

**ORDINANCE NO. 5076**

**AN ORDINANCE AMENDING AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT TO REMOVE THE PROPERTY AT 1901 NW BAKER CREEK ROAD FROM THE PLANNED DEVELOPMENT OVERLAY DISTRICT**

RECITALS:

The Planning Department received an application (PDA 1-19) from Samuel Justice, on behalf of property owner McMinnville Water and Light, requesting approval of a Planned Development Amendment. The property is currently located within a Planned Development Overlay District that was adopted by Ordinance 4633. The requested Planned Development Amendment would result in the subject property being removed from the Planned Development Overlay District, effectively reducing the size and changing the boundary of the existing Planned Development Overlay District; and

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.; and

A public hearing was held on June 27, 2019 at 6:30 p.m., before the McMinnville Planning Commission after due notice had been provided in the local newspaper on June 18, 2019, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, the application materials and a staff report were presented, and applicant testimony was received; and

The Planning Commission, being fully informed about said requests, found that the requested amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the Planned Development Amendment review criteria listed in Section 17.74.070 of the McMinnville Municipal Code based on the material submitted by the applicant and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

The Planning Commission recommended approval with conditions of said Planned Development Amendment to the City Council;

The City Council having received the Planning Commission recommendation and staff report, and having deliberated; and

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

1. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit A; and
2. That the requested amendment to the existing Planned Development Overlay District is approved, subject to the following condition:
  - 1) That Ordinance 4633 is amended to remove the subject site and property from the Planned Development Overlay District, hereby adjusting the boundary of the

Planned Development Overlay District. All other standards and conditions of approval adopted by Ordinance 4633 remain in effect.

3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 13<sup>th</sup> day of August, 2019, by the following votes:

Ayes: Garvin, Geary, Menke, Peralta, Stassens

Nays: \_\_\_\_\_

  
\_\_\_\_\_  
MAYOR

Attest:

Melissa Bisset  
CITY RECORDER

Approved as to form:

\_\_\_\_\_  
CITY ATTORNEY



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

503-434-7311

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

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A PLANNED DEVELOPMENT AMENDMENT TO REMOVE PROPERTY FROM AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT AT 1901 NW BAKER CREEK ROAD**

**DOCKET:** PDA 1-19 (Planned Development Amendment)

**REQUEST:** Approval to amend an existing Planned Development Overlay District to remove property from the Overlay District boundary. The original Planned Development Overlay District was adopted in 1996 by Ordinance 4633.

**LOCATION:** 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.

**ZONING:** R-1 (Single Family Residential)

**APPLICANT:** Samuel Justice, on behalf of McMinnville Water and Light

**STAFF:** Chuck Darnell, Senior Planner

**DATE DEEMED COMPLETE:** May 22, 2019

**HEARINGS BODY & ACTION:** The McMinnville Planning Commission makes a recommendation for approval or denial to the City Council.

**HEARING DATE & LOCATION:** June 27, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon.

**HEARINGS BODY & ACTION:** The McMinnville City Council approves or denies the land-use application.

**HEARING DATE & LOCATION:** August 13, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville Oregon

**PROCEDURE:** An application for a Planned Development Amendment is processed in accordance with the procedures in Section 17.72.120 of the McMinnville Municipal Code. 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 McMinnville Municipal Code.

**CRITERIA:**

The applicable criteria for a Planned Development Amendment are specified in Section 17.74.070 of the McMinnville Municipal Code. 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 makes a recommendation to the City Council, and the City Council makes the final decision. As specified in Section 17.72.190 of the McMinnville Municipal Code, the City Council's decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 (twenty-one) days of the date written notice of decision is mailed. The City's final decision is subject to a 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; Northwest Natural Gas; and Oregon Department of Transportation. Their comments are provided in this document.

**DECISION**

Based on the findings and conclusionary findings, the City Council finds the applicable criteria are satisfied with conditions and **APPROVES** the Planned Development Amendment (PDA 1-19) **subject to the conditions of approval provided in Section II of this document.**

////////////////////////////////////  
**DECISION: APPROVAL WITH CONDITIONS**  
////////////////////////////////////

City Council: Scott Hill  
Scott Hill, Mayor of McMinnville

Date: 8/15/2019

Planning Commission: Roger D. Hall  
Roger Hall, Chair of the McMinnville Planning Commission

Date: 8/19/2019

Planning Department: Heather Richards  
Heather Richards, Planning Director

Date: 8/19/19

## **I. APPLICATION SUMMARY:**

The applicant has provided information in their application narrative and findings (attached as Attachment 1) regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current Planned Development Amendment request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

### ***Subject Property & Request***

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.

The application (PDA 1-19) is a request for a Planned Development Amendment to remove the subject property from an existing Planned Development Overlay District. The requested amendment to remove the subject site is to allow for the expansion of an existing electrical substation. The Planned Development Amendment request was submitted for review concurrently with three other land use applications, as allowed by Section 17.72.070 of the MMC. The requested amendment is being reviewed concurrently with a Comprehensive Plan Map Amendment, Zone Change, and Conditional Use to allow for the existing electrical substation on the site to be expanded.

Excerpts from Land Use Application Narrative and Findings:

In summary, simultaneous applications are made for the following land use actions:

- 1) Comprehensive Plan Map Amendment – Amendment from the current mix of Residential and Commercial designations to Residential, only. Applicable review criteria for a Comprehensive Plan Map Amendment are found in Section 17.74.020 of the MMC. [...]
- 2) Zone Change – Simultaneously with the plan amendment change to Residential, application is made for Zone Change of the entire parcel from a mix of R-1 and EF-80 to ALL R-1 (Single Family Residential). Applicable review criteria for a Zone Change are the same as those for the Comprehensive Plan Map Amendment, which are in Section 17.74.020 of the MMC. [...]
- 3) Planned Development Amendment – Simultaneously application is made to amend the Planned Development overlay created by Ordinance 4633 to remove the subject site from the overlay and reduce the size of the overlay to remove the substation lot (existing tax lot 4418-00101). Applicable review criteria for a Planned Development Amendment are in Section 17.74.070 of the MMC. [...]
- 4) Conditional Use Permit – Simultaneously with the other applications, application is made for a conditional use permit to expand the substation facility. Section 17.12.020(L) of the MMC identifies “Electrical power substation” as a conditional use1 in a R-1 zone. The level of review and compatibility of the substation with the future commercial, residential and park uses that will surround this site will be based on the conditional use review criteria in Section 17.74.030 and 17.74.040 of the MMC. [...]

***See Vicinity Map (Figure 1), Existing Zoning (Figure 2), and Proposed Zoning (Figure 3) below. Note that the Proposed Zoning is the zoning as proposed should ZC 2-19 be approved.***

Figure 1. Vicinity Map



Figure 2. Existing Zoning

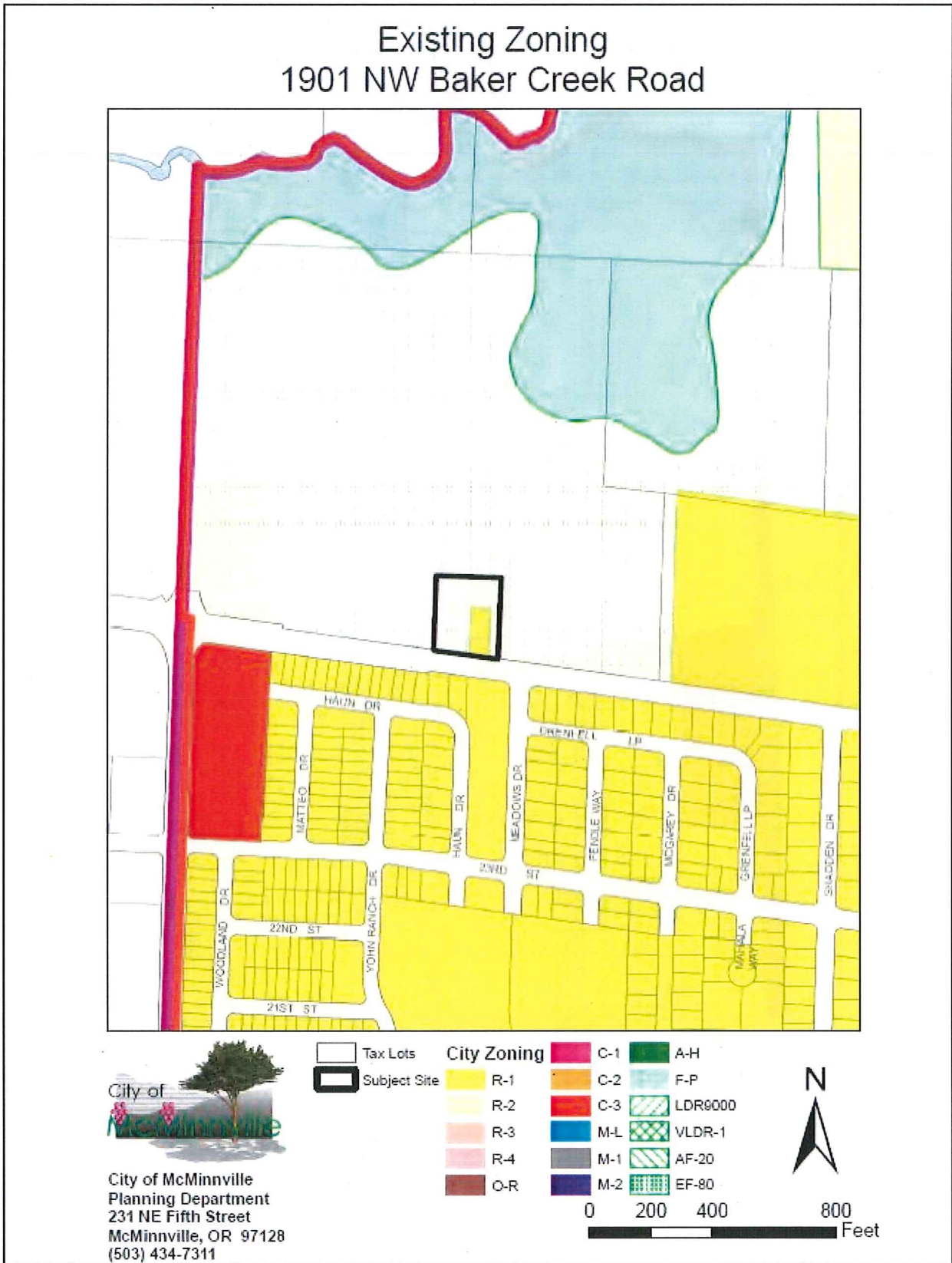
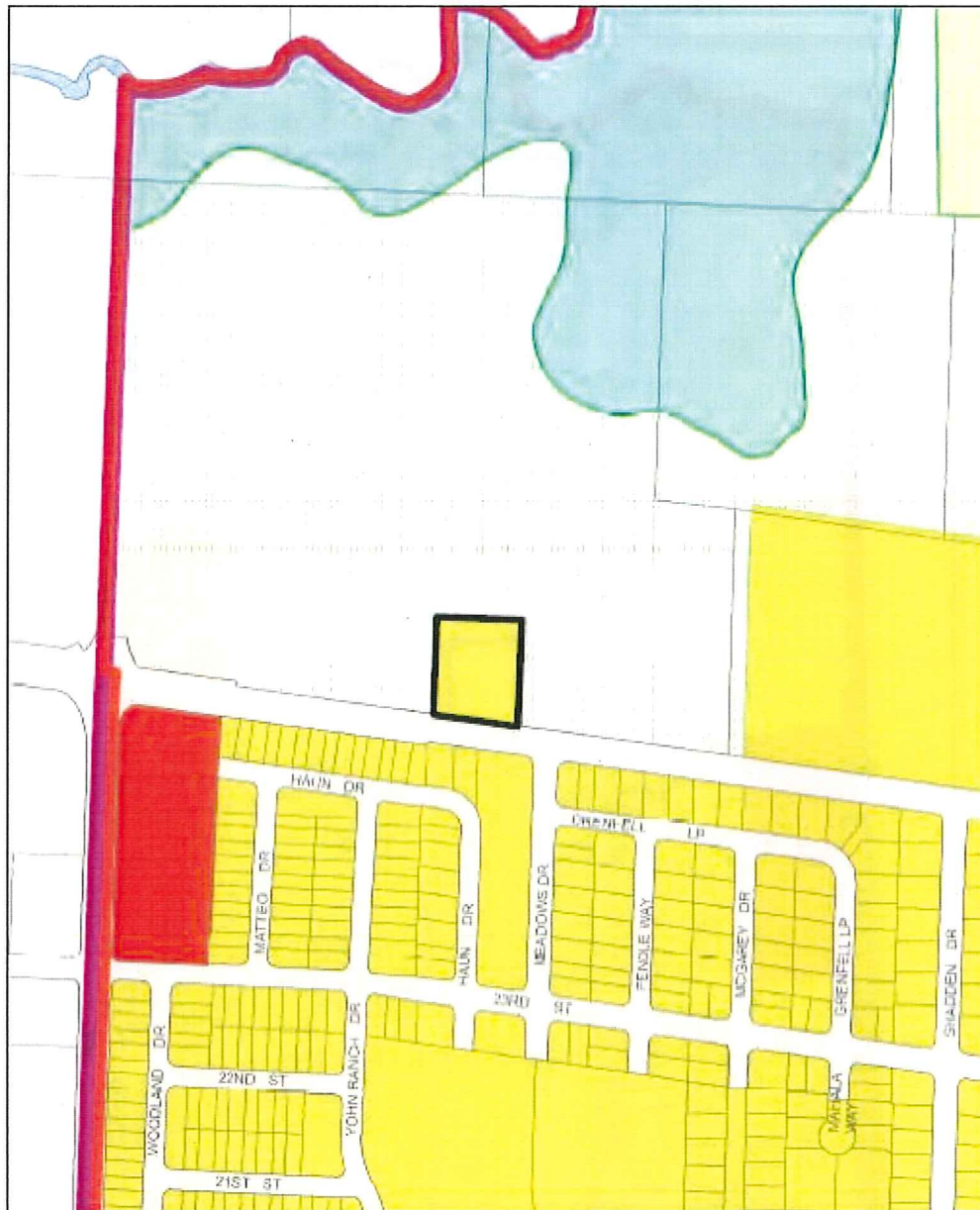


Figure 3. Proposed Zoning

### Proposed Zoning 1901 NW Baker Creek Road

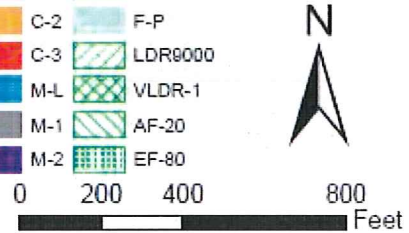


City of McMinnville  
Planning Department  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311

Tax Lots  
 Subject Site

**City Zoning**

- R-1
- R-2
- R-3
- R-4
- O-R
- C-1
- C-2
- C-3
- M-L
- M-1
- M-2
- A-H
- F-P
- LDR0000
- VLDR-1
- AF-20
- EF-80





## Background

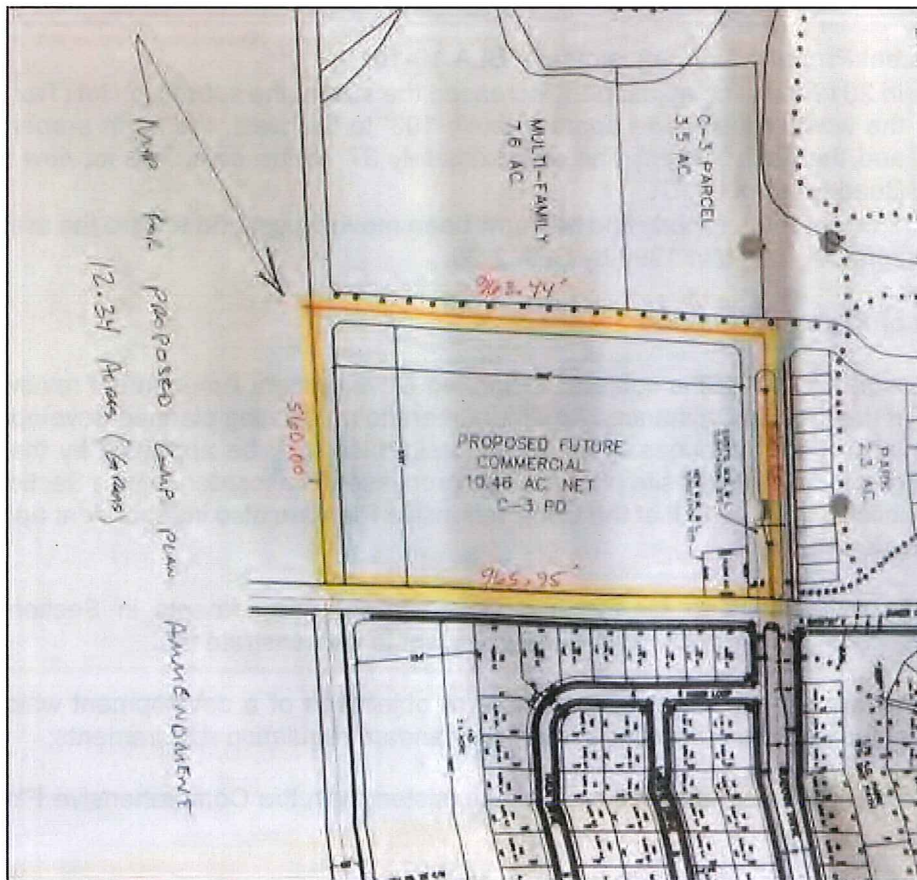
Excerpts from Land Use Application Narrative and Findings:

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 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).
    - 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.

***Summary of Criteria & Issues***

The application (PDA 1-19) is subject to Planned Development Amendment review criteria in Section 17.74.070 of the Zoning Ordinance. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

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 applicant has provided findings to support the request for a Planned Development Amendment. These will be discussed in detail in Section VII (Conclusionary Findings) below.

Generally, the purpose of a planned development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the provisions of the zoning ordinance. Further, the purpose of a planned development is to encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach and apply new technology in land development; preserve significant man-made and natural features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces. A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance.

Consideration of a planned development request includes weighing the additional benefits provided to the development and city as a whole through the planned development process that go above and beyond what would be provided through a standard land use application against the applicable zoning requirements. It should be noted in this case that the subject site is already regulated by an existing Planned Development (Ordinance No. 4633), and the request is only to remove the subject property from the Planned Development Overlay District due to the intended use of the property as an expanded electrical substation.

**II. CONDITIONS:**

- 1. That Ordinance 4633 is amended to remove the subject site and property from the Planned Development Overlay District, hereby adjusting the boundary of the Planned Development Overlay District. All other standards and conditions of approval adopted by Ordinance 4633 remain in effect.

**III. ATTACHMENTS:**

- 1. PDA 1-19 Application and Attachments (on file with the Planning Department)
- 2. Ordinance No. 4633 (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, Northwest Natural Gas. The following comments were received:

- McMinnville Engineering Department

No comments. At the time of development of the substation, that appropriate public infrastructure improvements will be required.

- McMinnville Fire Department

No comments received

- McMinnville Water and Light

No comments received

**Public Comments**

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was also provided in the News Register on Tuesday, June 18, 2019. As of the date of the Planning Commission public hearing on June 27, 2019, no public testimony had been received by the Planning Department.

**V. FINDINGS OF FACT - PROCEDURAL FINDINGS**

- A. The applicant, Samuel Justice on behalf of McMinnville Water and Light, held a neighborhood meeting on March 27, 2019.
- B. The applicant submitted the Planned Development Amendment application (PDA 1-19) on April 26, 2019.
- C. The application was deemed complete on May 22, 2019. Based on that date, the 120 day land use decision time limit expires on September 19, 2019.
- D. 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.

Comments received from agencies are addressed in the Decision Document.

- E. Notice of the application and the June 27, 2019 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.72.120 of the Zoning Ordinance on Thursday, June 6, 2019.
- F. Notice of the application and the June 27, 2019 Planning Commission public hearing was published in the News Register on Tuesday, June 18, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.

- G. No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.
- H. On June 27, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

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

- 1. **Location:** 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.
- 2. **Size:** Approximately 1.22 acres.
- 3. **Comprehensive Plan Map Designation:** Residential
- 4. **Zoning:** R-1 (Single Family Residential)
- 5. **Overlay Zones/Special Districts:** Planned Development Overlay District (Ordinance No. 4633)
- 6. **Current Use:** Electrical Substation (Baker Creek Substation)
- 7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** None
- 8. **Other Features:** The site is generally flat, with a minor slope to the northwest. There are no significant or distinguishing natural features associated with this property.
- 9. **Utilities:**
  - a. **Water:** Water service is available to the subject site.
  - b. **Electric:** Power service is available to the subject site.
  - c. **Sewer:** Sanitary sewer service is available to the subject site.
  - d. **Stormwater:** Storm sewer service is available to the subject site.
  - e. **Other Services:** Other utility services are available to the subject site. Northwest Natural Gas and Comcast is available to serve the site.
- 10. **Transportation:** The site is adjacent to NW Baker Creek Road, which is identified as a minor arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for minor collector streets as 96 feet. The applicant recently completed a property line adjustment (BLA 10-18) and at that time dedicated necessary right-of-way to provide for half of the required 96 foot right-of-way width as measured from the centerline of the right-of-way. This right-of-way dedication is described in a dedication deed recorded as Instrument No. 201900623, Yamhill County Deed Records. Therefore, no additional right-of-way dedications are necessary.

**VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Planned Development Amendment are specified in Section 17.74.070 of the Zoning Ordinance.

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

**Comprehensive Plan Volume II:**

The 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.

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

**GOAL X 1:** TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMinnville.

**GOAL X 2:** TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.

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

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

Applicant solicited input from neighbors (direct mail Attachment 15; Public Notice Attachment 17) and conducted a neighborhood meeting on March 27, 2019 (See attendee list as Attachment 18). No neighbors attended the meeting and no public comment was gathered.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings, and adds that the process for a Planned Development Amendment provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

**McMinnville Zoning Ordinance**

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

### **Chapter 17.03. General Provisions**

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

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

### **Chapter 17.12 Single-Family Residential Zone**

**17.12.020 Conditional Uses.** In an R-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74: [...]

L. Electrical power substation [..]

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The proposed Zone Change to R-1 (Single Family Residential), as requested concurrently under ZC 2-19, will allow for the intended expansion of the existing electrical power substation on the subject site. Electrical power substations are allowed as a conditional use in the R-1 zone.

### **Chapter 17.51. Planned Development Overlay**

**17.74.070. Planned Development Amendment – Review Criteria.** An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120, and include the following:

- An increase in the amount of land within the subject site;
- An increase in density including the number of housing units;
- A reduction in the amount of open space; or
- Changes to the vehicular system which results in a significant change to the location of streets, shared driveways, parking areas and access.

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** While none of the listed changes are specifically applicable, the Planning Director has determined that the proposed Planned Development Amendment, which reduces the size of the Planned Development Overlay District, is considered to be a Major amendment and is therefore subject to Section 17.72.120, as addressed herein. The applicant

has provided a Planned Development Amendment request to be reviewed by the Planning Commission in accordance with Section 17.72.120.

**17.74.070. Planned Development Amendment – Review Criteria.** [...] An amendment to an existing planned development may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

**17.74.070(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;*

**APPLICANT'S RESPONSE:** The application seeks to remove the planned Development Plan Overlay from the 1.22 acre expanded substation site. The overlay will otherwise remain. Currently, about 2/3 (0.8 acres) of the site is subject to the overlay and will create inconsistent development requirements where the overlay was intended for commercial development and the site is being rezoned to residential, with the substation expansion as a conditional use. Removal of the overlay will allow a single standard for review across the entire parcel.

Additional Responses from Applicant (provided in Planned Development Amendment application question responses): The pattern of development is orderly and timely in that the area is largely already residential. An amendment of the Comprehensive Plan Map to residential, from commercial, is consistent with the actual development in the immediate area of the parcel. The area, adjacent to the east (along with half of the existing parcel) and north is residential. The area on the south side of Baker Creek Road is currently under residential development. The area to the west will remain commercial. The substation is also needed to serve the expected commercial uses.

Consolidation of the parcel under one Comprehensive Plan Map designation will allow the parcel to be rezoned to R1 and for application for a conditional use permit to allow an electric substation. The surrounding neighborhoods are currently under large scale residential development. The consolidation of the plan map designation and related zone change and conditional use permit will facilitate the construction of the needed electric facility infrastructure to support the anticipated changes in the neighborhood, those changes being large-scale residential development together with commercial development.

**FINDING: SATISFIED.** The City concurs with the applicant's findings. The City adds that the request is to remove the subject site and properties from the Planned Development Overlay District, so no other changes would be made to the existing Planned Development or changes to any of the regulations or conditions of approval contained within the Planned Development. Specifically, a condition of approval is included to ensure that all other standards and conditions of approval adopted by Ordinance 4633 in the approval of the original Planned Development Overlay District would remain in effect.

The removal of the subject property from the existing Planned Development Overlay is being requested due to the previous land use approvals that were submitted for concurrent review with the Planned Development Amendment. There are special objectives of the proposed development (that being the development proposed by the Comprehensive Plan Map Amendment, Zone Change, and Conditional Use requests submitted for concurrent review with the Planned Development Amendment) that warrant the amendment of the Planned Development Overlay District to remove the subject site and property. In particular, the proposed development results in the property being designated as Residential on the Comprehensive Plan Map and being zoned R-1 (Single Family Residential) to allow for the expansion of the existing electrical power substation as a conditional use in the R-1 zone. The



existing Planned Development Overlay is a Commercial Planned Development. As the intended development of the site is now through a residential designation and zoning process, the removal of the site from the Commercial Planned Development is warranted and necessary. The special objectives of the proposed development are described by the applicant in the application narrative and supported by findings of fact for those land use application decisions (CPA 2-19, ZC 2-19, and CU 2-19).

**17.74.070(B).** *Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;*

**APPLICANT'S RESPONSE:** See Exhibit 1, Section C, above, for discussion of Goals and Policies. With the concurrent Comprehensive Plan Map amendment, the new substation will be consistent with serving the utility needs of the densely growing and expanding residential use planned for the area surrounding the expanded substation.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, and also refers to the findings provided for the applicable Comprehensive Plan goals and policies in Section VII (Conclusionary Findings) above. The City also notes that the resulting development (that being the development proposed by the Comprehensive Plan Map Amendment, Zone Change, and Conditional Use requests submitted for concurrent review with the Planned Development Amendment), would not be inconsistent with the Comprehensive Plan goals, policies, and objectives, as described in the findings of fact in the Decision Documents for those land use requests.

**17.74.070(C).** *The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;*

**APPLICANT'S RESPONSE:** Not applicable.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, given the intended use of the site and the subsequent Conditional Use application that will be reviewed concurrently with this Planned Development Amendment request.

**17.74.070(D).** *The plan can be completed within a reasonable period of time;*

**APPLICANT'S RESPONSE:** The expansion has been planned and needed equipment is already on order and the expansion is in the current MW&L "Light" Budget for Water and Light. Attachment 13, pages 1-2 (pages 15-16 to plan).

**FINDING: SATISFIED.** The City concurs with the applicant's findings, given the intended use of the site and the subsequent Conditional Use application that will be reviewed concurrently with this Planned Development Amendment request.

**17.74.070(E).** *The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;*

**APPLICANT'S RESPONSE:** The substation site is adjacent to Baker Creek Road and easily accessible.

Additional Responses from Applicant (provided in Planned Development Amendment application question responses): The proposed use will have a negligible effect on traffic in the area, as the site is already in use as an electric substation. Visits and maintenance at the

expanded facility will take advantage of economies of scale in combination with the existing facility. The expansion should not perceptibly increase traffic volume.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, given the intended use of the site and the subsequent Conditional Use application that will be reviewed concurrently with this Planned Development Amendment request.

**17.74.070(F).** *Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;*

**APPLICANT'S RESPONSE:** The development will serve utility need for proposed growing population densities in the surrounding neighborhoods. The site will use a combination of gravel, paved and landscape surfaces that will minimally impact drainage.

Additional Responses from Applicant (provided in Planned Development Amendment application question responses): The site will not require sewer, or natural gas to operate. The facility is currently served with electricity and water by MW&L and MW&L will continue to serve the site in a like manner. The north and west of the City of McMinnville has the bulk of the buildable land for residential development. MW&L's 2015 Electric System Planning Study recommends expansion of the Baker Creek Substation as the least cost option to address the expansion of the electric system in this area of the City.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, and would add that the City provided opportunity for review and comment by city departments, other public and private agencies and utilities, and McMinnville Water and Light to ensure the coordinated provision of utilities and services to the subject site based on the proposed land use request. Based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. No comments were provided that were in opposition or identified any issues with providing utilities and services to the subject site for the intended use. At the time of development of the site, final development plans will be required to provide a detailed storm drainage plan, a sanitary sewer collection plan (if necessary for the use), and the provision of water and power services. Any right-of-way improvements required for the subject site will be required at the time of development as well.

**17.74.070(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.*

**APPLICANT'S RESPONSE:** The expanded substation will have a noise impact of a like-kind to the existing substation facility, which will be partially mitigated by screening (plant and man-made). The expanded facility will be built with additional environmental safety features to protect against water pollutants.

**FINDING: SATISFIED.** The concurrent request of a Zone Change to the R-1 (Single Family Residential) zone, along with the other concurrent request to designate the property as Residential on the Comprehensive Plan Map, results in a land use designation and zoning district that will afford the most opportunity for public hearing and notice for the eventual intended use of the site through the Conditional Use review process. The Zone Change to R-1 will also allow for the application of development (setbacks, structure height, etc.) and conditional use standards for the eventual intended use of the site (that being an expansion of the existing electrical power substation), which will ensure compatibility of the intended use with surrounding development. These development and conditional use standards will be applied to the subject

site through the review of the subsequent Conditional Use application that will be reviewed concurrently with this Planned Development Amendment request, so that the subject site is designed to ensure compatibility with surrounding land uses.

CD