



City of McMinnville
Planning Department
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STAFF REPORT

DATE: August 13, 2019
TO: Mayor and City Councilors
FROM: Chuck Darnell, Senior Planner
SUBJECT: Ordinance Nos. 5074 - 5077 - CPA 2-19 (Comprehensive Plan Map Amendment), ZC 2-19 (Zone Change), PDA 1-19 (Planned Development Amendment), and CU 2-19 (Conditional Use)

STRATEGIC PRIORITY & GOAL:

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|--|---|
|  <p>GROWTH & DEVELOPMENT CHARACTER Guide growth & development strategically, responsively & responsibly to enhance our unique character.</p> <p>OBJECTIVE: Strategically plan for short and long-term growth and development that will create enduring value for the community.</p> |  <p>HOUSING OPPORTUNITIES (ACROSS THE INCOME SPECTRUM) Create diverse housing opportunities that support great neighborhoods.</p> <p>OBJECTIVE: Collaborate to improve the financial feasibility of diverse housing development opportunities.</p> |
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Report in Brief:

This action is the consideration of Ordinance Nos. 5074, 5075, 5076, and 5077, ordinances approving the following land use actions:

- 1) Ordinance 5074 – Comprehensive Plan Map Amendment – Amendment from the current mix of Residential and Commercial designations to Residential only
- 2) Ordinance 5075 – Zone Change – Rezoning from the current mix of R-1 (Single Family Residential) and EF-80 (Exclusive Farm Use) to R-1 (Single Family Residential) only
- 3) Ordinance 5076 – Planned Development Amendment – Amend the existing Planned Development Overlay District created by Ordinance 4633 to remove the subject property from the overlay and reduce the size of the overlay
- 4) Ordinance 5077 – Conditional Use – Approval of a conditional use permit to expand the existing electrical power substation facility. Section 17.12.020(L) of the MMC identifies “Electrical power substation” as a conditional use in the R-1 zone

Attachments:

Attachment 1: Ordinance No. 5074 including Exhibit A – CPA 2-19 Decision Document
Attachment 2: Ordinance No. 5075 including Exhibit A – ZC 2-19 Decision Document
Attachment 3: Ordinance No. 5076 including Exhibit A – PDA 1-19 Decision Document
Attachment 4: Ordinance No. 5077 including Exhibit A – CU 2-19 Decision Document
Attachment 5: CPA 2-19, ZC 2-19, PDA 1-19, & CU 2-19 Application Materials
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The property in question is currently designated on the Comprehensive Plan Map as a mix of Commercial and Residential land. The property is also dually zoned, containing both R-1 (Single Family Residential) zoning and EF-80 (Exclusive Farm Use) zoning that is a remnant County zone from the time the property was annexed into the city limits. A Planned Development Overlay District, created by Ordinance 4633, also covers the portion of the property that is designated on the Comprehensive Plan Map as Commercial.

The applicant, Samuel Justice on behalf of McMinnville Water and Light, is requesting the above described land use actions to bring the property into one Comprehensive Plan Map designation (Residential) and one urban zoning district (R-1 Single Family Residential). The applicant is also requesting the Planned Development Amendment to remove the subject property from the Planned Development Overlay District because the Planned Development is commercial and the proposed zone change would result in the property being residentially zoned. This would effectively reduce the size and change the boundary of the Planned Development Overlay District, but all other provisions of Ordinance 4633 are proposed to remain in effect. Finally, the Conditional Use request would allow for the expansion of the existing Baker Creek Substation that exists on the property, as an “electrical power substation” is a conditional use in the R-1 (Single Family Residential) zone.

The subject property is located at 1901 NW Baker Creek Road. The property is described in Instrument No. 201900618, Yamhill County Deed Records, and is also identified as Tax Lot 101, Section 18, T. 4 S., R. 4 W., W.M.

Background:

These land use requests were considered in a public hearing by the McMinnville Planning Commission on June 27, 2019. Prior to the public hearing, McMinnville Water and Light staff provided some comments on some of the original conditions of approval suggested by staff, which were related to the functionality and safety of the electrical substation facility. Planning Department staff worked with McMinnville Water and Light to revise the conditions of approval to respond to their comments. The revised conditions of approval, along with the comments provided by McMinnville Water and Light, were provided to and considered by the Planning Commission during the public hearing. The Planning Commission incorporated the revisions to the conditions of approval that responded to McMinnville Water and Light’s comments and were found to be acceptable to the applicant.

The public hearing was closed at the same meeting, following which the Planning Commission deliberated and then voted to recommend that the Council consider and approve all four of the land use applications, subject to conditions of approval outlined in Ordinance Nos. 5074 – 5077.

The approximate location of the subject site is provided in Figure 1 below:

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Figure 1. Vicinity Map



The applicant has provided an overview of the history of the land use decisions related to the subject property. Staff has found the information provided to accurately reflect the relevant background, and excerpted portions are provided below to give context to the request

1. Annexation into City of McMinnville:

- The original substation lot, Tax Lot R4418-00101, was annexed into the City on 9-10-1977 by Ordinance 3881. The lot was approximately 0.26 acres and was co-located on the existing BPA high-voltage transmission easement.
- The Comprehensive Plan Map and Zoning Map from the early 1980s identified the site as being in a Residential Comprehensive Plan Map designation and zoned R-1 (Single Family Residential)

2. Comp Plan Amendment - CPA 2-96:

- In 1996, Ordinance 4633 amended a 12.34 acre portion of a parcel on the Comprehensive Plan Map on the north side of Baker Creek Road from residential to commercial. This

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- amendment split the original substation lot in half for comprehensive plan map purposes between Commercial and Residential.
- Ordinance 4633 also created a Planned Development overlay on the same property, with some conditions related to the form of development and uses.
 - Ordinance 4633 did not change the zoning of the site, and the acreage property still retains the county EF-80 zoning (eventually annexed in 2008 – see more below).
 - A map showing dimensions of the area proposed to be designated as commercial was included in the 1996 land use application file submitted by the applicant at the time. Part of that map is depicted below in Figure No. 1.



- The southern boundary of the new commercial area (965.95' dimension) extended from the Tax Lot R4418-00100's western boundary to a point that is within and near the center of substation lot (Tax Lot 101 as it existed)
 - It is noteworthy that at the time of the 1996 Comp Plan Amendment, Figure No. 1 shows plans for an expanded substation site. (See figure No. 1, above). The expanded substation use was shown within the commercial overlay designation.
3. Conditional Use Permit for Baker Creek Substation – CU 7-99:
- In 1999, the city granted MW&L a conditional use permit for the Baker Creek Substation (approval letter with original conditions attached here as Attachment 6).

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- Findings of fact for that application stated that the subject site was designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential).
 - The substation use was reviewed as a conditional use, as a “Utility transmission station” is a conditional use in a residential zone. Section 17.12.020 (a section of the R-1 chapter).
 - Construction of the new Baker Creek substation took place in 2000. Electric load was first placed on the substation in January 2001.
4. Lot Line Adjustment
- In 2002 tax lot 101 was expanded by lot line adjustment. [...] In 2002 the subject site was found to be designated Residential on the Comprehensive Plan Map and zoned R-1 (Single Family Residential)
5. Annexation of Larger Baker Creek North Area:
- In 2008 the larger acreage surrounding the Baker Creek substation was annexed into the city (approved 7-22-2008 by Ordinance 4895).
6. Recent Property Line Adjustment – BLA 10-18:
- In 2019 a lot line adjustment increased the size of the substation lot (Tax Lot 101) by moving the west property line approximately 103’ to the west, the north property line to the north, and the east property line approximately 37’ to the east. The lot now fronts Baker Creek Road for about 210’.
 - The western property line has now been moved west and toward the area within the overlay zone regulated in 1996 by CPA 2-96.

Discussion:

The decision for these land-use applications is dependent upon whether or not each individual application meets state regulations, the McMinnville Comprehensive Plan, and the McMinnville Municipal Code. The applications can either meet these criteria as proposed, or a condition of approval can be provided that either outlines what needs to occur to meet the criteria or when something needs to occur to meet the criteria. Attached are Ordinance Nos. 5074, 5075, 5076, and 5077, each of which includes a Decision Document that provides the Findings of Fact and Conclusionary Findings for the requested land use action. These Decision Documents outline the legal findings on whether or not the applications meet the applicable criteria and whether or not there are conditions of approval that, if achieved, put the applications in compliance with the criteria.

The specific review criteria for both the Comprehensive Plan Map Amendment and Zone Change in Section 17.74.020 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

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

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The specific review criteria for Planned Development Amendments in Section 17.74.070 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;
- C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;
- D. The plan can be completed within a reasonable period of time;
- E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
- F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
- G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

The specific review criteria for Conditional Uses in Section 17.74.030 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;
- B. That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;
- C. That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;
- D. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;
- E. The proposal will preserve environmental assets of particular interest to the community;
- F. The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes.

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The applicant has provided a written narrative and findings to support their requests for a Comprehensive Plan Map Amendment, Zone Change, Planned Development Amendment, and Conditional Use. The narrative and findings are provided in the application materials, and are also reiterated and expanded upon in the Decision Documents for each land use application.

Overall, the Planning Commission concurred with the applicant’s arguments. The Planning Commission found that the proposal results in the subject property being simplified and organized in terms of having only one Comprehensive Plan Map designation and one zoning district apply to the property. The request to change the entire property to a Residential Comprehensive Plan Map designation and rezone the property to R-1 (Single Family Residential) allows for uniform planning and development of the subject property, and allows for a single zoning district’s standards and regulations to be applied to the site. The zone change to R-1 (Single Family Residential) will also afford the most opportunity for public hearing and notice for the eventual intended use of the site through the Conditional Use review process. In addition, the proposed Comprehensive Plan Map Amendment and Zone Change are supported by the fact that residential land and R-1 zoned land are identified as needed land in the most recently acknowledged Buildable Lands Inventory and McMinnville Buildable Land Needs Analysis and Growth Management Plan.

Following the request to change the entire property to a Residential Comprehensive Plan Map designation and rezone the property to R-1 (Single Family Residential), the requested Planned Development Amendment is warranted given that the existing Planned Development Overlay District is Commercial, and the land use process for the site is now following that required by a Residential designation and R-1 zone. The conditional use permit to allow for the expansion of the existing electrical power substation was reviewed for its proposed location, size, design, and operating characteristics, and together with what was proposed by the applicant, some conditions of approval are recommended by staff to ensure that the expanded electrical power substation site can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood.

Below are some tables summarizing the applications’ compliance with the critical review criteria. The Decision Documents for each land use application have the detailed analysis and findings for this compliance:

CPA 2-19 (Comprehensive Plan Map Amendment, Change Designation to Only Residential)

| Issue | Notes | Condition to Help Meet Criteria |
|---|---|---------------------------------|
| Consolidate Comprehensive Plan Map designation from a mix of Commercial and Residential to only Residential | Existing site has mix of Comp Plan Map designations, which complicates development of site | None |
| Reduction in size of Commercial land designation | 2001 BLI (most recently acknowledged) identifies both Residential and Commercial lands as being needed and in deficit. Conversion of portion of site from Commercial to Residential removes small amount of Commercial land | None |

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| | (approx.. 0.8 acres) and still addresses Residential land need | |
|--|--|--|

ZC 2-19 (Zone Change, Rezone to Only R-1 (Single Family Residential) Zone)

| Issue | Notes | Condition to Help Meet Criteria |
|--|---|---------------------------------|
| Consolidate zoning of site from a mix of R-1 and EF-80 zones to only R-1 (Single Family Residential) | Existing site has mix of zones, which complicates development of site Existing EF-80 zoning is remnant county zoning from time of annexation, and code requires rezoning of this county zoning to a city zone prior to development | None |
| Appropriateness of R-1 zoning for the site | Existing site has some R-1 zoning (area of existing substation) and previous reviews were based on R-1 zone R-1 zone affords most opportunity for public review and notice for intended use (expanded substation) | None |

PDA 1-19 (Planned Development Amendment, Removal of Property from Ordinance 4633)

| Issue | Notes | Condition to Help Meet Criteria |
|--|---|---------------------------------|
| Existing Planned Development Overlay District is a Commercial PD | Based on previous requests to change to Residential Comp Plan designation and R-1 zone, development standards applicable to site no longer consistent with Commercial PD overlay | |
| Continued applicability of existing Planned Development Overlay District | Request is to remove subject property from the PD overlay Approval would reduce the size of the existing PD overlay, but all other regulations and conditions of approval would remain in effect | Condition of Approval #1 |

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CU 2-19 (Conditional Use, Allow for Expansion of Existing Electrical Power Substation)

| Issue | Notes | Condition to Help Meet Criteria |
|--|---|---|
| Right-of-way improvements to Baker Creek Road | <p>Applicant recently dedicated additional ROW to allow for development of Baker Creek Road to TSP standards</p> <p>Development of street will be required at time of building permits</p> | Condition of Approval #2 |
| Timing of right-of-way improvements to Baker Creek Road | <p>Surrounding property also undergoing development review</p> <p>Require coordination of construction of ROW improvements with surrounding developing properties to minimize construction and livability impacts on existing developments</p> | Condition of Approval #3 |
| Compatibility of the electrical power substation with surrounding and abutting land uses | <p>Proposed setbacks of equipment from property lines</p> <p>Require sight-obscuring fencing required around equipment</p> <p>Require landscaping, specific species and varieties to provide adequate screening</p> <p>Require street tree planting in Baker Creek Road ROW</p> <p>Require minimal lighting and standards for treatment of lighting</p> | <p>Condition of Approval #4</p> <p>Condition of Approval #5</p> <p>Condition of Approval #6</p> |

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Exhibit A – ZC 2-19 Decision Document
3. Ordinance No. 5076, including:
Exhibit A – PDA 1-19 Decision Document
4. Ordinance No. 5077, including:
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Fiscal Impact:

None.

Ordinance No. 5074 Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5074 approving CPA 2-19 and adopting the Decision, Findings of Fact and Conclusionary Findings.
2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting. The 120 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing and meet all necessary noticing requirements, the public hearing would need to be scheduled for the September 10, 2019 City Council meeting.
3. **DO NOT ADOPT** Ordinance No. 5074, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5074.

Ordinance No. 5074 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5074 which would approve CPA 2-19 as recommended by the Planning Commission.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5074.”

Ordinance No. 5075 Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5075 approving ZC 2-19 and adopting the Decision, Findings of Fact and Conclusionary Findings.
2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting. The 120 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing

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and meet all necessary noticing requirements, the public hearing would need to be scheduled for the September 10, 2019 City Council meeting.

3. **DO NOT ADOPT** Ordinance No. 5075, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5075.

Ordinance No. 5075 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5075 which would approve ZC 2-19 as recommended by the Planning Commission.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5075.”

Ordinance No. 5076 Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5076 approving PDA 1-19 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings.
2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting. The 120 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing and meet all necessary noticing requirements, the public hearing would need to be scheduled for the September 10, 2019 City Council meeting.
3. **DO NOT ADOPT** Ordinance No. 5076, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5076.

Ordinance No. 5076 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5076 which would approve PDA 1-19, subject to conditions of approval as recommended by the Planning Commission.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5076.”

Ordinance No. 5077 Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5077 approving CU 2-19 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings.
2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting. The 120 day land use decision time limit expires on September 19, 2019. In order to hold a public hearing and meet all necessary noticing requirements, the public hearing would need to be scheduled for the September 10, 2019 City Council meeting.

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3. **DO NOT ADOPT** Ordinance No. 5077, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5077.

Ordinance No. 5077 Recommendation:

Staff recommends that the Council adopt Ordinance No. 5077 which would approve CU 2-19, subject to conditions of approval as recommended by the Planning Commission.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5077.”

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