by the Council. They wanted to see if this was something the community wanted to move forward. It was always intended that the committee would be representative of community stakeholders. The RFP process would be enabled separately by resolution.

Commissioner Dirks asked how this would be temporary housing instead of permanent.

Senior Planner Schauer said it was intentionally undefined. This was intended to be transitional housing and the improvements made would be more temporary in nature. This was to allow the more permanent housing to be done in residential areas, especially if there was need for returning the property back to industrial use or more residential land became available. It would be projects such as tiny homes on smaller foundations or services in a building that might eventually be converted to an industrial use instead of a two story apartment building that would be a permanent fixture.

Planning Director Richards said they had not defined a timeframe for it. They did not want to lose their industrial land supply permanently. It was a way to meet an interim need, which was undefined at this time, but would not be a permanent loss of industrial land.

Commissioner Langenwaller stated if senior women were on a fixed income and the rents were getting too high, they could be in this temporary housing for the rest of their lives.

Senior Planner Schauer said this might be transitional housing for that population before finding permanent subsidized housing.

Commissioner Langenwaller asked who would want to create these transitional housing units. It was a possibility that no one would apply for this type of project.

Commissioner Schanche said they could have a very broad group reviewing the RFP proposals. She thought partial points should be allowed to be given.

Commissioner Chroust-Masin asked what would happen if a project was built, and six months later they wanted to build an industrial project in its place.

Planning Director Richards said this was private property and it would have to be worked out with the property owner and applicant. The City's role was regulatory and if the property owner decided they had a better offer for industrial, they would work it out with the organization that built the project. The City was just setting up the environment for the projects to occur.

Senior Planner Schauer said it was a straightforward process to remove the floating zone on a property.

7:28 Public Testimony:

Nick Scarla was a property owner in this area but had not been contacted. Not very many properties in this area were vacant and he questioned why they did not contact those with vacant property.

Planning Director Richards said they had sampled a few property owners and talked with economic development partners. They were not soliciting properties, but were trying to figure out if this was something that the community wanted as a potential tool. They had not spoken with every property owner.

Fred Plews, McMinnville resident, asked about the objective and identified need for this proposal.

Planning Director Richards explained the Affordable Housing Task Force put this together to provide immediate shelter for people while they were looking for permanent shelter that was most likely subsidized. It was also an opportunity to provide vocational workforce training and partner people with the industrial businesses that were in the City.

Mr. Plews had been in manufacturing all of his life and an active partner in developing over 30 acres of industrial land in McMinnville and some in Newberg. They needed industry in the City and it was not a simple process to develop a piece of land. He had lived in this town when there was no industrial land and had worked hard to create the current industrial area. He wanted to know if the objective still was to protect what had been developed. He did not think housing on this land was appropriate.

Alan Amerson, property owner in this area, had one of the original buildings in this area from 1985. He thought they needed the industrial land to be used as industrial. Residential did not fit the bill for this area, especially tiny homes. He then discussed the homeless situation in the area and how when he offered someone a job they did not want to take it and later threatened to burn his house down.

Walter Gowell, McMinnville resident, was representing his client, Joseph Cassin, who owned property in this area. Mr. Cassin was concerned about the floating zone concept and compatibility, especially if there were conflicts and incompatibility between a proposed residential project and industrial site. He wanted to know who would be responsible to mitigate that conflict and what protections the ordinance would provide to the existing property owners who had vacant industrial land or existing industrial buildings to assure the uses of their land were not limited by a floating zone project. He offered some suggested wording for the ordinance under purposes, adding that the floating zone would not materially affect the use of adjacent and nearby properties that were industrially zoned. He offered another change, this one to the development standards, that the 500 foot buffer zone between industrial and residential not apply. The ordinance should also assure that the industrial businesses were protected from nuisance complaints from people who moved into these projects as industrial sites had possible three shifts per day and might be noisy, smelly, and had traffic coming in and out. The responsibility for mitigation should be the residential developer, not the industrial businesses. Mr. Gowell also represented another property owner in this area and both that owner and Mr. Cassin bordered a potential floating zone site.

Commissioner Schanche asked how they could determine if a project would materially affect an industrial property.

Mr. Gowell explained it came down to the development conditions imposed on the project. These should be on the developer, not on the industrial neighbor.

Thomas Vail, property owner in this area, said he was making comments so he could be eligible to appeal to LUBA if needed. He owned a 2 acre parcel next to Mr. Cassin. He asked if there was no direct fiscal impact created by this proposal if that meant there would be no enforcement of anything put into code. He thought the current homeless issue was a failure to enforce laws that were currently on the books. It was stated this would not rezone any property, however the effect was to rezone up to two properties and he saw no difference. If residential was put in the industrial zone it was no longer an industrial zone. Only 7% of the jobs in McMinnville were production worker jobs. He did not think there would be much availability for workforce training. Many of the properties in this area bordered railroad right-of-way which was against the statement in the Planning Commission's goals for residential. Residential in an industrial zone changed the character of the industrial zone dramatically. He asked about the 20 foot yard requirement and thought a lot of the parcel would be eaten up by the parking and yard requirements and not much would be left for housing. There should be some method to indemnify the industrial property owners from the loss of value on their properties.

Planning Director Richards said the fiscal impact was relative to hard dollars out the door from the City budget. Because this action was just putting text into the zoning code and was not actually a land use action for a specific project there was no fiscal impact.

Mr. Vail objected to starting this process that had the effect of a code that did not have money set aside to enforce.

Bob Emerick, property owner in this area, discussed the impact of compatibility. He had a compost facility and transfer facility. These served the community as all of the waste and recycling generated in the City went through these facilities. They were in an industrial area, and were noisy, smelly, and people were working all hours of the day and night. He asked them to be careful because this change could impact the whole City.

Doug Hurl, property owner, stated this was an industrial area. They had not been able to expand the Urban Growth Boundary and there were very few developable residential acres. They were now looking to the industrial area. He did not think there was a surplus of industrial land and this area was not the right area for residential. They needed to focus on expanding the Urban Growth Boundary. He did not think they would fix the homeless situation through a floating zone.

Commissioner Chroust-Masin moved to continue the hearing for G 3-19 to July 18, 2019. The motion was seconded by Commissioner Langenwalter and passed unanimously.

8:21 The Commission took a short break.

B. Quasi-Judicial Hearing. CPA 2-19 (Comprehensive Plan Map Amendment), ZC 2-19 (Zone Change), PDA 1-19 (Planned Development Amendment), and CU 2-19 (Conditional Use Permit) (Exhibit 3)

Request: Approval of four concurrent actions. The actions include: 1) Comprehensive Plan Map Amendment from a mix of Residential and Commercial designations to only Residential; 2) Zone Change from mix of R-1 (Single Family Residential) and EF-

80 (remnant County Exclusive Farm Use zone from prior to annexation) to only R-1 (Single Family Residential); 3) Planned Development Amendment to remove the subject property from the Planned Development Overlay District governed by Ordinance 4633; 4) Conditional Use Permit to allow expansion of existing electrical power substation in the R-1 zone. The existing parcel contains multiple Comprehensive Plan and Zoning designations, and the proposal would bring the entire parcel under one Comprehensive Plan and Zoning designation to allow for the development of a use that is listed as a conditional use in the underlying R-1 zone. The site is the location of an existing electrical power substation, and the approvals listed above would allow for the expansion of the electrical power substation to serve future development in northern and western McMinnville.

Location: The subject site located at 1901 NW Baker Creek Road, and is more specifically described as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

Applicant: Samuel Justice, on behalf of McMinnville Water & Light

- 8:32 Opening Statement: City Attorney Koch read the opening statement and reviewed the hearing procedures.
- 8:35 Disclosures: Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. He asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none. Chair Hall asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none. Chair Hall asked if any Commissioner had visited the site. If so, did they wish to discuss the visit to the site? Several members of the Commission had visited the site, but had no comments to make on the visits.
- 8:36 Staff Presentation: Senior Planner Darnell said this was a request for four concurrent land use applications, Comprehensive Plan Map amendment, Zone Change, Planned Development amendment, and Conditional Use Permit. He explained the site was the existing Baker Creek substation owned by McMinnville Water and Light. He then gave a history of the property's annexation, Comprehensive Plan Map amendment and Planned Development adoption, and Conditional Use for the current substation and how in 2018 the property lines had been adjusted in order to expand the substation. The requests tonight were for a Comprehensive Plan Map amendment from a mix of residential and commercial designations to only residential, zone change from the mix of R-1 (Single Family Residential) and EF-80 (remnant County Exclusive Farm Use zone from prior to annexation) to only R-1 (Single Family Residential), Planned Development amendment to remove the subject property from the Planned Development Overlay District governed by Ordinance 4633, and Conditional Use Permit to allow expansion of the existing substation in the R-1 zone. The expansion would double the current infrastructure to the west. He then discussed the review criteria. The applications had to be consistent with the Comprehensive Plan Goals and Policies. There was a deficit in the City in both commercial and residential land and the reduction of the .8 acres of commercial and putting it into residential was not substantial. Also the residential land would be used for public services and infrastructure to support residential growth. There was support for expansion of electrical facilities for growth in the Comprehensive Plan. The proposed amendment had to be orderly and timely and this change would allow for uniform planning in the development of the site. The surrounding area was a mix of residential and commercial and it was not inconsistent to make this property all residential. With the residential zoning there were stricter standards for use of the site. Other substations in the City were located

on residential lands as well. R-1 zoning was identified as a needed zone in the Buildable Lands Inventory. Utilities and services could be provided to the site. The applicant recently dedicated right-of-way and public utility easements along Baker Creek Road for future improvements. Since the proposed use would be residential, it no longer aligned with the Planned Development area which was for commercial use. It made sense to remove the property from the Planned Development area. Staff recommended a condition of approval that all other provisions of Ordinance 4633 would remain in effect for the remainder of the property. The applicant had provided a site plan for the proposed expansion. There were specific policies and goals in the Comprehensive Plan for energy facilities and how they were incorporated into the community. To address issues with compatibility with the surrounding area, staff proposed conditions of approval. One was that the applicant complete right-of-way improvements on Baker Creek Road at the time of development. Another was that they coordinate and schedule the improvements of the right-of-way with the nearby property owner. Regarding the site design and operations, the setbacks were larger than they were for the existing substation, ranging from 40 to 50 feet from the surrounding property lines to allow for separation of the use. The applicant was also proposing screening and landscaping around the site. There would be a site obscuring fence around the perimeter and landscaping that would be a mixture of shrubs and trees around the fence. Along Baker Creek Road there would be denser plantings to provide additional screening between the public sidewalk and the facility. The improvements to Baker Creek Road would be sidewalks and planter strips with street trees where possible outside of the BPA easement which ran north to south along the site. Staff added conditions that required landscaping consistent with the submitted landscape plan, required planting of street trees in the right-of-way, and reiterated some of the lighting descriptions the applicant had provided which would eliminate the access and maintenance lighting. McMinnville Water and Light had suggested some changes to the conditions. There already was coordination with the surrounding property owner for the construction of Baker Creek Road. Staff suggested amending the condition to align with the timeframe that the applicant had in the purchase agreement with that property owner. The other suggested change was to the condition for landscaping. The concerns were related to the full screening and heights suggested due to security and functionality of the site. Staff proposed to keep the requirement for shrubs in a linear row around the perimeter, but take out that they had to grow to the six foot height at maturity. The shrubs would still need to be evergreen to provide year-round screening. The language about the trees would be changed to allow them to be a maximum height of 25 feet, but not so short that they did not provide screening above the fence level. Staff also suggested requiring the fence materials be submitted to the Planning Director for review. Staff recommended approval of the four applications with the conditions as amended.

- 8:55 Commission Questions: Commissioner Schanche had some concerns about the landscaping and being consistent with the surrounding area. There was also not much room for the landscaping and she was concerned about what would happen when the road and sidewalks came in. She asked about a road to the east and how the applicant would need an external 20 foot buffer.

Senior Planner Darnell clarified the road was Meadows Drive which would be extended to the north and there would be a road with sidewalks along the east side of the site. It was also the location of the BPA trail that ran north to south in this area.

Commissioner Butler asked why they were requesting to rezone the property to residential when no one would be living there and the majority of the site was commercial.

Senior Planner Darnell agreed the eventual use would not be residential. The code did not have a zone that was for public utilities. The applicant was proposing a zone that allowed the intended use through a Conditional Use which would be required to be reviewed against the criteria and applied conditions that would reduce some of the impacts of the development. The existing substation was zoned as R-1 as well as the other utility uses in the City.

Commissioner Dirks asked for clarification on the landscaping.

Senior Planner Darnell said the Landscape Review Committee would be looking at the landscaping plan. What was proposed in the plan was a mixture of shrubs.

Commissioner Langenwaller discussed Condition 4 and fencing.

Senior Planner Darnell clarified where the proposed perimeter fencing, landscaping, and white two rail fence would be located.

9:06 Applicant's Testimony: Sam Justice, representing the McMinnville Water and Light Commission, gave a history of Water and Light who had been a customer owned utility since 1889. These applications and future expansion of the substation were for long term planning. The substation transformer intended for the site was already on order. Construction of the site was largely going to be conducted by their own linemen. He supported staff's recommendation for approval. Their primary concern was for the safety and reliability of the site.

Public Testimony:

9:09 Proponents: None

9:10 Opponents: None

9:10 Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

9:11 Commission Deliberation: Commissioner Schanche was not thrilled with the landscape plan.

Commissioner Dirks said they had to consider the security of the site. The Landscape Review Committee would review the details and could make changes to the plan.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwaller MOVED to RECOMMEND the City Council APPROVE CPA 2-19 (Comprehensive Plan Map Amendment). SECONDED by Commissioner Dirks. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Butler MOVED to RECOMMEND the City Council APPROVE ZC 2-19 (Zone Change). SECONDED by Commissioner Langenwaller. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwaller MOVED to RECOMMEND the City Council APPROVE PDA 1-19 (Planned Development Amendment) subject to the conditions of approval provided in the decision document. SECONDED by Commissioner Perron. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Knapp MOVED to RECOMMEND the City Council APPROVE CU 2-19 (Conditional Use Permit) subject to the conditions of approval provided in the decision document with amendments. SECONDED by Commissioner Chroust-Masin. The motion PASSED 9-0.

5. Commissioner/Committee Member Comments

None

6. Staff Comments

9:22 Planning Director Richards gave an update on the Oakridge Meadows Planned Development amendment and tentative subdivision plan. The Commission had recommended approval of these applications to the Council, however staff found in the code the opportunity to bundle all the decisions and move them forward at the same time to avoid awkwardness with the appeals time period. The applicant chose to bundle the applications to the Council and there would be a public hearing on them on July 23. The applicant had extended the deadline to August 13.

7. Adjournment

Chair Hall adjourned the meeting at 9:24 p.m.

Heather Richards
Secretary



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EXHIBIT 2 - STAFF REPORT

DATE: August 15, 2019
TO: Planning Commission
FROM: Tom Schauer, Senior Planner
SUBJECT: Application VR 1-19 for a Variance to Front Yard Setback

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

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

Report in Brief:

This proceeding is a quasi-judicial public hearing of the Planning Commission to consider an application for a variance to the front yard setback for a new front porch for the existing residence to be setback 10 feet from the front property line and stairs to be setback approximately 5 feet from the property line, on a 5,375 square foot lot at 1032 NE Hembree Street (Tax Lot 12000, Section 16CD, T. 4 S., R. 4 W., W.M.).

The Planning Commission will make a final decision on the application. A final decision of the Planning Commission may be appealed to the City Council as provided in Section 17.72.180 of the Zoning Ordinance. The Planning Commission hearing is conducted in accordance with quasi-judicial hearing procedures, and the application is subject to the 120-day processing timeline. The application was deemed complete on July 15, 2019.

Background:

Subject Property & Request

The subject property is a 5,375 square foot lot on the SE corner of NE Hembree Street and NE 11th Street. **See Exhibit 1.** The existing residence was built in 1935 and is identified as a Class C historic resource. Class C resources do not require historic review for exterior alterations, but do require review if proposed for demolition or relocation.

The subject property and surrounding properties are zoned R-3. Predominant uses are single-family dwellings. Properties approximately a block to the north are zoned R-2, and properties approximately two blocks to the south are zoned R-4. Properties approximately a block to the east along the railroad

are zoned M-1 light industrial, and the area east of the railroad is within the NE Gateway Overlay District. **See Exhibit 2.**

The variance would authorize a reduction to the minimum 15-foot front yard setback of the R-3 zone on NE Hembree Street for a new porch and stairs. This variance would authorize reduction from 15 feet to 10 feet for the covered porch, would authorize encroachment of the eaves up to 30 inches, and would authorize the stairs to be approximately 5 feet from the property line. The zoning ordinance authorizes uncovered / unenclosed stairs to encroach up to 5 feet into a required front yard setback, so the stairs could be set back 10 feet without a variance, and 5 feet with the requested variance.

Exhibits 3A and 3B show the existing structure. **Exhibits 4A and 4B** show the plan view and elevation views of the proposed development.

Neighborhood Meeting

Before a variance application can be submitted, an applicant must hold a neighborhood meeting as specified in Chapter 17.72 of the Zoning Ordinance. The applicant conducted the required neighborhood meeting on June 7, 2019 in accordance with these requirements and submitted the necessary documentation of the neighborhood meeting with the application, including a list of attendees and meeting notes.

The neighborhood meeting notes indicate that, in addition to the applicant, two people attended the meeting. One attendee resides across Hembree Street from the subject property, and the other resides on Irvine Street behind the property, abutting the corner of the property. The meeting notes indicate both attendees were in favor of the project and were present to lend their support. The notes indicate no concerns were presented.

Discussion:

Summary of Criteria & Issues

The applicable criteria for a variance to front yard setback requirements are as follows:

- **Zoning Ordinance (Title 71 of the McMinnville Code):**
 - MMC Section 17.74.100. Variance – Planning Commission Authority;
 - MMC Section 17.74.100. Conditions for Granting Variance;
 - MMC Section 17.54.050. Yards, Subsection (H).
- **Comprehensive Plan:** 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.

The criteria for a variance are generally intended to provide for equity in the application of general standards to a property with unique circumstances, given consideration of other properties which are similarly situated. The variance criteria are also intended to ensure that in granting a variance, the approval doesn’t confer special rights to a property; the variance is the minimum necessary to address the unique circumstance; and granting the variance isn’t detrimental to the City’s policies or the public interest. Conditions may be imposed to protect the best interests of the surrounding property or neighborhood.

The findings in the Decision Document provide more detailed discussion about the interpretation of the variance criteria, as well as the unique situation that exists for the property as well as the neighborhood

and vicinity. The area was predominantly platted and developed in the late 1800s and early to mid-1900s. When the R-3 zoning was later applied to the area, it made most of the existing properties nonconforming in respect to lot size, and in respect to setbacks for many properties. There are numerous properties in the area with existing structures which do not meet the front yard setbacks of the R-3 zone. This differs from other areas with R-3 zoning, which were zoned R-3 at the time of development, and developed in accordance with the R-3 standards. The City doesn't have a separate residential zoning district with standards that approximate the historic "small lot single-family" development pattern that occurred in the subject neighborhood and vicinity.

The applicant has provided documentation of several such structures in the immediate vicinity, including one on an adjacent block which is very similar to what is proposed on the subject property. The requested variance would allow for a functional front porch on the existing residence built in 1935, comparable to other historic structures in the vicinity. The applicant has demonstrated the proposal wouldn't create a visual obstruction within the vision clearance triangle.

While there are some provisions built into the Zoning Ordinance to allow exceptions to front yard setbacks, they would not accommodate the proposed development, and the requested variance is the appropriate application to seek the relief requested. This is discussed further in the Decision Document.

The proposal is not in conflict with goals and policies of the Comprehensive Plan. Applicable goals and policies include those in Chapter III: Historic Preservation, Chapter V: Housing and Residential Development, and Chapter IX: Urbanization, pertaining to Great Neighborhood Principles. These pertain to the character of historic neighborhoods, efficient use of residential lands, neighborhoods with a variety of housing types and densities, and human-scaled design that promotes inclusion and interaction with the public right of way.

Public Comments

Notice of the proposed application was mailed to property owners and published in the newspaper. As of the date of this Staff Report, no public comments were received.

Agency Comments

Notice of the proposed application was sent to affected agencies and departments. The McMinnville Engineering Department and McMinnville Water and Light responded that they had no comments.

Planning Commission Options (for Quasi-Judicial Hearing):

- 1) **APPROVE** of the application as proposed by the applicant with the conditions recommended in the attached Decision Document, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the denial, specifying which criteria are not satisfied, or specifying how the applicant has failed to meet the burden of proof to demonstrate all criteria are satisfied, in the motion to deny.

Staff Recommendation:

Staff has reviewed the proposal for consistency with the applicable criteria. Absent any new evidence or findings to the contrary presented during the hearing, staff finds that, subject to the recommended

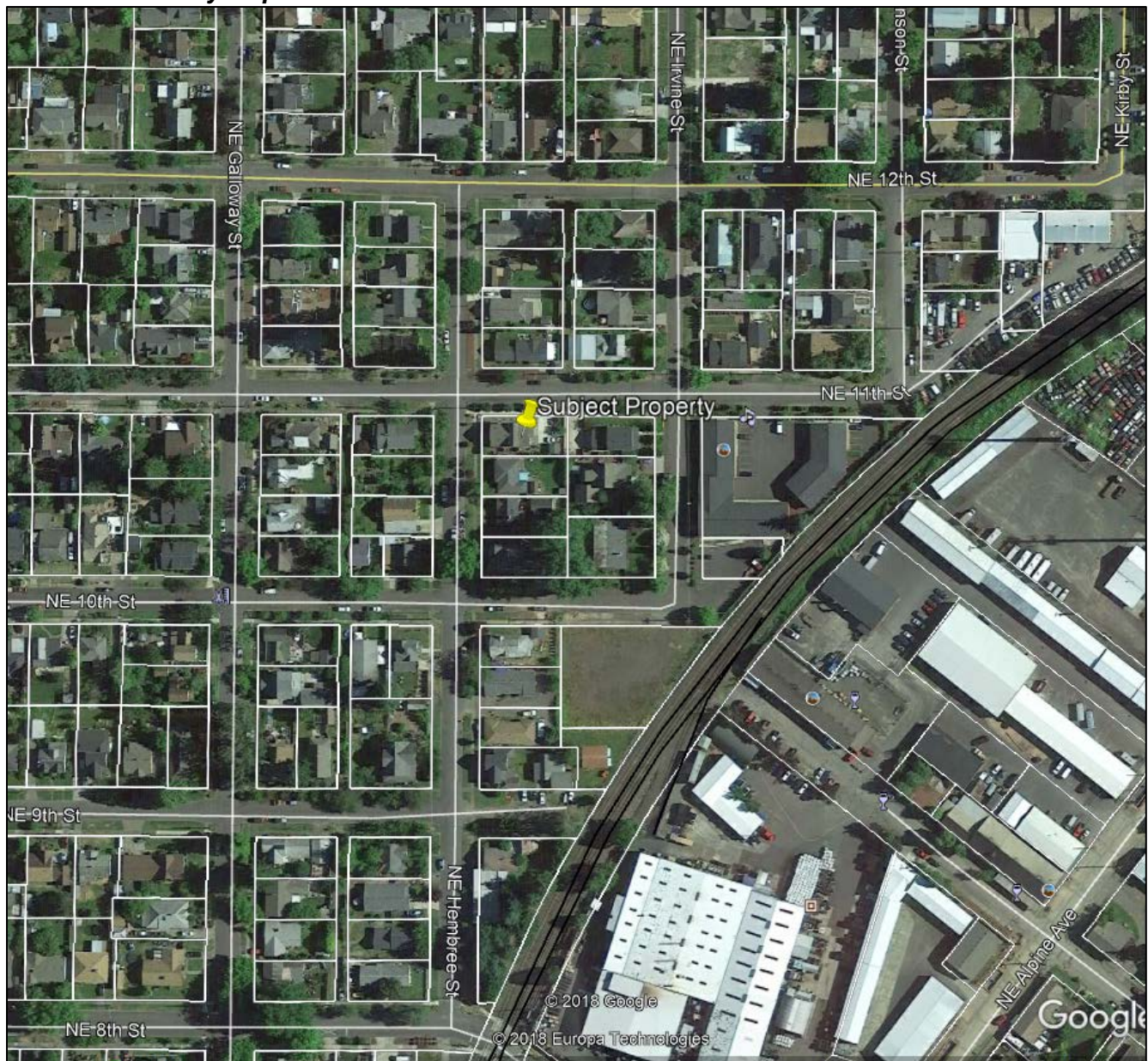
conditions specified in the attached Decision Document, the application submitted by the applicant and the record contain sufficient evidence to find the applicable criteria are satisfied.

Staff **RECOMMENDS APPROVAL** of the application, subject to the conditions specified in the attached Decision Document.

Suggested Motions:

BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, THE MATERIALS SUBMITTED BY THE APPLICANT, AND EVIDENCE IN THE RECORD, I MOVE THAT THE PLANNING COMMISSION APPROVE THE DECISION DOCUMENT AND APPROVE THE VARIANCE APPLICATION VR 1-19 SUBJECT TO THE CONDITIONS SPECIFIED IN THE DECISION DOCUMENT.

Exhibit 1. Vicinity Map & Aerial Photo



Attachments:

Attachment A: VR 1-19 Decision Document

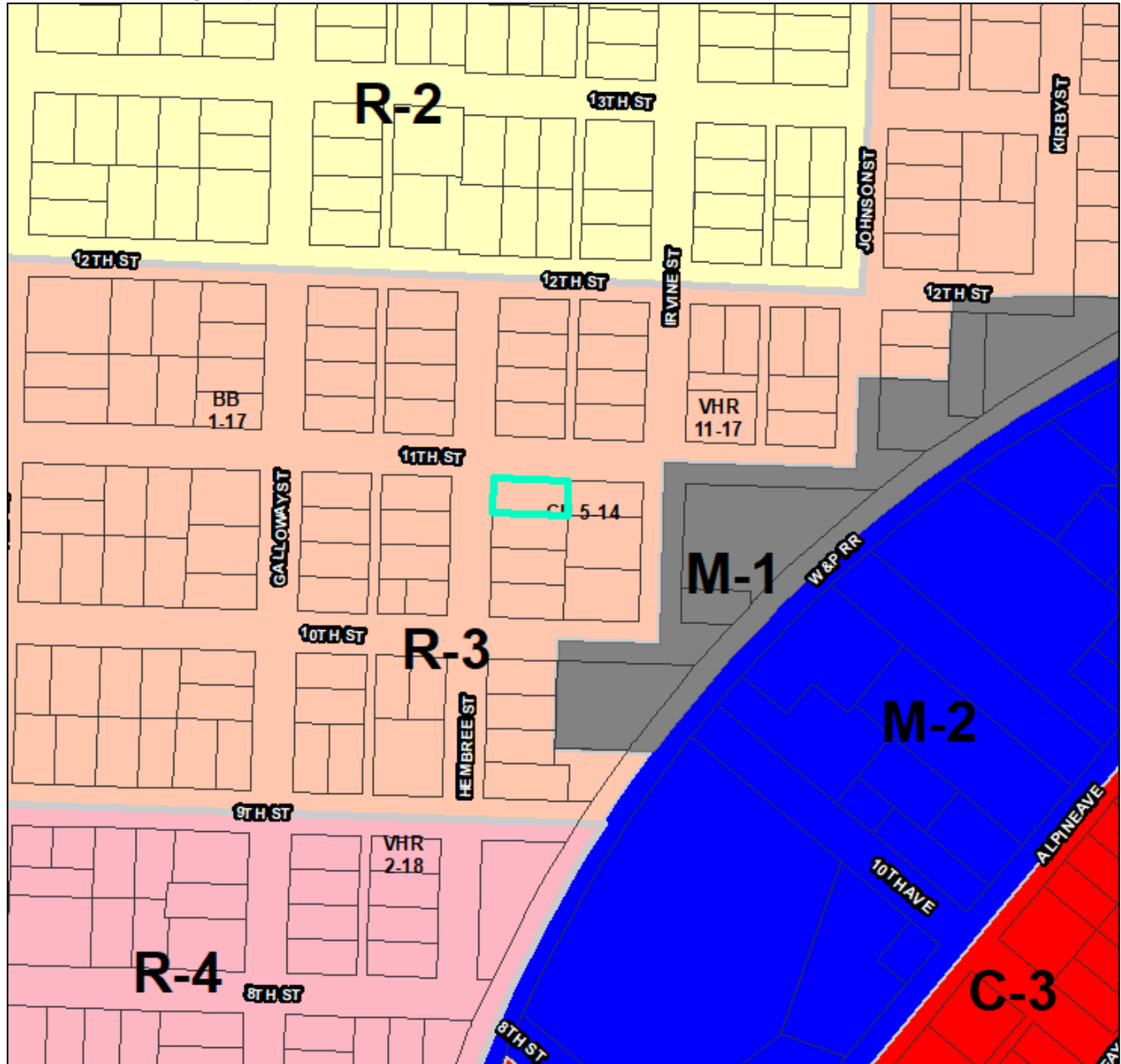
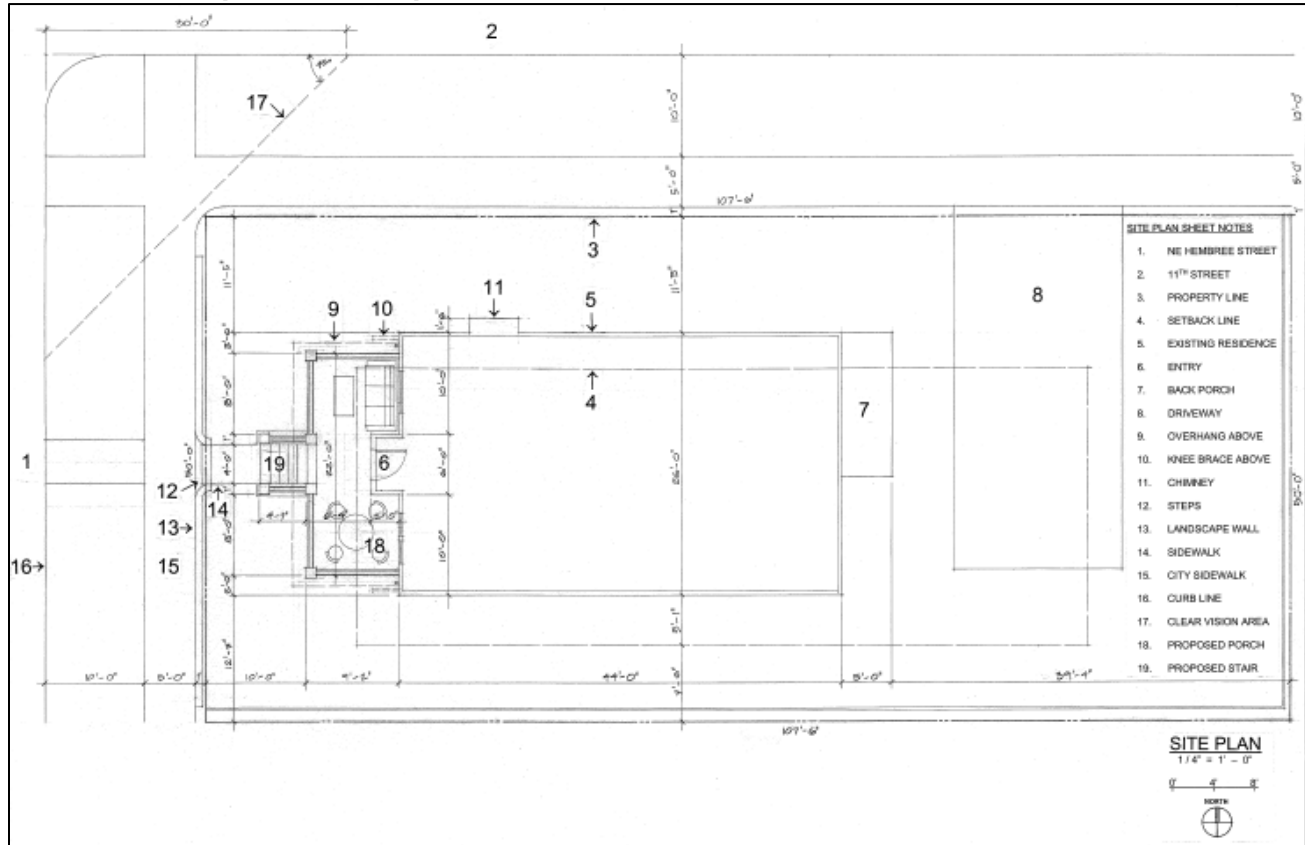
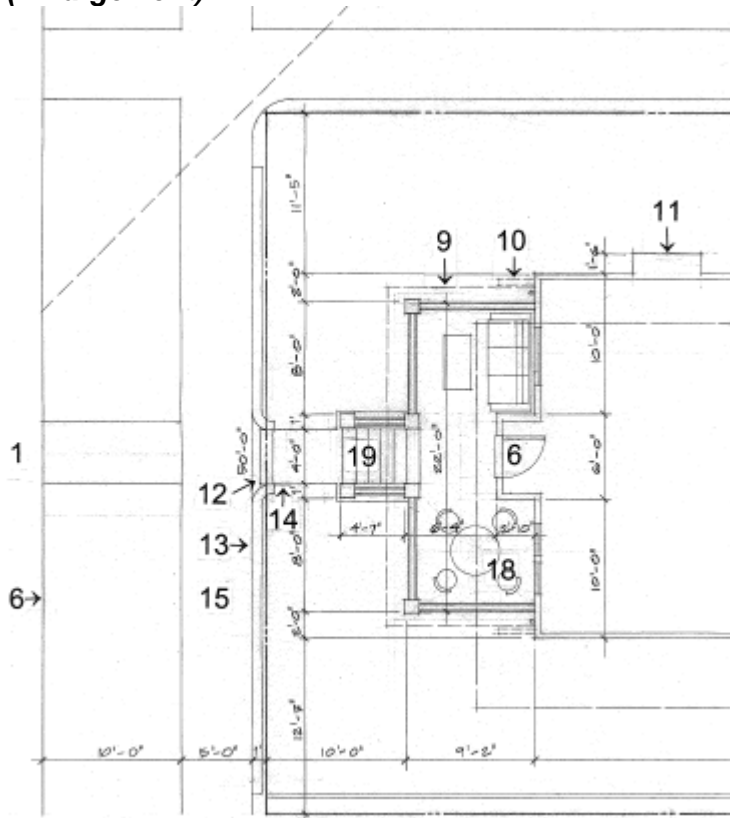
Exhibit 2. Zoning Map

Exhibit 3A. Existing Development – West Elevation (Hembree)

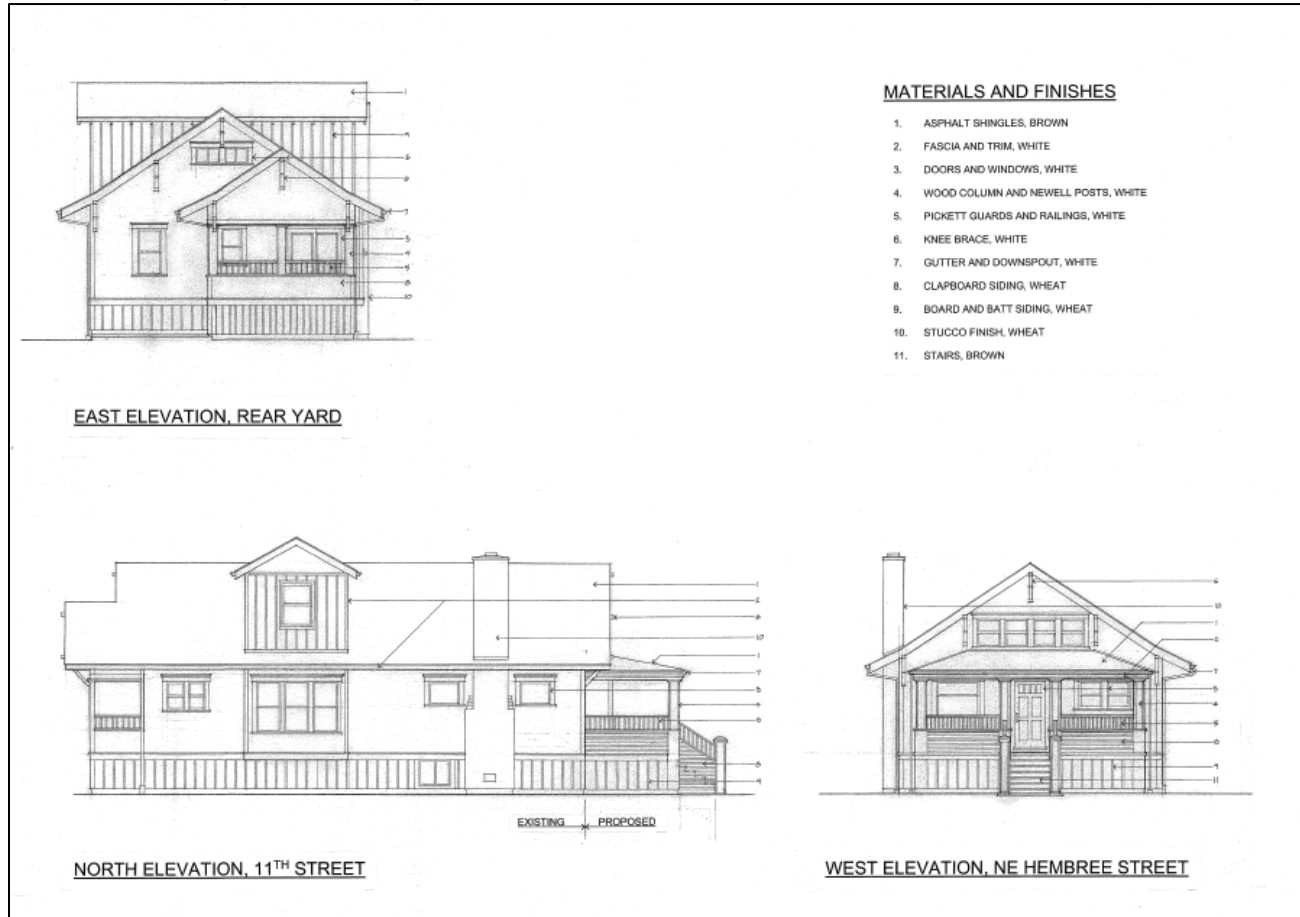


Exhibit 3B. North Elevation (11th)



Exhibit 4A. Proposed Development – Plan View**(Enlargement)****SITE PLAN SHEET NOTES**

1. NE HEMBREE STREET
2. 11TH STREET
3. PROPERTY LINE
4. SETBACK LINE
5. EXISTING RESIDENCE
6. ENTRY
7. BACK PORCH
8. DRIVEWAY
9. OVERHANG ABOVE
10. KNEE BRACE ABOVE
11. CHIMNEY
12. STEPS
13. LANDSCAPE WALL
14. SIDEWALK
15. CITY SIDEWALK
16. CURB LINE
17. CLEAR VISION AREA
18. PROPOSED PORCH
19. PROPOSED STAIR

Exhibit 4B. Proposed Development - Elevations

TS:sjs



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

503-434-7311
www.mcminnvilleoregon.gov

DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A VARIANCE TO THE FRONT YARD SETBACK FOR PROPERTY AT 1032 NE HEMBREE STREET

DOCKET: VR 1-19 (Variance)

REQUEST: Application for a 5-foot variance to the front yard setback for a new front porch for the existing residence to be 10 feet from the front property line and new stairs to be 5 feet from the front property line

LOCATION: 1032 NE Hembree Street (Tax Lot 12000, Section 16CD, T. 4 S., R. 4 W., W.M.)

ZONING: R-3 (Two-family Residential).

APPLICANT: Hans Van Dale (property owner)

STAFF: Tom Schauer, Senior Planner

DATE DEEMED COMPLETE: July 15, 2019

HEARINGS BODY & ACTION: McMinnville Planning Commission

HEARING DATE & LOCATION: August 15, 2019, Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

PROCEDURE: An application for a variance is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. The application is reviewed by the Planning Commission in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.

CRITERIA: The applicable criteria for a variance to front yard setback requirements are provided as follows: Zoning Ordinance (Title 71 of the McMinnville Code): MMC Section 17.74.100. Variance – Planning Commission Authority; MMC Section 17.74.100. Conditions for Granting Variance; MMC Section 17.54.050. Yards, Subsection (H). In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

APPEAL:

The Planning Commission's decision is final unless appealed to the City Council. Such an appeal must be filed within 15 calendar days of the date the written notice of decision is mailed.

If the Planning Commission's decision is appealed to City Council, the City Council's final decision may be appealed to the Oregon Land Use Board of Appeals as specified in State Statute. The City's final decision is subject to the 120 day processing timeline, including resolution of any local appeal.

COMMENTS:

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

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are satisfied with conditions and **APPROVES** of the variance (VR 1-19) **subject to the conditions of approval provided in Section II of this document.**

DECISION: APPROVAL WITH CONDITIONS

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

Date:

Planning Department: _____
Heather Richards, Planning Director

Date:

Attachments:

Attachment 1 – Application and Attachments

I. APPLICATION SUMMARY & BACKGROUND:

Subject Property & Request

The proposal is an application for a variance to the front yard setback for a new front porch and stairs. The required front yard setback of the R-3 zone is 15 feet, and the applicant is requesting a variance to reduce the front yard setback to 10 feet for the porch. The porch also has eaves that would overhang into this setback. The Zoning Ordinance allows for encroachment by eaves of up to 30 inches into a required yard. In addition, the variance also applies to the proposed steps to the front porch. Section 17.54.040(C) of the Zoning Ordinance allows for steps that are not covered or enclosed to encroach up to 5 feet into a required front yard. With the porch encroaching five feet into the required front yard, that would mean the proposed stairs would encroach ten feet into the required fifteen foot front yard, where they would be approximately five feet from the front property line. **See Exhibit 4.**

The subject property is a 5,375 square foot lot located at 1032 NE Hembree Street on the southeast corner of NE Hembree Street and NE 11th Street. The lot was originally 50'x100', but the abutting 15-foot alley was subsequently vacated, and 7.5 feet of the alley reverted to the lot. **See Exhibit 1.**

The subject property and surrounding properties are zoned R-3. The property and surrounding properties are generally in an area where the zoning transitions from the commercial core to the south, with residential zoning stepping down from R-4 to R-3 to R-2 northerly from the commercial core. To the east, there are properties with M-1 light industrial zoning along the railroad. Surrounding uses are predominantly single-family homes with some vacation rentals in this area. **See Exhibit 2.**

Summary of Criteria

The applicable criteria for a variance to front yard setback requirements are as follows:

- **Zoning Ordinance (Title 71 of the McMinnville Code):**
 - MMC Section 17.74.100. Variance – Planning Commission Authority;
 - MMC Section 17.74.100. Conditions for Granting Variance;
 - MMC Section 17.54.050. Yards, Subsection (H).
- **Comprehensive Plan:** 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.

Interpreting the Variance Criteria

Some communities have variance criteria that serve strictly as a “relief valve” in the event a land use regulation would preclude all reasonable use of a property when the regulation is applied to a property that has unique characteristics that don’t generally apply to other properties subject to the same regulations. As a result, application of a standard to a specific property could result in a regulatory taking absent a variance process to allow reasonable use of the property. With such variance criteria, the bar to address the criteria is very high. For example, it would be nearly impossible to demonstrate the need for a variance on a property that has been developed and used for residential purposes since the 1930s.

Other communities have less restrictive variance criteria which are intended to provide for equity; those criteria are intended to provide for reasonable use and development of a property for intended uses, where there is a unique circumstance associated with the property. Such criteria typically provide for a

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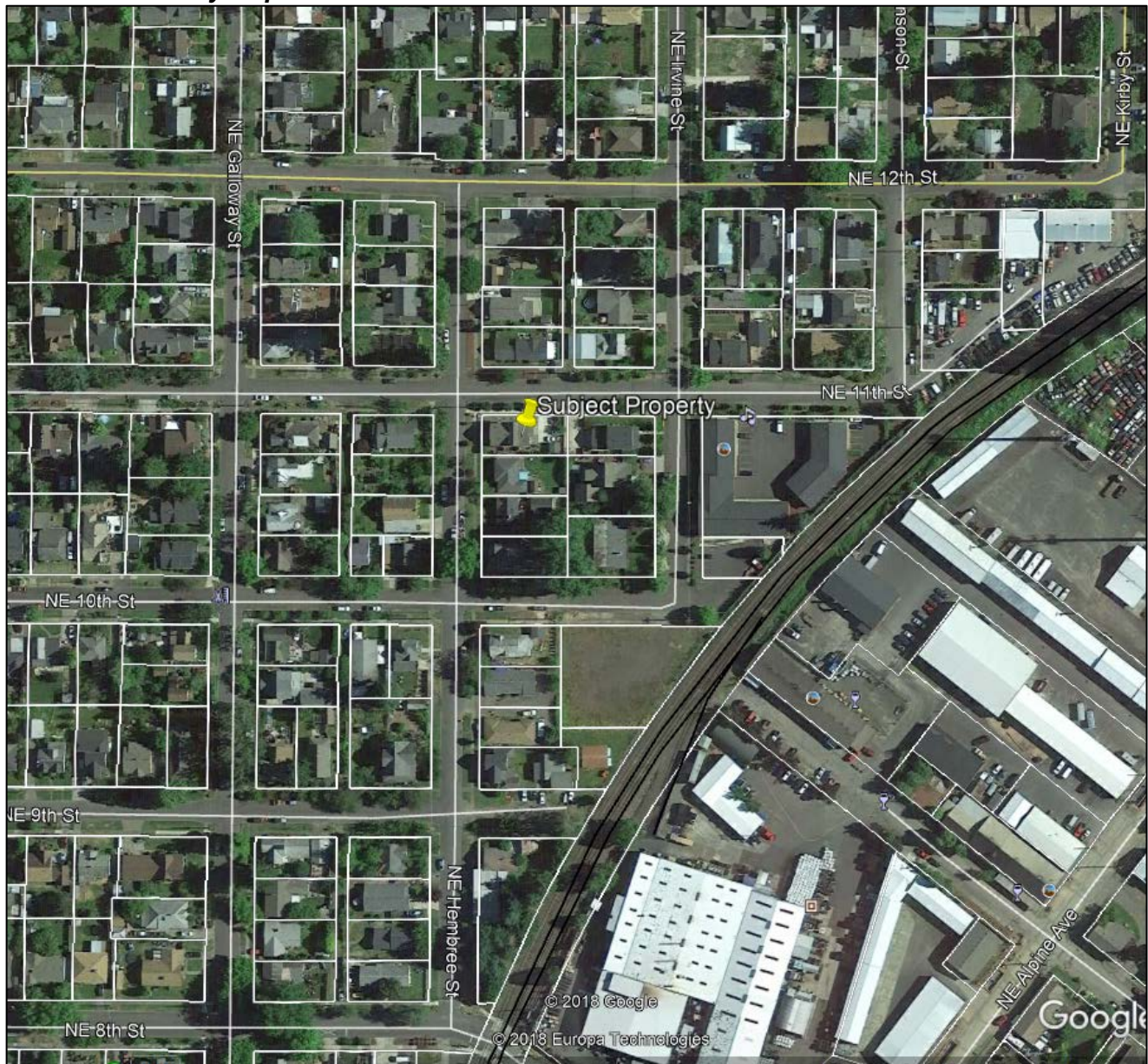
Attachment 1 – Application and Attachments

comparison of the subject property to other similarly situated properties to allow for an adjustment to a general standard which isn't tailored to each unique situation that might arise on a property, where strict application of a standard might be unreasonable in a specific context. Often, this relates to unique size, shape, or topography of a property. In short, a limited variance to such a standard would allow for development with certain reasonable expectations about the use and development that are customary for the enjoyment of the property for intended uses.

The variance criteria in the McMinnville Zoning Ordinance include a comparison to other properties "in the same zone or vicinity." Therefore, the intent of the variance provisions of the McMinnville Zoning Ordinance are more consistent with the latter philosophy.

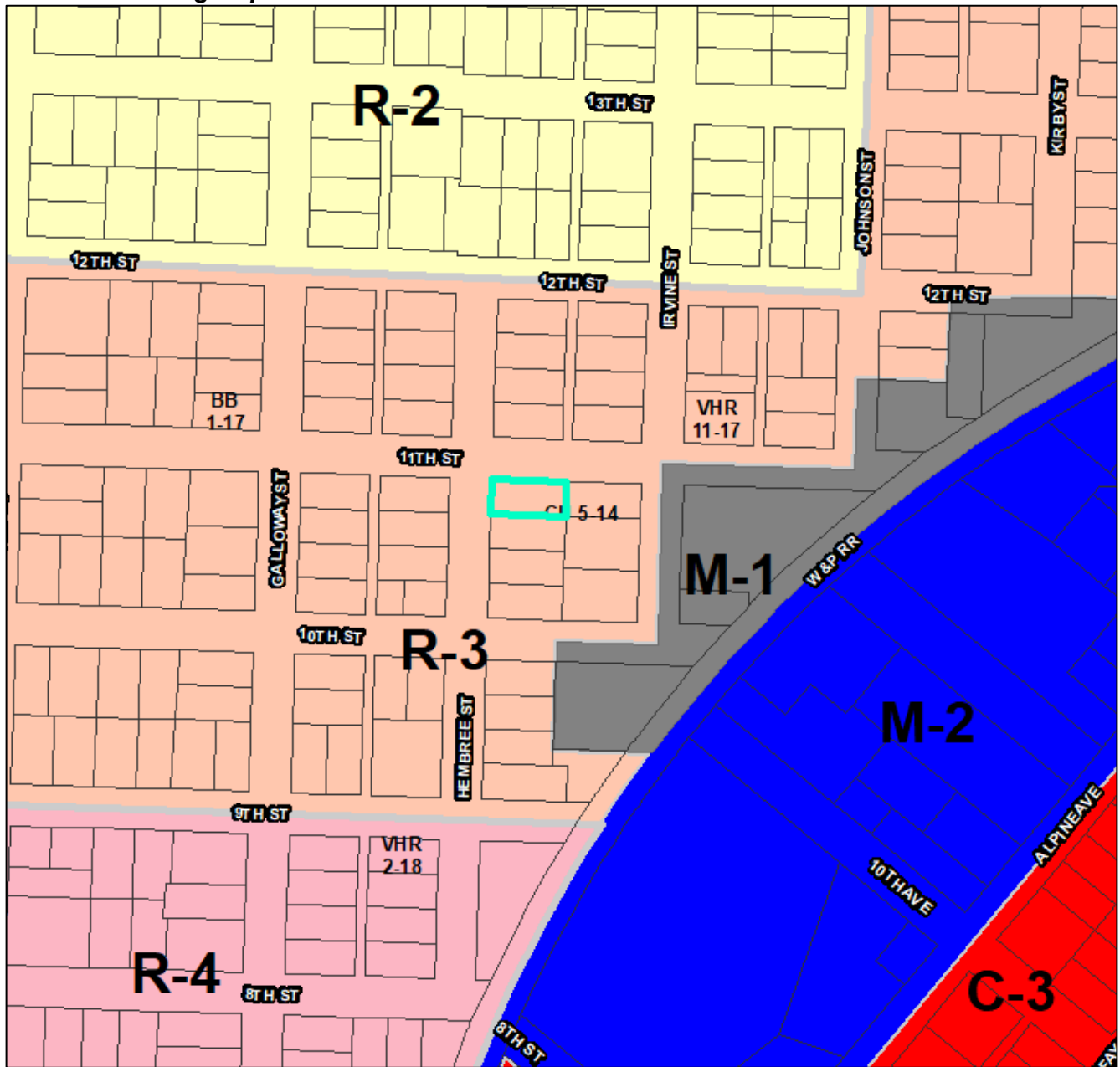
In either case, the unique situation associated with a property that creates the need for a variance shouldn't be a self-created hardship and shouldn't confer an additional special right to the property that isn't available to other properties (or wouldn't be available to another property with similar unique circumstances through a comparable variance application). Further, a variance shouldn't typically substitute for a legislative change that may be needed. For example, if a standard is always varied upon request no matter the context, then it would be more appropriate to change the standard so a variance isn't required. Otherwise, the standard wouldn't appear to serve a valid public purpose or appropriately implement policy if it is routinely varied.

Section VI of this document, the General Findings section, provides more detailed discussion of the context of the subject property, the vicinity, and the regulatory context of the zoning district.

Exhibit 1. Vicinity Map & Aerial Photo

Attachments:

Attachment 1 – Application and Attachments

Exhibit 2. Zoning Map**Attachments:**

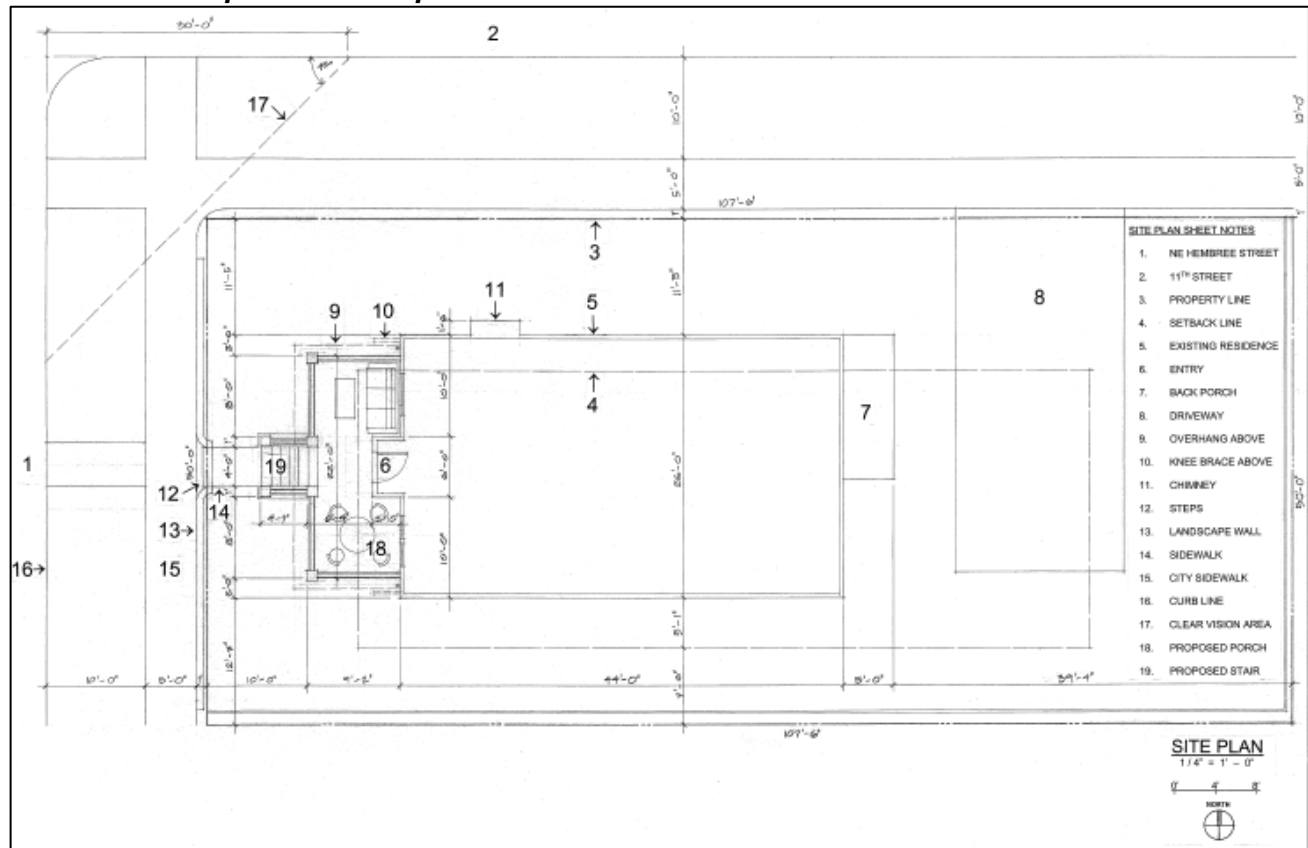
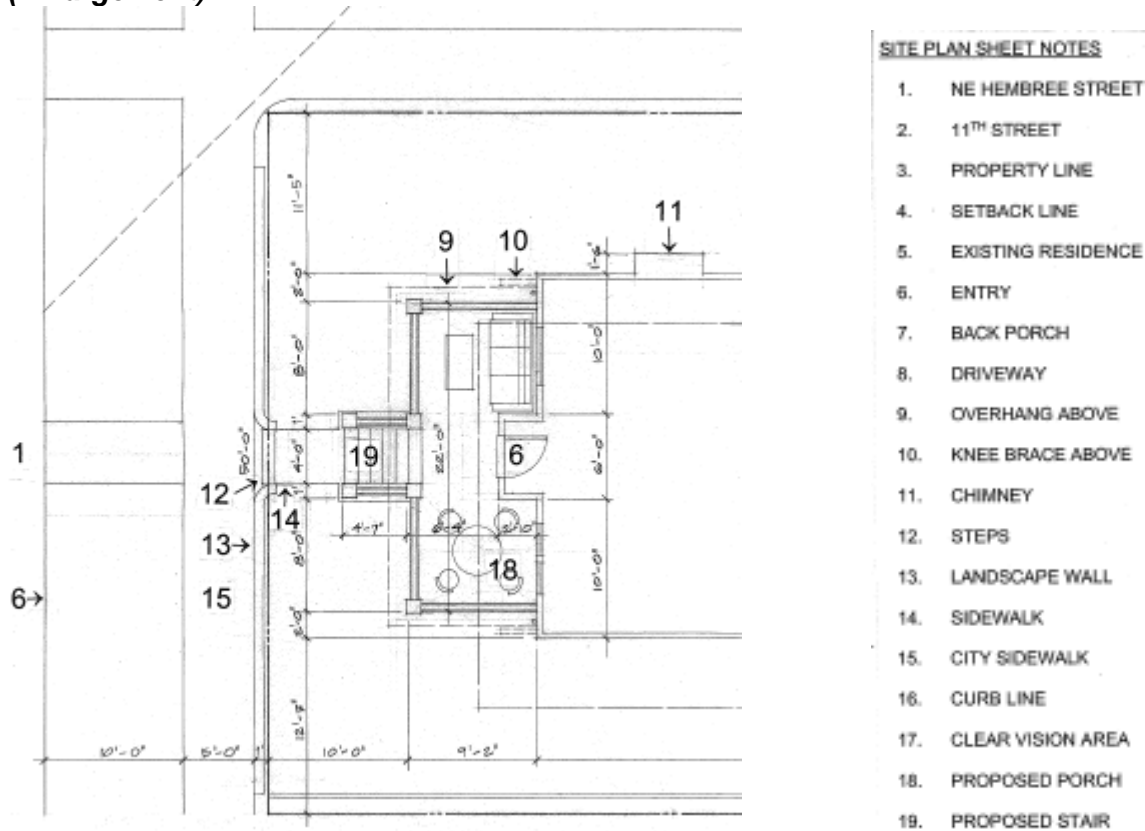
Attachment 1 – Application and Attachments

Exhibit 3A. Existing Development – West Elevation (Hembree)

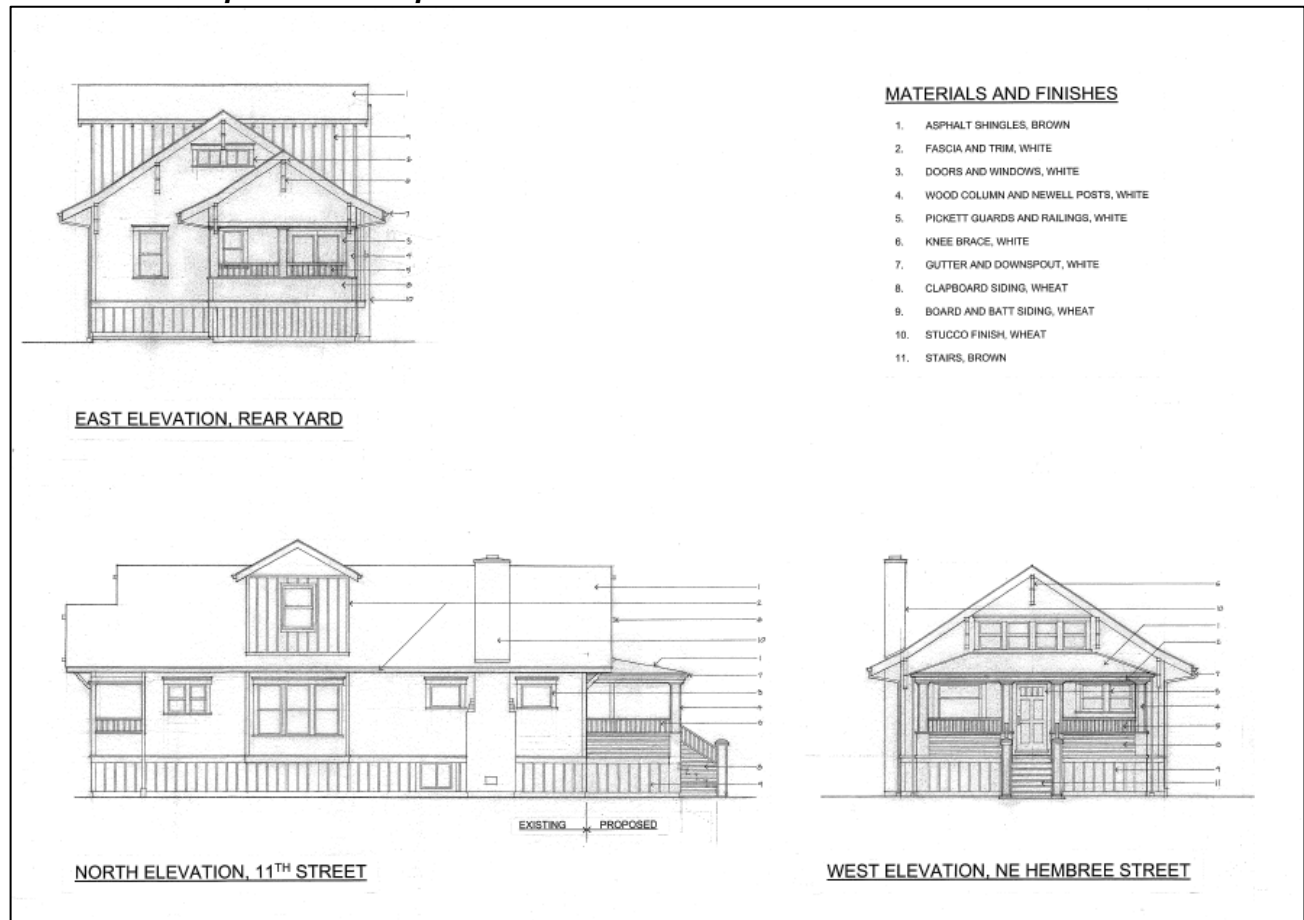


Exhibit 3B. North Elevation (11th)



Exhibit 4A. Proposed Development – Plan View**(Enlargement)****Attachments:**

Attachment 1 – Application and Attachments

Exhibit 4B. Proposed Development - Elevations**II. CONDITIONS:**

1. This variance shall be for the specific development of the new front porch and stairs described in the application. The front yard setback on NE Hembree Street shall be reduced by 5 feet. This variance therefore authorizes the proposed covered porch to be 10 feet rather than 15 feet from the property line, and authorizes the eaves to encroach up to 30 inches within the reduced setback. This variance also authorizes the uncovered & unenclosed stairs to be 5 feet rather than 10 feet from the front property line. This variance shall not authorize encroachment of other development not included in the proposal, and doesn't allow encroachment into the required front yard to a greater depth or width than specified for the proposed front porch and stairs. This variance doesn't authorize the future enclosure of the porch to become additional interior living space. The variance doesn't authorize redesign of the porch and stairs without reapplication for a new variance to demonstrate such future design would meet the applicable criteria. The Planning Director may authorize minor "de minimus" changes to the design that don't materially affect the character of development or consistency with the applicable criteria.
2. As specified in Section 17.74.130(A) of the Zoning Ordinance, the variance "runs with the land." The variance shall become an integral part of the property and shall be conveyed to the benefit of the owner or other person(s) entitled to possession regardless of transfer of title or interest unless otherwise specified herein.
3. The variance is subject to the following Termination Conditions and Procedures, specified in Sections 17.74.130 of the Zoning Ordinance.

Attachments:

Attachment 1 – Application and Attachments

- A. The variance shall be terminated if:
 - 1. Any construction or remodeling relative to the variance as approved has not been started within one year of the date specified on a development schedule approved with the variance, or in case no such development schedule was approved, within one year of the effective date of approval;
 - 2. There is a failure to meet any condition as may be specifically required by the Planning Commission at the time of approval of the variance;
- B. The Planning Director shall determine if a variance is in compliance with this section and any condition imposed by the Planning Commission. At such time as a variance becomes subject to termination as provided by this section, the Planning Director shall notify in writing the legal owner of record or the occupant the grounds on which the variance will be terminated. Notice of termination will be delivered by registered mail. A receipt of delivery will be returned to the Planning Director;
- C. An action or ruling of the Planning Director pursuant to this section may be appealed to the Planning Commission within thirty days after the recorded date of delivery of the notice of termination. In the event the notice is not deliverable or acceptance is refused or unclaimed, the thirty days in which an appeal may be filed shall be computed from the date of mailing. Notice of appeal shall be in writing and filed with the Planning Department. The decision of the Planning Director is final if the appeal is not taken within the 30 (thirty) day period. If the appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the Planning Director and shall hold a public hearing on the appeal pursuant to Section 17.72.130. The variance shall be invalid during the appeal process, and no work shall be undertaken during the appeal process;
- D. Upon termination of a variance, the property shall thereafter be used in accordance with the zoning ordinance and other applicable plans, ordinances, resolutions, rules, and regulations unless a variance or other action is subsequently approved.

III. ATTACHMENTS:

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

IV. COMMENTS:

Agency Comments

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

The McMinnville Engineering Department and McMinnville Water and Light responded that they had no comments.

Public Comments

Notice of this request was mailed to property owners located within 100 feet of the subject site. Notice of the public hearing was also provided in the News Register on Tuesday, August 6, 2019. As of the date of the Planning Commission public hearing on August 15, 2019, no public testimony had been received by the Planning Department.

Attachments:

Attachment 1 – Application and Attachments

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant held a neighborhood meeting in accordance with Section 17.72.095 of the Zoning Ordinance on June 7, 2019.
2. The application was submitted on June 14, 2019
3. The application was deemed complete on July 15, 2019.
4. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas.

The McMinnville Engineering Department and McMinnville Water and Light responded that they had no comments.

5. Notice of the application and the August 15, 2019 Planning Commission public hearing was mailed to property owners within 100 feet of the subject property on July 23, 2019 in accordance with Section 17.72.120 of the Zoning Ordinance.
6. Notice of the application and the August 15, 2019 Planning Commission public hearing was published in the News Register on Tuesday, August 6, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.

No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.

7. On August 15, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 1032 NE Hembree Street (Tax Lot 12000, Section 16CD, T. 4 S., R. 4 W., W.M.):
2. **Lot Size:** 5,375 square feet (original 50'x100' lot plus half the width of vacated 15' alley)
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-3 (Two-family residential).
 - a. **Minimum Lot Size:** 6,000 square feet.
 - b. **Minimum Yards:**
 - i. Front: 15'
 - ii. Rear: 20'
 - iii. Interior Side: 7.5'
 - iv. Exterior Side, Corner Lot: 15'
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Single-family dwelling. The property previously had prior authorization for a vacation rental, but that ceased in 2017. A permit was issued for a carport in 1995.

Attachments:

Attachment 1 – Application and Attachments

7. Inventoried Significant Resources:

a. **Historic Resources:** The property is designated as a Class C historic resource in the City's historic resource inventory. Historic resources were inventoried and classified. Those classified as Class A or B resources are "landmarks". Those classified as Class C or D resources are "resources" only. Class C resources that are not on the National Register or within a historic district are not subject to review for exterior alteration, but are subject to review for demolition or relocation.

b. **Other:** None Identified

8. **Other Features:** The site is generally level, with the lot elevated above the sidewalk level with a retaining wall and steps on Hembree and with the site sloping up and leveling off to the building exterior on NE 11th. The home has a basement, and there are steps up to the main floor of the home on Hembree.

9. Utilities:

a. **Water:** A 12" water main is present along the frontage in NE 11th and a 10" water main is present in NE Hembree

b. **Sewer:** A 36" sewer main is present in NE 1th and an 8" main is present in NE Hembree. '

c. **Stormwater:** A 10" storm drain is present in NE Hembree, with a catchbasin located at the corner of this lot.

d. **Other Services:** Other services are available to the property. Overhead utilities are present along the property frontage on NE 11th Street and on the west side of NE Hembree, predominantly within the planter strip area within the right-of-way.

10. **Transportation:** NE Hembree Street and NE 11th Street are both classified as local streets. Both are improved in this area with curb, gutter, planter strips, and sidewalks within a 60-foot right-of-way. The street width from face of curb to face of curb is approximately 28 feet wide. The property has driveway access of NE 11th Street near the east side of the lot.

11. **Description of Vicinity and Regulatory Context.** The property was platted as part of the Oak Park Addition in 1889. The vicinity is predominantly comprised of 200' x 215' blocks, most of which had eight 50'x100' lots per block, with a 15' wide right-of-way for rear alleys and 60' wide right-of-way for streets. Some of the alleys have since been vacated, resulting in lots that are 50' by 107.5' after the alley right-of-way reversion to the adjacent lots. Some of the lots have also been adjusted and reconfigured. Adjoining subdivisions in the vicinity include Beaumont Park Addition to the northwest, platted in 1910 and I.M. Johns Addition to the southwest, platted in 1877. These lots and blocks generally have similar characteristics as the Oak Park Addition.

Where the Oak Park Addition abuts these adjoining subdivisions, some of the adjacent blocks are joined, with 60'x100' lots rather than 60' right-of-way between the blocks, making the blocks approximately 490' from east to west and 200' from north to south. There is a concentration of homes in this area which were built in the late 1800s and early to mid-1900s.

The subject property is a corner lot (Lot 4) of Block 40 of the Oak Park Addition. It remains as originally configured, except that the 15' alley has been vacated extending the dimensions of the 50'x100' lot to 50'x107.5'. The existing home was built in 1935.

Records of land use regulations predating the 1968 zoning ordinance are not readily available. It appears the vicinity was zoned R-3 at the time of the 1968 Zoning Ordinance. At that time, the R-3 zone specified 20' minimum yards for front and exterior side yards, and it specified a minimum lot size of 6,000 square feet. The minimum required front and side yards were subsequently reduced to 15' minimum.

Attachments:

Attachment 1 – Application and Attachments

The R-3 zoning made most of the properties in the vicinity, predominantly 5,000 square foot lots, nonconforming in lot area due to the 6,000 square foot minimum lot size requirement. It also made many existing structures nonconforming in respect to setbacks/required yards. Many structures, or porches, in the vicinity are setback less than 15' feet from the front and/or exterior side yards. The applicant has submitted several examples of structures and/or porches in the vicinity with setback less than 15'. These examples include structures on interior lots and corner lots.

The Zoning Ordinance provides some relief as follows:

- **Lot Size.** Section 17.63.020: Lots of record—Single-family dwelling construction permitted. In a residential district, one single-family dwelling may be constructed on any single lot of record which is nonconforming because of area, width, length, or a combination thereof, provided the lot is no less than four thousand square feet in area. All other zoning requirements, such as yard dimensions, setbacks, etc., shall conform to the zone in which the lot is located. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).
- **Front Yards.** Section 17.54.050(B): Yards, Requirement Exceptions. The following exceptions to the front-yard requirements for a dwelling are authorized for a lot in any zone:
 1. If there are dwellings on both abutting lots with front yards of depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
 2. If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the lot need not exceed a depth halfway between the depth of the abutting lot and the required front-yard depth.

However, it is also restrictive as follows regarding nonconforming use and development:

- 17.63.010. Purpose. Within the zones established by this title there exist lots, structures and uses of land and structures which were lawful before the ordinance codified in this title was passed or amended, but which are now prohibited, regulated, or restricted under the terms of this title and amendments. It is the intent of this title to permit these nonconformities until they are removed or abandoned, but not to encourage their survival. Such uses are declared by this title to be incompatible with permitted uses in the zones involved. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded or extended, except as provided for in this title. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).
- 17.63.030. Structures—Alteration or extension. Structures conforming as to use but nonconforming as to height, yard requirements, setback, lot size, or density may be altered or extended, provided the alteration or extension does not result in a violation of this title, except as provided below:
 - A. Dwellings may be altered or extended subject to the provisions of Section 17.54.050;
 - B. Dwellings located in residential zones may be altered or extended so long as the alteration or extension does not result in a violation of this title or so long as the alteration or extension is confined within the existing building lines. (Ord. 4912 §3 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Given the historic development pattern of the vicinity, the combined effect of these provisions would be to substantially transform the character and pattern of development in this vicinity. These provisions generally preclude new development that would match the historic development pattern of lots in the vicinity. As addressed below, the R-3 zoning district was applied to land with a variety of contexts for different purposes. The development standards of the R-3 zone are a somewhat “coarser-grained” regulatory tool, with one set of standards applicable to regulation the different contexts to which the R-3 zone is applied. Therefore, it may not fully account for the differences in those contexts. For example, in this instance, the R-3 zone is applied to a historic neighborhood of existing development. In other locations, the R-3 zone is applied to vacant land for new development.

While Section 17.54.050(B) serves to provide limited relief without a variance, it only provides for consideration of the development on immediately adjacent lots. Further, the Zoning Ordinance doesn’t distinguish between the front yard “averaging” for a porch vs. the wall of a primary dwelling, which have different characteristics. In some instances, a reduced setback for a porch might match surrounding historic development, whereas a reduced setback from the exterior walls of the primary structure might not.

Absent a variance, this limited relief provision doesn’t allow for the recognition of the concentration of other nonconforming front setbacks in the vicinity, but rather only considers the context of immediately adjacent lots.

However, it should be noted this standard provides a basis for reducing setbacks to match existing context. It provides an opportunity to reduce setbacks based on context in some circumstances without the need for a variance.

Sections 17.54.020 and 17.54.050 of the Zoning Ordinance provide some exceptions to setback requirements, but do not provide exceptions for encroachment of a covered porch into a front yard setbacks, other than for eaves. Section 17.54.050(C) provides that “stairs may encroach up to five (5) feet into a required front yard provided that the stairs are not covered or enclosed, except for an eave not exceeding the 30 (thirty) inch encroachment as noted above.”

Therefore, no other relief is available in the Zoning Ordinance, and a variance is the appropriate application to seek relief from the applicable front yard standards.

12. **Description of Residential Zones, Properties within the R-3 Zone, and Regulatory Context.** The Zoning Ordinance has four residential zones: R-1, R-2, R-3, and R-4. The R-1 and R-2 zones are predominantly single-family residential zones, with some allowance for semi-detached housing (sharing only one common wall) and corner duplexes; in addition, the R-3 zone also allows duplexes on other lots; in addition, the R-4 zone also allows attached housing and multi-family housing.

Minimum lot sizes and minimum yard requirements are generally as provided in the following table, as applicable to single-family detached homes, with some differences for duplexes and attached housing:

Zone	Minimum Lot Size (sq ft)	Max. Height (feet)	Minimum Required Yards (feet)			
			Front	Exterior Side (corner lot)	Interior Side	Rear
R-1	9,000	35	20	20	10	20
R-2	7,000	35	20	20	7.5	20
R-3	6,000	35	15	15	7.5	20
R-4	5,000	60	15	15	6	20

Note: These lot sizes and yards are generally applicable to single-family detached homes and may vary in some zones for other uses, such as certain lots with duplexes, semi-detached, and attached housing.

The City doesn't have a separate residential zoning district with development standards that are comparable to the historic development pattern of the neighborhood and vicinity. In short, the zoning ordinance doesn't provide a finer gradation of zoning districts that reflect a "small lot single-family zone" with smaller setbacks and lot sizes that historically occurred in some neighborhoods. There is no zoning district with a minimum front yard setback less than 15 feet. (The R-3 zone previously had a minimum front yard setback of 20 feet). In addition, the R-4 zone is the only zone with a 5,000 square foot minimum lot size; however, it also allows multi-family residential development up to 60 feet in height with densities up to approximately 29 units per acre.

The R-3 zoning which applies to the subject property is applied to a wide variety of contexts within the community. It is applied to the vicinity described above, providing a transition from the R-4 zoning near the downtown core to the south, transitioning to the R-3 area, and to the R-2 zoned area to the north of this area.

It is also applied to approximately seven other areas throughout McMinnville. This covers areas of a variety of eras, up to and including requests for rezoning of vacant land for new development.

As a result of applying the R-3 zoning in the vicinity of the subject property, many of the existing lots and structures were made nonconforming. In other areas, it has been applied with the expectation that all newly subdivided lots and new development on those lots would occur in accordance with the zoning and standards of the R-3 zoning in effect at time of subdivision and development. There are circumstances that apply to the subject property and neighborhood that don't apply to other areas within the R-3 zone.

13. **Context Considerations.** As discussed in Section 17.63.010, it is possible that the R-3 zoning was applied to certain areas with the intent of transforming the area to gradually bring all of the existing development into compliance with the new zoning and standards over time, or gradually transitioning the area to more intensive duplex development over time. However, it appears unlikely that either of those outcomes was the intent of applying the R-3 zoning to this area and the vicinity of the subject property, especially given the recognition of the high concentration of designated and recognized historic properties in the vicinity.

It is more likely that the "step down" transition in intensity of zoning from the core commercial area outward implements a reasonable policy objective, but the lack of "finer-grained" zoning tailored to the historic context may have resulted in a "coarser-grained" and generalized regulatory tool that doesn't specifically recognize and maintain the context and character of the historic neighborhood. With the R-3 zoning, it doesn't appear that the intent was to encourage substantial redevelopment of the area, since the incremental difference between the existing development and limited potential for more intensive development allowed in the R-3 zone isn't dramatically different enough given the existing development pattern and parcelization to induce redevelopment with more intensive development. In fact, many lots in this neighborhood and

Attachments:

Attachment 1 – Application and Attachments

area with the R-3 zoning are too small to meet the minimum lot area and density requirements that would allow a duplex or any residential use other than a single-family dwelling.

With the recent adoption of Great Neighborhood Principles and the 2019 legislative enactment of HB 2001, there may be value in considering future legislative action to evaluate broader zoning changes to the historic neighborhood context to allow for continuation of development that is in character and context of the small lot single family development with lesser setbacks.

A 10-foot front or exterior side setback would likely be the greater authorized reduction for a covered porch in most areas, since there is frequently a need for 10-foot public utility easements behind the right-of-way. However, in historic neighborhoods, utilities are sometimes provided within the right-of-way or alleyway.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a variance to front yard setback requirements are as follows:

- **Zoning Ordinance (Title 71 of the McMinnville Code):**
 - MMC Section 17.74.100. Variance – Planning Commission Authority;
 - MMC Section 17.74.100. Conditions for Granting Variance;
 - MMC Section 17.54.050. Yards, Subsection (H).
- **Comprehensive Plan:** 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.

MCMINNVILLE ZONING ORDINANCE

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

- 17.74.100. Variance – Planning Commission Authority
- 17.74.110. Conditions for granting Variance.
- 17.54.050. Yards, Subsection (H)

Section 17.74.100. Variance – Planning Commission Authority

The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

Owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship.

APPLICANT’S RESPONSE: It would be an unnecessary hardship to prevent the construction of a porch that would allow the owners to enjoy the sense of community enjoyed by other homes in the neighborhood.

FINDING: SATISFIED. As discussed in Section VI, the subject property and surrounding properties are part of the Oak Park Addition platted in 1889 before R-3 zoning applied to the property. As a result, there are numerous homes in the area which were built in the late 1800s and early to mid-1900s before the R-3 zone applied to the property, and the homes do not meet the setbacks of the R-3 zone. The applicant has provided several examples of both interior and corner lots in the vicinity with homes that don't meet the current R-3 setbacks. In some cases these have nonconforming porches and in other cases exterior walls of the dwellings setback less than the 15-foot setback specified by the R-3 zone.

The subject property is a small lot, which is nonconforming in respect to the lot area of the R-3 zone. It was developed historically before the R-3 zoning and setbacks applied to the property. It is located in a vicinity where most of the properties are also small lots nonconforming in respect to the 6,000 square foot minimum lot size requirement of the R-3 zone. In this vicinity, there are numerous properties which developed prior to the R-3 zoning with structures which became nonconforming as a result of the R-3 zoning and its setback standards. There are examples of nearly identical development to what is proposed within surrounding blocks of the subject property. While some properties in the vicinity may be eligible for reduced front yard setbacks in the vicinity due to nonconforming setbacks on adjacent lots, this lot doesn't have that circumstance on the adjacent lots, and doesn't qualify for that relief absent a variance.

Currently, the front entrance to the property has steps up the front door, and a small covered entry that is only large enough to provide protection from the elements at the front door. There is no space for a functional front porch without the need for a variance. Functional covered front porches with reduced setbacks are a feature common to historic properties in this vicinity. The nonconforming size of the lot relative to the zoning, and the historic placement of the home on this site before the R-3 zoning was applied precludes the ability to provide a functional front porch on the property without a variance. Strict application of the R-3 setback given the context of the home in this vicinity would create an unnecessary hardship for reasonable use of the property consistent with the historic context of the property and vicinity.

No variance shall be granted to allow the use of property for a purpose not authorized within the zone

APPLICANT'S RESPONSE: (N/A)

FINDING: SATISFIED. The proposed use of the property for a new front porch and stairs for the existing dwelling is a permitted use of the property in the R-3 zone.

In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

APPLICANT'S RESPONSE: (N/A)

FINDING: SATISFIED WITH CONDITIONS. The purpose of Title 17 (Zoning) is provided below:

17.03.020. Purpose. The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to encourage appropriate and orderly physical development in the city through standards designed to protect residential, commercial, industrial, and civic areas from the

intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, adequate community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare.

The requested variance is for the covered front porch and the uncovered steps to the front porch. The variance runs with the land. However, the variance is granted for the specific development proposal. It is not an unlimited variance to reduce the setbacks in general. This criterion is met subject to conditions that attach the variance to this specific development.

This protects the best interests of the surrounding property and neighborhood and achieves the purposes by limiting the variance to this proposal. While the proposal is consistent with the historic context of the vicinity and neighborhood, the variance is not open-ended. It doesn't apply to a porch that lacks historic character, it doesn't allow for the exterior walls of the main building to encroach into the front yard setback, and it doesn't grant a variance to the setback in general for width or depth – only where the proposed porch and stairs encroach. The limited relief granted by the variance would require any other future application that doesn't meet the standards to apply for a variance and demonstrate compatibility with the vicinity and neighborhood and consistency with applicable criteria.

This is consistent with the purpose stated above, providing assurance of effective utilization of land resources and compatibility of use.

17.74.110. Conditions for Granting Variance

A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;

APPLICANT'S RESPONSE: The original construction of this house predates the majority of houses in the neighborhood and the city zoning ordinance. The house is too close to the front setback line to allow for a functional front porch within the setback lines.

FINDING: SATISFIED. Circumstances apply to the subject property and vicinity which do not apply generally to other properties in the same zone. Much of the area became nonconforming when the R-3 zoning was applied to the historic neighborhood. As discussed in the general findings, the subject property and properties in the general vicinity became nonconforming in respect to size, and many in respect to setbacks, as the result of the R-3 zoning being applied to properties in the vicinity after the historic development had occurred. Properties in this vicinity differ from other areas with R-3 zoning which developed after the R-3 zoning was applied, and which generally conform to the R-3 standards. Some properties in this vicinity may be eligible for reduced setbacks without the need for a variance based on code provisions relating to existing development and setbacks on adjacent lots. However, the variance process provides an opportunity to review similar relief on a case-by-case basis to ensure compatibility with the historic context of the neighborhood and the characteristics of the proposed development.

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

APPLICANT'S RESPONSE: A large majority of the neighborhood homes have covered front porches. The porch would be consistent with the texture of the neighborhood. This home should enjoy the same benefits shared by all the other homes with front porches.

FINDING: SATISFIED WITH CONDITIONS. As discussed in the general findings, the variance provides for development of property substantially the same as exists for numerous properties in the vicinity which developed with lesser setbacks before the R-3 zoning and standards were applied to this vicinity which is characterized by historic development. This criterion is met subject to conditions that attach the variance to this specific development. The variance is necessary for preservation of a property right substantially the same as other properties which developed in the vicinity under lesser setback requirements. The conditions limiting the scope of the variance ensure the variance approval doesn't confer broader property rights with more open-ended variance to the setbacks that may not be comparable to other properties in the same vicinity.

- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

APPLICANT'S RESPONSE: There are no safety issues associated with the request. On the contrary, where buildings are closer to the street, the street feels smaller and more protected. Close proximity to the sidewalk promotes interaction with neighbors walking by, pushing strollers, walking their dogs, etc. A greater sense of community is developed.

FINDING: SATISFIED WITH CONDITIONS. The variance would allow development of the property in a manner that has substantially the same characteristics as a number other properties in the vicinity in which the property is located. It would not be materially detrimental to the purposes of the title or conflict with objectives of city policies. Additional findings regarding policies are addressed under the Comprehensive Plan criteria below. This criterion is met subject to conditions that attach the variance to this specific development proposal.

- D. The variance requested is the minimum variance which would alleviate the hardship.

APPLICANT'S RESPONSE: The proposed porch design is not a cosmetic add-on. The area proposed is the minimum space to have it functional with a comfortable seating group on one side and a table and chairs on the other side while providing a clear exit pathway to a safer stair.

FINDING: SATISFIED WITH CONDITIONS. The applicant has demonstrated the proposed porch is the minimum which would provide a functional, rather than merely decorative, front porch, consistent with historic forms typical of other historic structures within the vicinity. This criterion is met subject to conditions that attach the variance to this specific development proposal, without a more general variance in width or depth to the setbacks.

Section 17.54.050. Yards, Subsection (H)

- (H) Setback variance requests shall be processed under the provisions of Chapters 17.72 (Applications and Review Process) and 17.74 (Review Criteria), except that:

1. The applicant must prove that the vision of motorists, bicyclists, and pedestrians will not be blocked or adversely affected as a result of the variance.

APPLICANT'S RESPONSE: (The applicant's site plan shows compliance with the vision clearance triangle). **See Exhibit 4A.**

FINDING: SATISFIED WITH CONDITIONS. The applicant's site plan demonstrates the proposed porch will not encroach into the clear vision areas required by Section 17.54.080 of the Zoning Ordinance.

2. Variances to the requirements of this section which do not involve building setbacks must comply with Section 17.54.060(H)(1) above, but need not comply with Section 17.74.110.

APPLICANT'S RESPONSE: (N/A)

FINDING: NOT APPLICABLE. The proposed variance involves building setbacks.

COMPREHENSIVE PLAN VOLUME II:

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

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, policies, and proposals as they apply to this application. Therefore, where applicable standards exist, subsequent findings regarding the parallel comprehensive plan policies are not made when they are duplicative or a restatement of the specific standards which achieve and implement the applicable goals and policies.

The following additional findings are made relating to specific Goals and Policies. Policies applicable to this variance application are addressed through implementation standards, except as provided below.

CHAPTER III. CULTURAL, HISTORICAL, AND EDUCATIONAL RESOURCES

HISTORIC PRESERVATION

GOAL III 2: TO PRESERVE AND PROTECT SITES, STRUCTURES, AREAS, AND OBJECTS OF HISTORICAL, CULTURAL, ARCHITECTURAL, OR ARCHEOLOGICAL SIGNIFICANCE TO THE CITY OF MCMINNVILLE.

GOAL III 4: ENCOURAGE THE PRESERVATION AND REHABILITATION OF HISTORIC RESOURCES.

Policies:

- 17.07. *Strengthen the integration of historic presentation in city planning to capitalize on neighborhood history and character as city assets.*

Proposals:

- 3.20. *Update city zoning per recommendations in this plan to encourage the retention of historic residential character in key areas around the downtown.*

APPLICANT’S RESPONSE: (N/A)

FINDING, CHAPTER III: SATISFIED WITH CONDITIONS. Approval of the variance would authorize development that capitalizes on and retains neighborhood history and character in this historic area north of downtown. Subject to conditions that attach the variance to the specific development proposal, the proposal and variance is consistent with the applicable goals and policies of Chapter III.

CHAPTER V. HOUSING AND RESIDENTIAL DEVELOPMENT**GOAL V 1: TO PROMOTE DEVELOPMENT OF AFFORDABLE, QUALITY HOUSING FOR ALL CITIZENS.***General Housing Policies:*

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

Housing Rehabilitation Policies

62.00. *The maintenance, rehabilitation, and restoration of existing housing in residentially designated areas shall be encouraged to provide affordable housing.*

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

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

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

APPLICANT’S RESPONSE: (N/A)

FINDING, CHAPTER V: SATISFIED WITH CONDITIONS. Approval of the variance would authorize development that promotes investment close to the city center and provides for retention, rehabilitation, and restoration of existing housing stock and small lot single-family housing. It provides opportunities for housing types and densities consistent with the historic character of the neighborhood. Subject to conditions that attach the variance to the specific development proposal, the proposal and variance is consistent with the applicable goals and policies of Chapter V.

CHAPTER IX. URBANIZATION**GOAL IX 2: TO ESTABLISH A LAND USE PLANNING FRAMEWORK FOR APPLICATION OF THE GOALS, POLICIES, AND PROPOSALS OF THE MCMINNVILLE COMPREHENSIVE PLAN.****GREAT NEIGHBORHOOD PRINCIPLES**

- 187.40. ...the Great Neighborhood Principles shall also guide applicable current land use and development applications.
- 187.50(8). Human Scale Design. Great Neighborhoods shall have buildings and spaces that are designed to be comfortable at a human scale and that foster human interaction with the built environment.
- a. The size, form, and proportionality of development is designed to function and be balanced with the existing built environment.
 - b. Buildings include design elements that promote inclusion and interaction within the right-of-way and public spaces, including, but not limited to, building orientation towards the street or public place and placement of vehicle oriented uses in less prominent locations.

APPLICANT'S RESPONSE: (N/A)

FINDING, CHAPTER IX: SATISFIED WITH CONDITIONS. Approval of the variance would authorize development that supports comfort at a human scale and fosters human interaction with the built environment. The proposal provides a building form consistent with the historic built environment. It includes design elements that promote inclusion and interaction within the right-of-way with an active useable space oriented to the street. Subject to conditions that attach the variance to the specific development proposal, the proposal and variance is consistent with the applicable goals and policies of Chapter IX.

TS:sjs



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

Office Use Only:

File No. VR 1-19
 Date Received 6-14-19
 Fee 1,902.⁰⁰
 Receipt No. _____
 Received by SPD

Zoning Variance Application

Applicant Information

Applicant is: ☒ Property Owner ☐ Contract Buyer ☐ Option Holder ☐ Agent ☐ Other _____

Applicant Name Hans Van Dale Phone 858-353-1072

Contact Name _____ Phone _____
 (If different than above)

Address 1032 NE Hembree St.

City, State, Zip McMinnville OR 97128

Contact Email hvan Dale@gmail.com

Property Owner Information

Property Owner Name _____ Phone _____
 (If different than above)

Contact Name _____ Phone _____

Address _____

City, State, Zip _____

Contact Email _____

Site Location and Description

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

Property Address 1032 NE Hembree St. McMinnville OR 97128

Assessor Map No. R4 4-16-12000 Total Site Area 5000 sq ft

Subdivision Oak Park Addition Block 40 Lot 4

Comprehensive Plan Designation residential Zoning Designation R-3

Please indicate the type of variance requested:

Front setback, outside corner lot setback

1. Describe the request in detail:

Construction of a covered porch on the front side of the existing house.

2. What exceptional or extraordinary circumstances apply to the property which do not generally to other property in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance, topography, or other circumstance over which the applicant has no control?

The original construction of this house predates the majority of houses in the neighborhood and the city zoning ordinance. The house is too close to the front setback line to allow for a functional front porch within the setback lines.

3. What property right would be preserved by granting the variance?

A large majority of the neighborhood homes have covered front porches. The porch would be consistent with the texture of the neighborhood. This home should enjoy the same benefits shared by all the other homes with front porches.

4. What unnecessary hardship would be avoided by granting the variance?

It would be an unnecessary hardship to prevent the construction of a porch that would allow the owners to enjoy the sense of community enjoyed by other homes in the neighborhood.

5. Why won't this this request be detrimental to the surrounding area?

There are no safety issues associated with the request. On the contrary, where buildings are closer to the street, the street feels smaller and more protected. Close proximity to the sidewalk promotes interaction with neighbors walking by, pushing strollers, walking their dogs, etc. A greater sense of community is developed.

6. Please explain how this would be the minimum variance necessary to alleviate the hardship.

The proposed porch design is not a cosmetic add-on. The area proposed is the minimum space required to have it functional with a comfortable seating group on one side of the entry path and a table and chairs on the other side while providing a clear exit pathway to a safer stair.

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

A site plan.... Attached

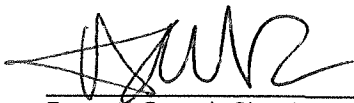
Payment of applicable fee.

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



Applicant's Signature

6/14/2019
Date



Property Owner's Signature

6/14/2019
Date

NO SCALE INDICATED

LOCATIONS OF NEIGHBORING HOMES
"A" THROUGH "I" SHOWN IN RED

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SE 1/4 SW 1/4 SEC 16 T4S R4W W.M.
YAMHILL COUNTY

4 4 16
MCMINNVII



LOCATION OF EXISTING RESIDENCE
1032 NE HEMBREE

LEGEND FOR VICINITY MAP

ALL MEASUREMENTS ARE TAKEN FROM THE SIDEWALK.
SETBACKS ARE ESTIMATED TO BE 1' - 0" LESS.

HOUSE A – 1134 HEMBREE ST.

HEMBREE ST. SIDE

FRONT OF HOUSE: 3' - 0"

FRONT OF PORCH: 3' - 0"

12TH ST. SIDE

SIDE OF HOUSE: 14'-11" (TAKEN FROM CURB, NO SIDEWALK)

HOUSE B – 1122 HEMBREE ST.

HEMBREE ST. SIDE

FRONT OF HOUSE: 10' - 4"

FRONT OF PORCH: 6' - 0"

SIDE OF HOUSE: N.A.

HOUSE C – 1112 HEMBREE ST.

HEMBREE ST. SIDE

FRONT OF HOUSE: 20' - 3"

FRONT OF PORCH: 11' - 3"

SIDE OF HOUSE: N.A.

HOUSE D – 813 11TH ST.

11TH ST. SIDE

FRONT OF HOUSE: 9' - 5"

FRONT OF PORCH: 6' - 0"

HEMBREE ST. SIDE

SIDE OF HOUSE, CORNER LOT: 23" – 0"

HOUSE E – 833 11TH ST.

11TH ST. SIDE

FRONT OF HOUSE: 10' - 8"

FRONT OF PORCH: 10' - 8"

IRVINE ST. SIDE

SIDE OF HOUSE, CORNER LOT: 32' – 6"

HOUSE F – 1106 IRVINE ST.

IRVINE ST SIDE

FRONT OF HOUSE: 20' - 6"

FRONT OF PORCH: 11' - 6"

11TH ST. SIDE

SIDE OF HOUSE, CORNER LOT: 6' - 11"

HOUSE G – 1103 HEMBREE ST.

HEMBREE ST. SIDE

FRONT OF HOUSE: 13' - 6"

FRONT OF PORCH: 11' - 6"

11TH ST. SIDE

SIDE OF HOUSE, CORNER LOT: 11"

FRONT OF GARAGE: 6' – 11"

HOUSE H – 1005 HEMBREE ST.

HEMBREE ST. SIDE

FRONT OF HOUSE: 14' - 11"

FRONT OF PORCH: 10' - 11"

10TH ST. SIDE

SIDE OF HOUSE, CORNER LOT: 16'

HOUSE I – 935 HEMBREE ST.

HEMBREE ST. SIDE

FRONT OF HOUSE: 13' - 10"

FRONT OF PORCH: 8' - 6"

10TH ST. SIDE

SIDE OF HOUSE, CORNER LOT: 20'

NEIGHBORING HOMES AVERAGE SETBACK CALCULATIONS

<u>HOUSE</u>	<u>FRONT OF HOUSE:</u>	<u>FRONT OF PORCH:</u>	<u>SIDE OF HOUSE, CORNER LOT:</u>	<u>SIDE OF PORCH, CORNER LOT:</u>
A	3' – 0"	3' – 0"	?	?
B	10' – 4"	6' – 0"	N.A.	N.A.
C	20' – 3"	11' – 3"	N.A.	N.A.
D	9' – 5"	6' – 0"	23' – 0"	?
E	10' – 8"	10' – 8"	?	?
F	20' – 6"	11' – 6"	6' – 11"	?
G	13' – 6"	11' – 6"	?	?
H	14' – 11"	10' – 11"	16' – 0"	?
I	13' – 10"	8' – 6"	20' – 0"	?
<hr/>				
<u>AVERAGES</u>	13' – 3"	8' – 9"	16' – 5"	INSUFFICIENT DATA
PROPOSED FOR 1032 NE HEMBREE PORCH	20' – 2"	11' – 2"	12' – 5"	14' – 5"

A



B



C



D





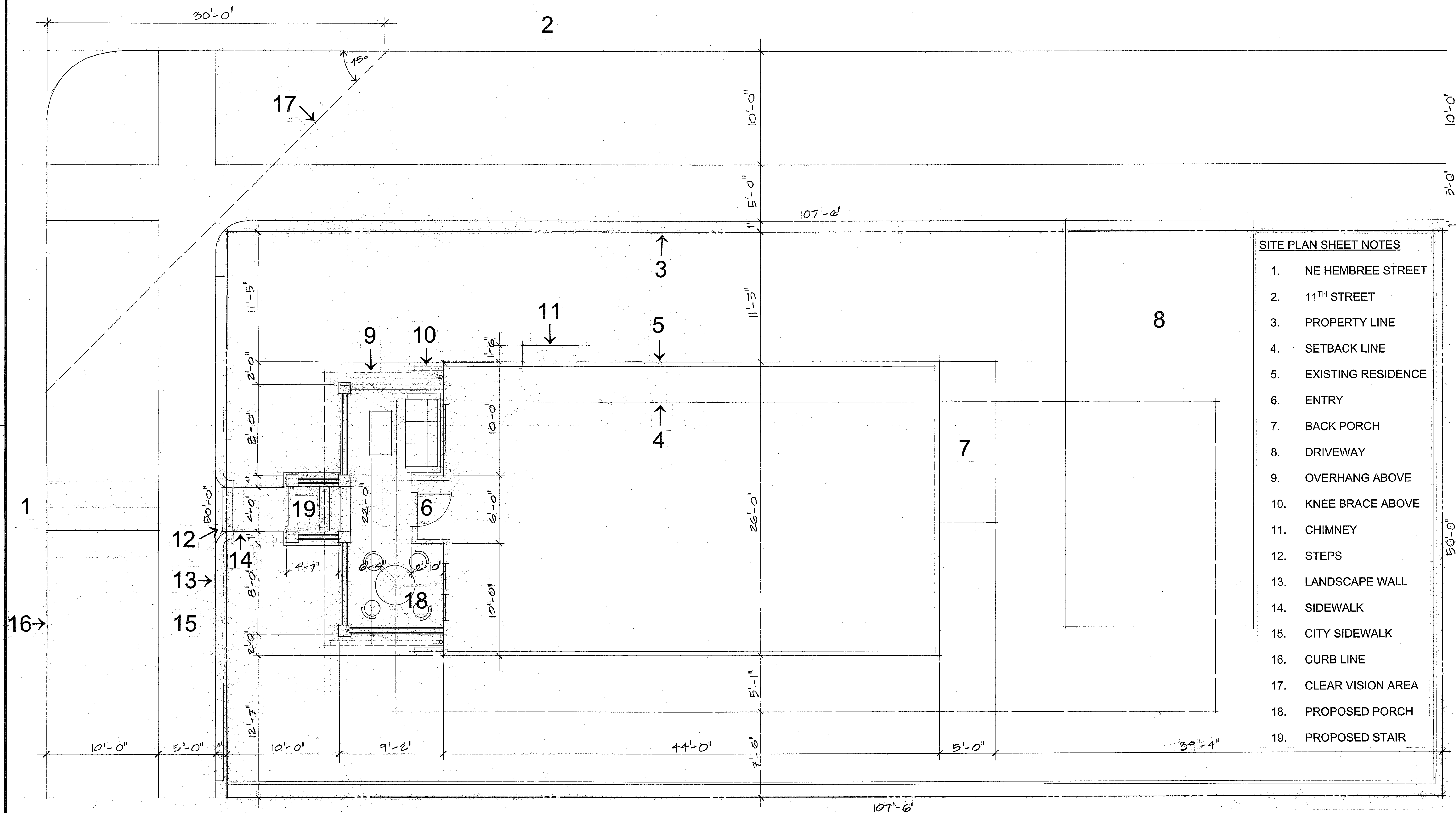




H







SITE PLAN SHEET NOTES

1. NE HEMBREE STREET
2. 11TH STREET
3. PROPERTY LINE
4. SETBACK LINE
5. EXISTING RESIDENCE
6. ENTRY
7. BACK PORCH
8. DRIVEWAY
9. OVERHANG ABOVE
10. KNEE BRACE ABOVE
11. CHIMNEY
12. STEPS
13. LANDSCAPE WALL
14. SIDEWALK
15. CITY SIDEWALK
16. CURB LINE
17. CLEAR VISION AREA
18. PROPOSED PORCH
19. PROPOSED STAIR

SITE PLAN

1/4" = 1' - 0"

0' 4' 8'

NORTH

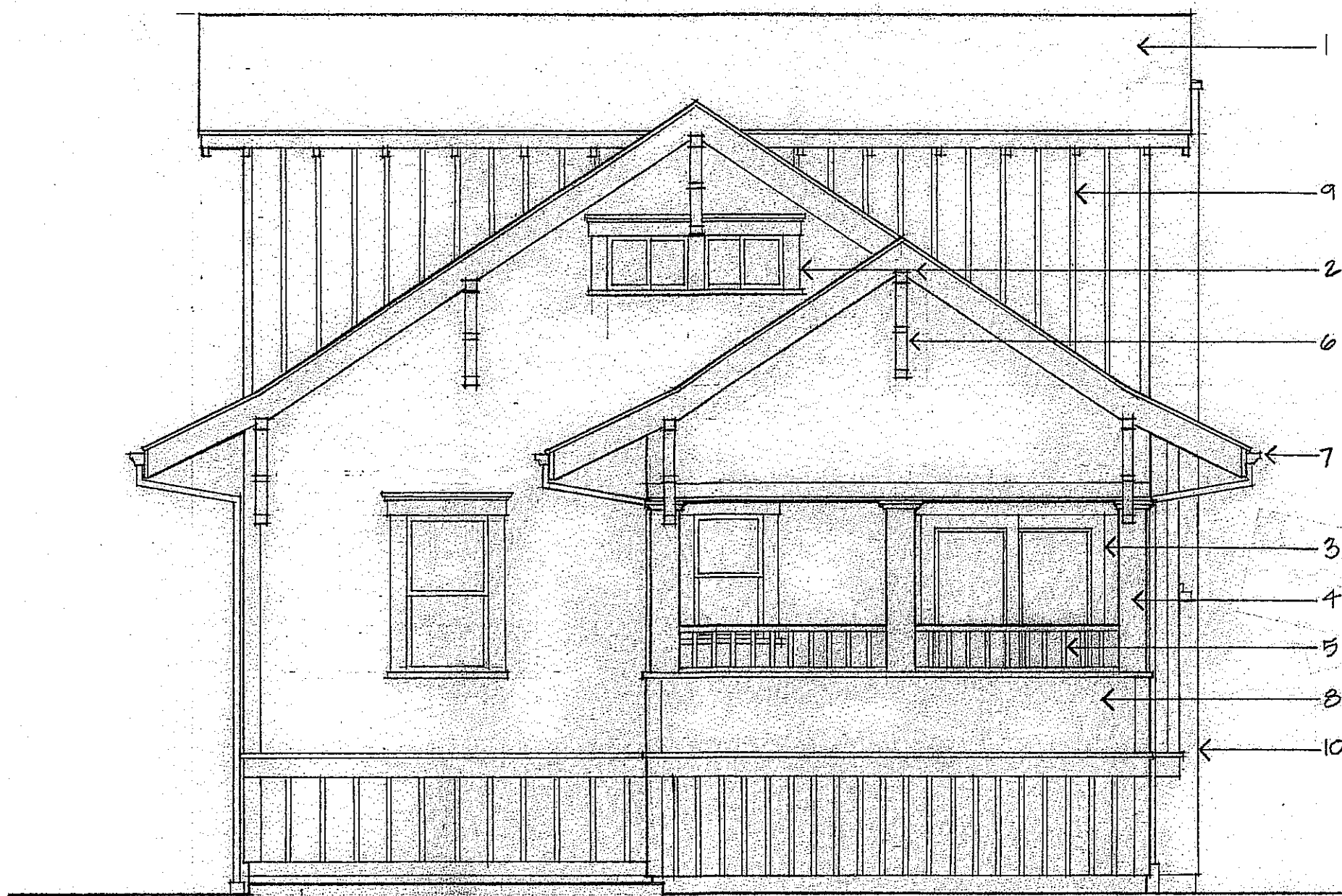


REVISIONS	BY

ROBERT VAN DALE ARCHITECT
463A CHESTNUT STREET
SAN FRANCISCO, CA 94133
650-796-2925

KATE AYRES & HANS VAN DALE
FRONT PORCH
1032 NE HEMBREE STREET, McMinnville, OR 97128

Date	4-23-2019
Scale	1/4" = 1' - 0"
Drawn	RVD
Job	1032
Sheet	1
Of	2 Sheets



EAST ELEVATION, REAR YARD



NORTH ELEVATION, 11TH STREET



WEST ELEVATION, NE HEMBREE STREET

MATERIALS AND FINISHES

- 1. ASPHALT SHINGLES, BROWN
- 2. FASCIA AND TRIM, WHITE
- 3. DOORS AND WINDOWS, WHITE
- 4. WOOD COLUMN AND NEWELL POSTS, WHITE
- 5. PICKETT GUARDS AND RAILINGS, WHITE
- 6. KNEE BRACE, WHITE
- 7. GUTTER AND DOWNSPOUT, WHITE
- 8. CLAPBOARD SIDING, WHEAT
- 9. BOARD AND BATT SIDING, WHEAT
- 10. STUCCO FINISH, WHEAT
- 11. STAIRS, BROWN

REVISIONS	BY

ROBERT VAN DALE ARCHITECT
463A CHESTNUT STREET
SAN FRANCISCO, CA 94133
650-796-2925

KATE AYRES & HANS VAN DALE
FRONT PORCH
1032 NE HEMBREE STREET, McMinnville, OR 97128

DATE	4-23-2019
SCALE	1/4" = 1'-0"
DRAWN	RVD
JOB	1092
SHEET	2
OF	2 SHEETS

Hello Neighbor,

Hans Van Dale and Kate Ayres would like to invite you to a neighborhood meeting that will be held at the McMinnville Community Center in Room 102 on Friday June 7th at 6:15 pm. We are holding this meeting to discuss the addition of a front porch to our home at 1032 NE Hembree St. The construction will require a zoning variance from the city in order to receive a permit; this is due to the fact that the proposed design will encroach on the front setback. We feel that the project will have a positive impact on the neighborhood by improving it aesthetically as well as creating a greater sense of community. This meeting will give you the opportunity to voice any concerns you may have. We've included with this letter a map showing where our home is located as well as a site plan showing what we are proposing to build. We look forward to seeing you there.

Best regards,

Hans Van Dale and Kate Ayres

Handwritten signature of Hans Van Dale and Kate Ayres. The signature is written in black ink and consists of a stylized 'HVD' followed by a plus sign and 'Kate Ayres'.

Map No.	Tax Lot	Site Address	Owner	Attn:	Mailing Address	City	State	Zip
1	R4416CD10500	1103 NE HEMBREE ST	CCI PROPERTY MANAGEMENT LLC	CCI PROPERTY MANAGEMENT LLC	1103 NE HEMBREE ST	MCMINNIVILLE	OR	97128
2	R4416CD11000	813 NE 11TH ST	BALSAMO JOSEPH A	BALSAMO JOSEPH A	PO BOX 643	MCMINNIVILLE	OR	97128
3	R4416CD11900	1026 NE HEMBREE ST	ELIAS VICENTE & VIRGINIA &	ELIAS VICENTE & VIRGINIA &	1026 NE HEMBREE ST	MCMINNIVILLE	OR	97128
4	R4416CD12101	1025 NE IRVINE ST	HOUSTON MARK S	HOUSTON MARK S	1025 NE IRVINE ST	MCMINNIVILLE	OR	97128
5	R4416CD12100	1055 NE IRVINE ST	GULLO KRISTINE J &	GULLO KRISTINE J &	2926 NE REDWOOD DR	MCMINNIVILLE	OR	97128
6	R4416CD11700	1008 NE HEMBREE ST	IRVIN DANNY L & NANCY J	IRVIN DANNY L & NANCY J	1008 NE HEMBREE ST	MCMINNIVILLE	OR	97128
7	R4416CD11800	1014 NE HEMBREE ST	MARTIN MYRIAH D	MARTIN MYRIAH D	2274 SW 2ND ST STE B	MCMINNIVILLE	OR	97128
8	R4416CD11600	833 NE 11TH ST	LIBONATI DANA	LIBONATI DANA	655 NW BROOKVIEW CT	MCMINNIVILLE	OR	97128
9	R4416CD12800							0
10	R4416CD12200	1021 NE IRVINE ST	MCCOMB RAEANN	MCCOMB RAEANN	1021 NE IRVINE ST	MCMINNIVILLE	OR	97128
11	R4416CD12900	1015 NE HEMBREE ST	COOLEY AMBER C	COOLEY AMBER C	1015 NE HEMBREE ST	MCMINNIVILLE	OR	97128
12	R4416CD12700	1035 NE HEMBREE ST	NORCROSS CYNTHIA	NORCROSS CYNTHIA	1035 N HEMBREE ST	MCMINNIVILLE	OR	97128
13	R4416CD12000	1032 NE HEMBREE ST	VANDALE HANS A	VANDALE HANS A	1032 NE HEMBREE ST	MCMINNIVILLE	OR	97128
			CITY OF MCMINNIVILLE	PLANNING DEPARTMENT	231 NE 5TH ST	MCMINNIVILLE	OR	97128

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SE 1/4 SW 1/4 SEC 16 T4S R4W W.M.
YAMHILL COUNTY

1" = 100'

4 4 11
MCMINNVII

CANCEL
600
10000
10100



REVISED 12-23-08 SH

Location of existing
residence
1032 NE HEMBREE ST.

4 4 11

Summary of Neighborhood Meeting

Our neighborhood meeting took place at 6:15pm on June 7th 2019 at the McMinnville Community Center in room 102. From 6:15 to 7:00 we saw two attendees.

Mark Houston
1025 NE Irvine St.
McMinnville, OR 97128
541-556-7867 / 541-554-9782
Houstonoutfitters@yahoo.com

Cynthia Norcross
1035 NE Hembree St.
McMinnville, OR 97128
503-472-9455
norcrosscy@comcast.net

Both attendees were in favor of the project and were present to lend their support. They presented no concerns for us to explain or put at ease. We spent the time talking about the general state of the neighborhood, including changes they've seen over the years and traffic concerns. It was a pleasure to get to know them better and receive their support.

NEIGHBORHOOD MEETING

June 7th 6:15pm

Room 102

OPEN TO THE PUBLIC

Future Land Use

Application:

variance for reduced front
yard setback

1032 NE Hembree St.
McMinnville

NEIGHBORHOOD MEETING

June 7th 6:15pm

Room 102

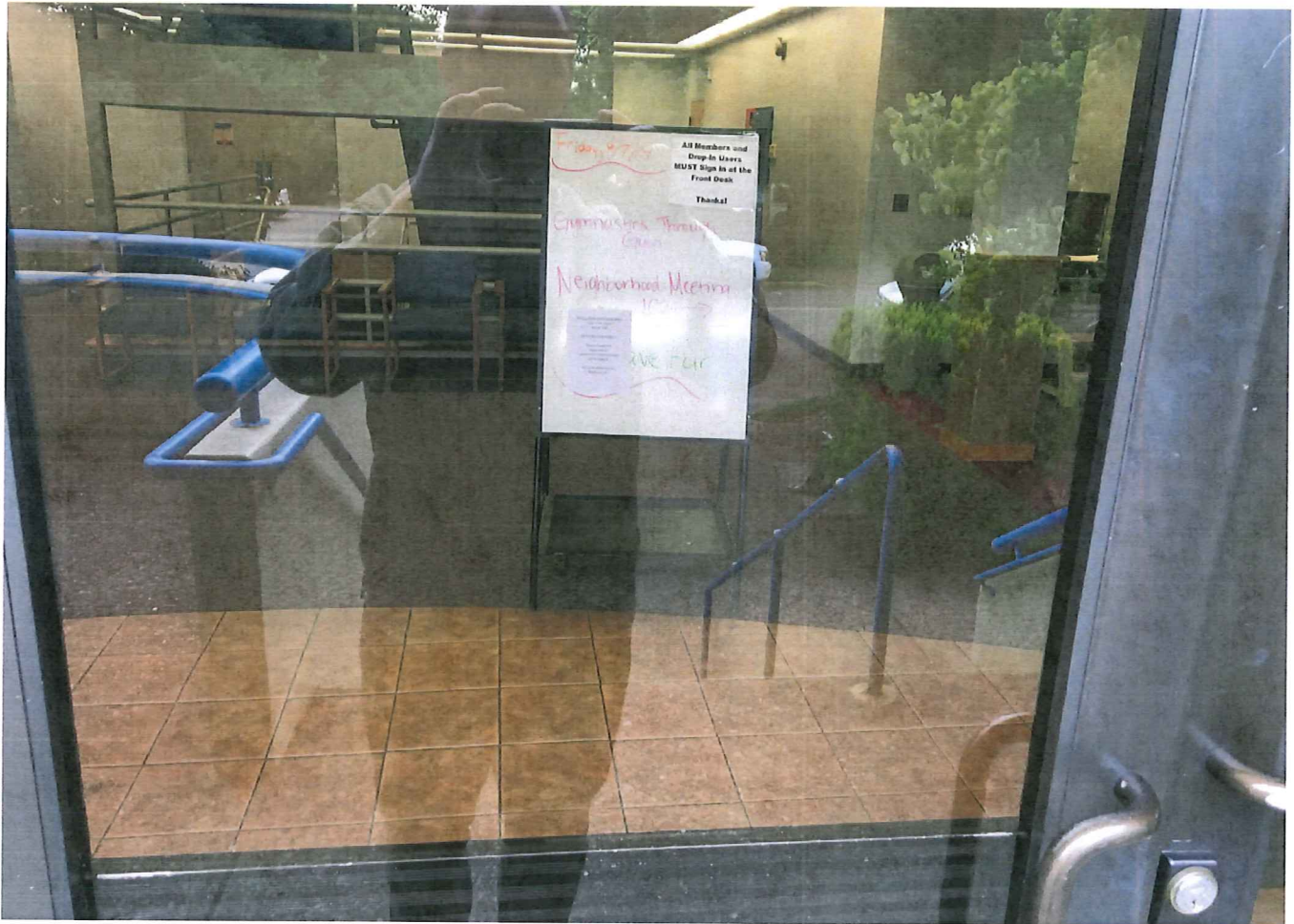
OPEN TO THE PUBLIC

Future Land Use

Application:
variance for reduced front
yard setback

1032 NE Hembree St.
McMinnville

SIGN AT ENTRANCE TO
BUILDING (ON WHITE BOARD)





102

NEIGHBORHOOD MEETING

June 7th 6:15pm

Room 102

OPEN TO THE PUBLIC

Future Land Use

Application:
variance for reduced front
yard setback

1032 NE Hembree St.
McMinnville



NEIGHBORHOOD MEETING

FUTURE LAND USE APPLICATION:

variance for reduced front yard
setback

DATE: June 7th 2019

TIME: 6:15 PM

MEETING LOCATION:

McMinnville Community Center
Room 102

CONTACT NAME: Hans Van Dale and Kathryn Ayres
CONTACT NUMBER: 503-440-3614 858-353-1072

PER REQUEST OF SECTION 17.72.095 OF
McMINNVILLE CITY CODE REQUIREMENTS



NEIGHBORHOOD MEETING

FUTURE LAND USE APPLICATION:

variance for reduced front yard
setback

DATE: June 7th 2019

TIME: 6:15 PM

MEETING LOCATION:

McMinnville Community Center
Room 102

CONTACT NAME: Hans Van Dale and Kathryn Ayres
CONTACT NUMBER: 503-440-3614 858-353-1072

PER REQUEST OF SECTION 17.72.095 OF
McMINNVILLE CITY CODE REQUIREMENTS



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

**PUBLIC HEARING NOTICE
PLANNING COMMISSION REVIEW OF A
VARIANCE REQUEST
1032 NE HEMBREE STREET**

NOTICE IS HEREBY GIVEN that an application for a variance to the front yard setback for a new front porch has been submitted to the McMinnville Planning Department. The purpose of this notice is to provide an opportunity for surrounding property owners to submit comments regarding this application or to attend the public meeting of the Planning Commission where this request will be reviewed and a public hearing will be held. Please contact Tom Schauer with any questions at 503-474-5108, or tom.schauer@mcminnvilleoregon.gov.

DOCKET NUMBER: VR 1-19
REQUEST: Variance to the front yard setback for a new front porch
APPLICANT: Hans Van Dale
SITE LOCATION(S): 1032 NE Hembree Street (see attached map)
MAP & TAX LOT(S): R4416CD12000
ZONE(S): R-3 (Two-Family Residential)
MMC REQUIREMENTS: McMinnville Municipal Code (MMC) Title 17 (Zoning Ordinance): Section 17.74.100. Variance – Planning Commission Authority; Section 17.74.110. Conditions for Granting Variance; Section 17.54.050. Yards, Subsection (H); Comprehensive Plan Goals and Policies (see reverse side for specific review criteria)
NOTICE DATE: July 23, 2019
PUBLIC HEARING DATE: August 15, 2019 at 6:30 P.M.
HEARING LOCATION: McMinnville Civic Hall Building
200 NE 2nd Street, McMinnville, OR, 97128

Proceedings: A staff report will be provided at least seven days before the public hearing. The Planning Commission will conduct a public hearing, take testimony, and then make a decision to approve, approve with conditions, or deny the application.

Persons are hereby invited to attend the McMinnville Planning Commission hearing to observe the proceedings, and to register any statements in person, by attorney, or by mail to assist the McMinnville Planning Commission and City Council in making a decision. Should you wish to submit comments or testimony on this application prior to the public meeting, please call the Planning Department office at (503) 434-7311, forward them by mail to 231 NE 5th Street, McMinnville, OR 97128, or by email to tom.schauer@mcminnvilleoregon.gov.

The decision-making criteria, application, and records concerning this matter are available in the McMinnville Planning Department office at 231 NE 5th Street, McMinnville, Oregon during working hours and on the Planning Department's portion of the City of McMinnville webpage at www.mcminnvilleoregon.gov.

Appeal: Failure to raise an issue in person or by letter prior to the close of the public hearing with sufficient specificity precludes appeal to the Land Use Board of Appeals (LUBA) on that issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the Commission to respond to the issue precludes an action for damages in circuit court.

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 24 hours in advance by contacting the City Manager (503) 434-7405 – 1-800-735-1232 for voice, or TDY 1-800-735-2900.

REVIEW CRITERIA:

MMC Section 17.74.100. Variance – Planning Commission Authority

The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

MMC Section 17.74.110. Conditions for Granting Variance

A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;
- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;
- D. The variance requested is the minimum variance which would alleviate the hardship.

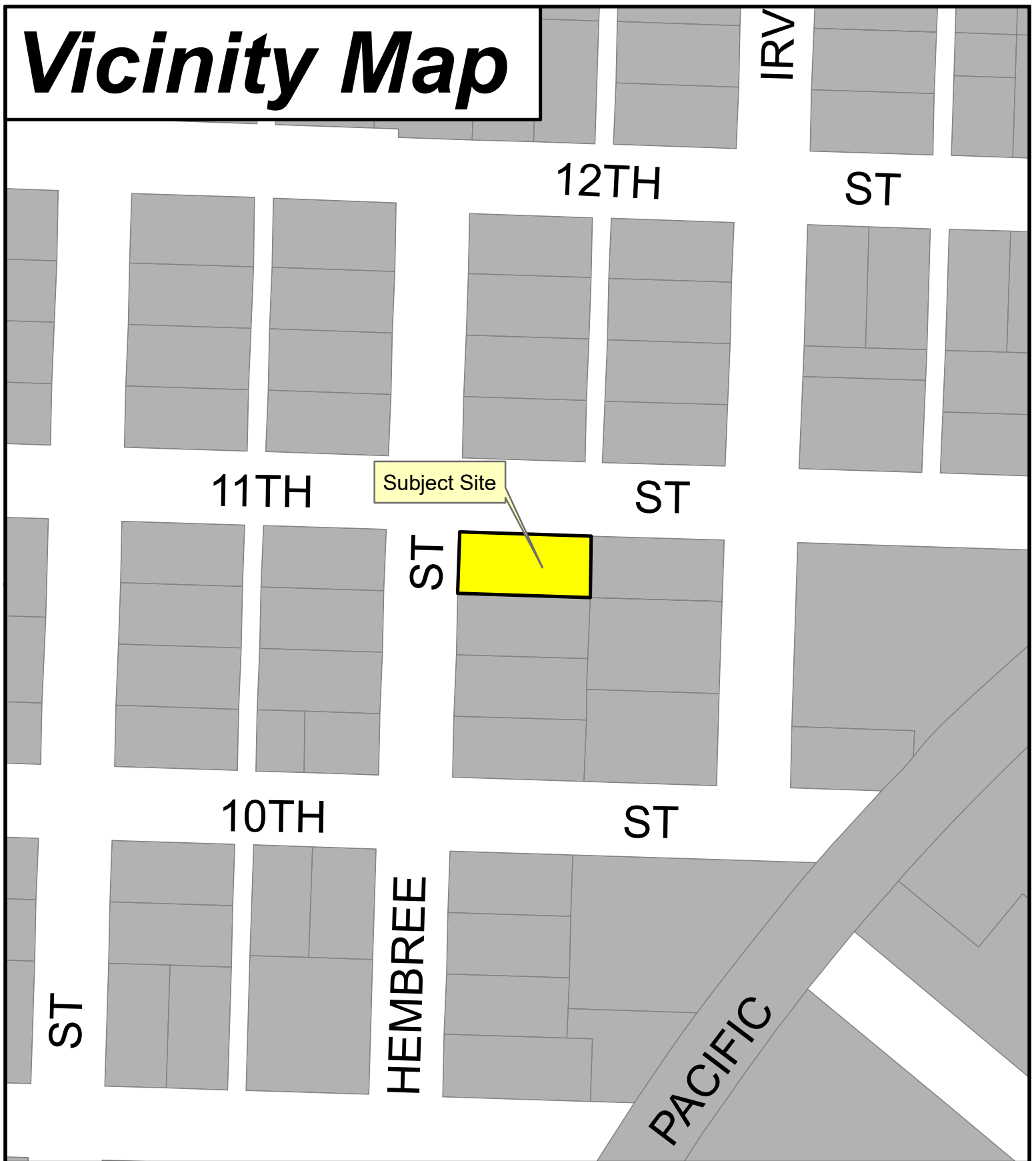
MMC Section 17.54.050. Yards, Subsection (H)

- H. Setback variance requests shall be processed under the provisions of Chapters 17.72 (Applications and Review Process) and 17.74 (Review Criteria), except that:
 - 1. The applicant must prove that the vision of motorists, bicyclists, and pedestrians will not be blocked or adversely affected as a result of the variance.
 - 2. Variances to the requirements of this section which do not involve building setbacks must comply with Section 17.54.060(H)(1) above, but need not comply with Section 17.74.110. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Comprehensive Plan Goals and Policies:

All applicable goals and policies apply to this request.

Vicinity Map



VR 1-19

Map No.	Tax Lot	Site Address	Owner	Attn:	Mailing Address	City State	Zip
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12	R4416CD12700	1035 NE HEMBREE ST	NORCROSS CYNTHIA	NORCROSS CYNTHIA	1035 N HEMBREE ST	MCMINNVILLE OR	97128
Owner	R4416CD12000	1032 NE HEMBREE ST	VANDALE HANS A	VANDALE HANS A	1032 NE HEMBREE ST	MCMINNVILLE OR	97128

Date Sent 7/23/19
Sent By 812
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