

ORDINANCE NO. 5077

AN ORDINANCE APPROVING A CONDITIONAL USE TO ALLOW FOR THE EXPANSION OF AN EXISTING ELECTRICAL POWER SUBSTATION AT 1901 NW BAKER CREEK ROAD

RECITALS:

The Planning Department received an application (CU 2-19) from Samuel Justice, on behalf of property owner McMinnville Water and Light, requesting approval of a Conditional Use to allow for the expansion of an existing electrical power substation. The property is zoned R-1 (Single Family Residential), based on a concurrent land use application for a Zone Change submitted by the applicant, and electrical power substations are listed as a conditional use in Section 17.12.020(L) of the McMinnville Municipal Code; 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 Conditional Use review criteria listed in Section 17.74.030 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 Conditional Use 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 Conditional Use is approved, subject to the following conditions:
 - 1) That prior to the development of the electrical power substation, the applicant shall submit building permits for all necessary construction activities. The site plan provided with the building permit construction plans shall be consistent with the preliminary site plan provided with the Conditional Use application.
 - 2) That the applicant shall complete right-of-way improvements to the property's frontage along NW Baker Creek Road, as required by the McMinnville

Transportation System Plan and Section 17.53.101 of the McMinnville Municipal Code.

- 3) That the applicant shall coordinate and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with the development of the property surrounding and immediately adjacent to the subject site on the north side of Baker Creek Road. This property is currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision.

In the event that the surrounding property does not move forward with development and subdivision in a timely manner, the applicant shall complete the right-of-way improvements by January 15, 2022. If the right-of-way improvements are deferred to a time that is past final building permit inspections, the applicant shall bond for the improvements in accordance with the Engineering Department's requirements for bonding and surety of deferred right-of-way improvements.

- 4) That the applicant shall submit a landscape plan and Landscape Plan Review application to the McMinnville Landscape Review Committee for their review and approval prior to the issuance of building permits for the expansion of the electrical power substation. The landscape plan shall contain the following:
 - a. Perimeter fencing around the entire substation site as identified on the preliminary site plan and preliminary landscape plan provided with the Conditional Use application. The perimeter fencing shall be sight-obscuring as proposed in the application narrative. The specific fence materials to be used shall be submitted to the Planning Director for review to ensure that they are compatible with and do not have a detrimental visual impact on surrounding properties.
 - b. White two-railing fencing along the south property line to match the fencing along the south side of Baker Creek Road.
 - c. Shrubs forming a linear row around the perimeter of the entire substation site. The shrubs selected shall be evergreen shrubs to provide year-round vegetation.
 - d. Trees proposed shall be of a species or variety that may grow to a maximum mature canopy height of 25 feet, but not so small that they don't provide visual screening above the top of the fence.

All landscaping on the site shall be installed as approved by the Landscape Review Committee prior to final building permit inspections being completed.

- 5) That the applicant plant street trees within curbside planting strip within the Baker Creek Road right-of-way in accordance. The proposed street tree plantings shall be included in the landscape plan required in Condition #4 above. The landscape plan shall identify the locations of all street lights, fire hydrants, utility vaults, transformers, and other public and private utilities. All street trees shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and be spaced as appropriate for the selected species and as may be required for the location of above ground utility vaults, transformers, light poles, and hydrants. In planting areas that may be constrained, additional consideration shall be given to the tree species and other

planting techniques, as determined by the Landscape Review Committee, may be required to allow for the planting of street trees without compromising adjacent infrastructure. All street trees shall be of good quality and shall conform to American Standard for Nursery Stock (ANSI Z60.1). The Planning Director reserves the right to reject any plant material which does not meet this standard.

a. Trees shall be provided with root barrier protection in order to minimize infrastructure and tree root conflicts. The barrier shall be placed on the sidewalk side of the tree and the curb side of the tree. The root barrier protection shall be placed in 10-foot lengths, centered on the tree, and to a depth of eighteen (18) inches. In addition, all trees shall be provided with deep watering tubes to promote deep root growth.

6) That the lighting of the substation be limited to lighting that is described on page 7 (Section 1.1.3 – Substation Lighting) of the application narrative. Specifically, the substation will include only access and maintenance lighting. The access lighting will be low-intensity and controlled by photo sensors. The maintenance lighting will only be used when required for maintenance or emergency repairs. All lights on the site shall be directed downward and onto the substation site, and shall be shielded to reduce glare and minimize light visible from outside the facility.

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

Passed by the Council this 13th day of August, 2019, by the following votes:

Ayes: _____

Nays: _____

MAYOR

Attest:

Approved as to form:

CITY RECORDER

CITY ATTORNEY



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

503-434-7311
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DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A CONDITIONAL USE TO ALLOW FOR THE EXPANSION OF AN EXISTING ELECTRICAL POWER SUBSTATION AT 1901 NW BAKER CREEK ROAD

- DOCKET:** CU 2-19 (Conditional Use)
- REQUEST:** Approval of the expansion of the existing electrical power substation, which is also known as the Baker Creek Substation. Electrical power substations are a conditional use in the underlying R-1 (Single Family Residential) zone.
- 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 2nd 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 2nd Street, McMinnville Oregon
- PROCEDURE:** An application for a Conditional Use 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. Due to the fact that the Conditional Use application

was submitted concurrently with three other land use applications, the Conditional Use application is subject to the hearing procedure that affords the most opportunity for public hearing and notice, per Section 17.72.070 of the McMinnville Municipal Code. The other land use applications require City Council decision. Therefore, the Planning Commission will provide a recommendation to City Council, who will take final action on the Conditional Use application.

CRITERIA:

The applicable criteria for a Conditional Use are specified in Section 17.74.030 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 Conditional Use (CU 2-19) **subject to the conditions of approval provided in Section II of this document.**

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DECISION: APPROVAL WITH CONDITIONS
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City Council: _____
 Scott Hill, Mayor of McMinnville

Date: _____

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

Date: _____

Planning Department: _____
 Heather Richards, Planning Director

Date: _____

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 Conditional Use 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 (ZC 2-19) is a request for a Conditional Use to allow for the expansion of an existing electrical power substation. The existing electrical power substation was approved with a Conditional Use permit in 1999 (CU 7-99). The expansion of the existing substation will require additional Conditional Use review, as an electrical power substation is a conditional use in the underlying R-1 (Single Family Residential) zone. The Conditional Use request was submitted for review concurrently with three other land use applications, as allowed by Section 17.72.070 of the MMC. The Conditional Use request is being reviewed concurrently with a Comprehensive Plan Map Amendment, Zone Change, and Planned Development Amendment 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

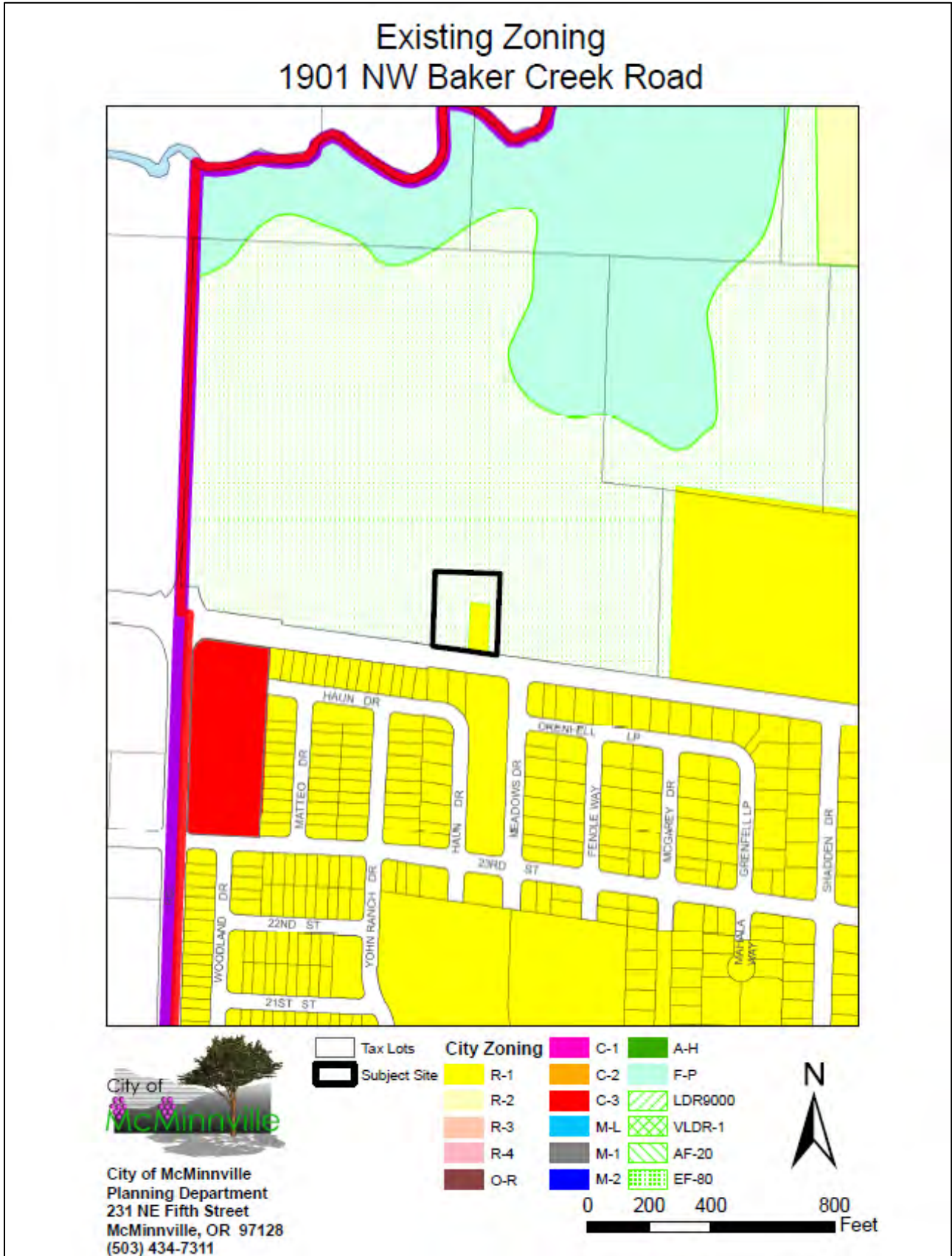


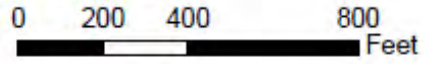
Figure 3. Proposed Zoning

Proposed Zoning 1901 NW Baker Creek Road



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

Tax Lots	City Zoning	C-1	A-H
Subject Site	R-1	C-2	F-P
	R-2	C-3	LDR9000
	R-3	M-L	VLDR-1
	R-4	M-1	AF-20
	O-R	M-2	EF-80



The applicant has provided a detailed description of the proposed expansion of the existing electrical power substation, as well as providing a preliminary site plan and landscape plan for the expansion of the substation.

Excerpts from Land Use Application Narrative and Findings:

1.1 Baker Creek Substation Facilities and Expansion

This section describes the intended construction, operation, and maintenance of an expanded substation, the associated transmission and distribution lines, and the telecommunication system for the Proposed Project.

1.1.1 Substation Description

Currently, MW&L's Baker Creek substation consists of electrical equipment needed to operate the substation, underground distribution circuits leaving the substation, a perimeter fence surrounding the substation equipment with a gate(s) to provide access in and out of the substation. As currently configured, the substation footprint within the fence is approximately 0.26 acres. As expanded, the substation footprint (area contained within the substation perimeter fence) is approximately 0.87 acres. The total area of the expanded substation including a buffer area (area outside the substation perimeter fence) is approximately 1.22 acres.

- 1.1.1.1 Reasons/Intended use.** The substation will be used to transform high voltage electricity to medium voltage electricity, prior to the current being switched onto electric lines for transmission in neighborhoods. The expanded site is needed to host a second transformer and related switchgear to serve the expanding residential and commercial development in northern and western McMinnville.

1.1.2 Substation Equipment

The expansion essentially doubles the existing substation facility. As expanded, the substation will be an unmanned, automated, 115/12 kV substation containing a 115 kV switchrack, **two** 20 MVA 115/12 kV transformers, and **two** 12 kV metalclad switchgears. The substation will be served from two 115 kV transmission source lines. There are four existing 12kV distribution circuits and **four additional** 12 kV distribution circuits will be constructed. The exact location and routing of these proposed circuits have yet to be determined, but will be in a utility easement. These circuits will be designed to meet future electrical demand.

The 115 kV switchrack will be an operating and transfer bus configuration with two line breakers and two sets of group disconnects. The bus-tie position will have one circuit switcher and one set of group disconnects. There is one existing 12 kV metalclad switchgear and there will be one additional new 12 kV metalclad switchgear. The two 12 kV metalclad switchgears will be prefabricated metal buildings measuring approximately 12 feet high, 35 feet long, and 15 feet wide to house an operating and transfer bus configuration each with four breakers supplying the underground 12 kV distribution circuits, a bus tie breaker, as well as relay panels, battery and battery charger, AC and DC distribution switchboards, and telecommunications equipment. The substation will be equipped with a substation automation system which includes two remote terminal unit (RTU) racks and equipment panels with system protection and control equipment.

All equipment and structures at the substation will be electrically grounded in accordance with the National Electric Safety Code "NESC" (as adopted by the Oregon Public Utility Commission) and industry standards.

1.1.3 Substation Lighting

The proposed substation will have access and maintenance lighting. The access light will be low-intensity and controlled by photo sensors. Maintenance lights will consist of LED lights located in the switchracks, around the transformer banks, and in areas of the substation where maintenance activity may take place. Maintenance lights will be used only when required for maintenance outages or emergency repairs occurring at night. Maintenance lights will be controlled by a manual switch and will normally be in the off position. The lights will be directed downward and shielded to reduce glare outside the facility.

1.1.4 Substation Landscaping

The substation site will be landscaped following construction. Approximately 25% of the site is designed to be outside the screen fencing and will be available for landscaping. A portion of this includes area in the R.O.W., anticipated for sidewalk and planting strip (~8% of total area). As the surrounding area develops, the substation landscaping in a form as attached as Attachment 2 ("landscape plan") will be implemented consistent with community and city standards, consistent with NESC/OPUC/MW&L safety standard, and as required with approval of the Landscape Review Committee.

1.1.5 Substation Perimeter Features

To screen the substation from the public and to secure the facility, the substation will be enclosed on all four sides by a minimum 6 foot high perimeter fence (with one-foot barbed wire atop), with inserted colored slats consistent with the landscape plan. The metal access gate(s) will be approximately 20 feet wide and also a minimum of 6 feet high. All perimeter fences and gates will be fitted with barbed wire for increased security. See Attachment 12 (OPUC substation fencing requirement). Landscape trees will be placed at NESC/OPUC required distances from the fencing.

1.1.6 Site Access

The substation will be accessed by two 20-foot wide asphalt concrete paved driveways connecting to Baker Creek Road. The substation entrance will have locked gates for two-way traffic access to the substation.

See Preliminary Site Plan (Figure 4) and Preliminary Landscape Plan Rendering (Figure 5) below.

Figure 4. Preliminary Site Plan

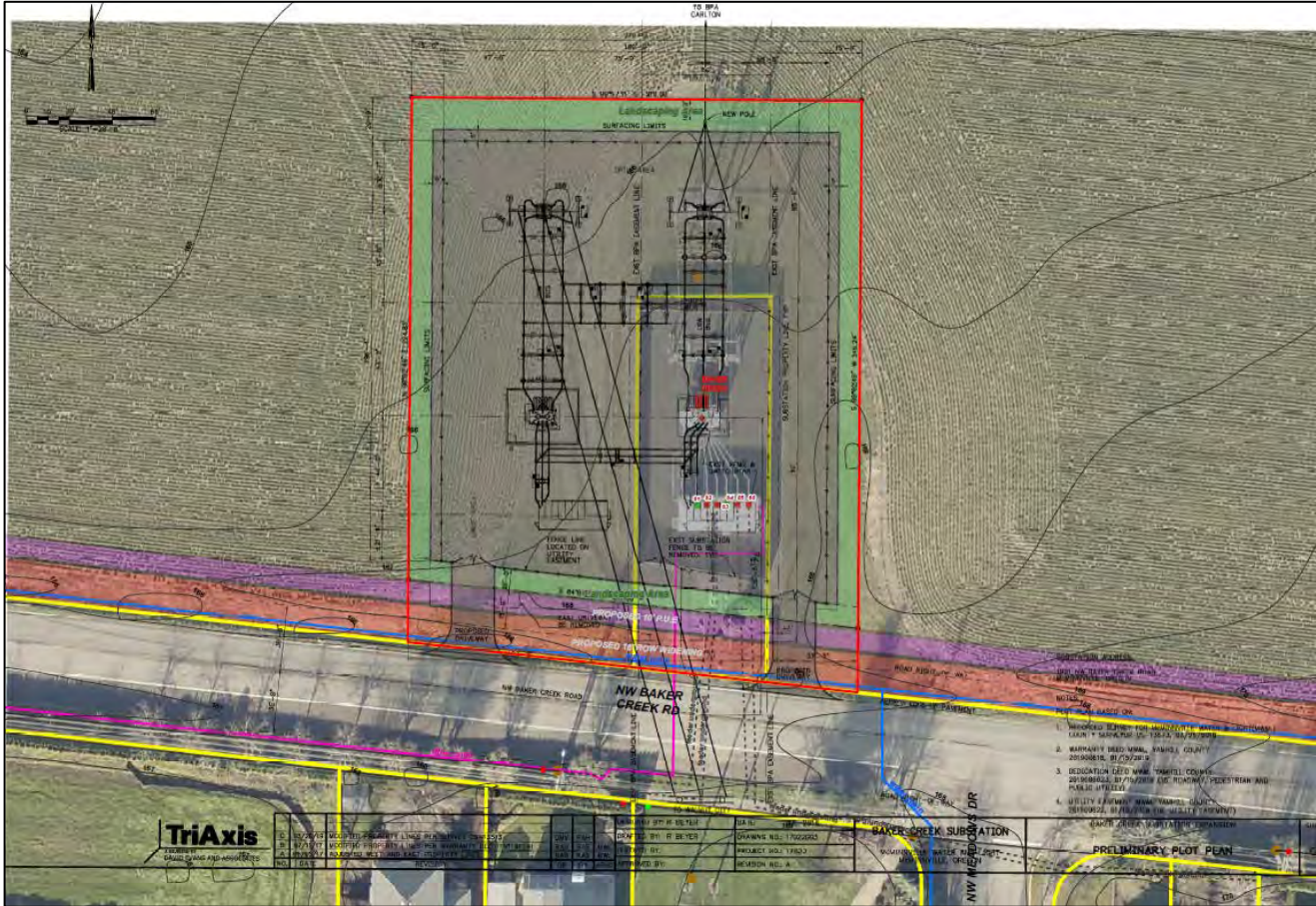
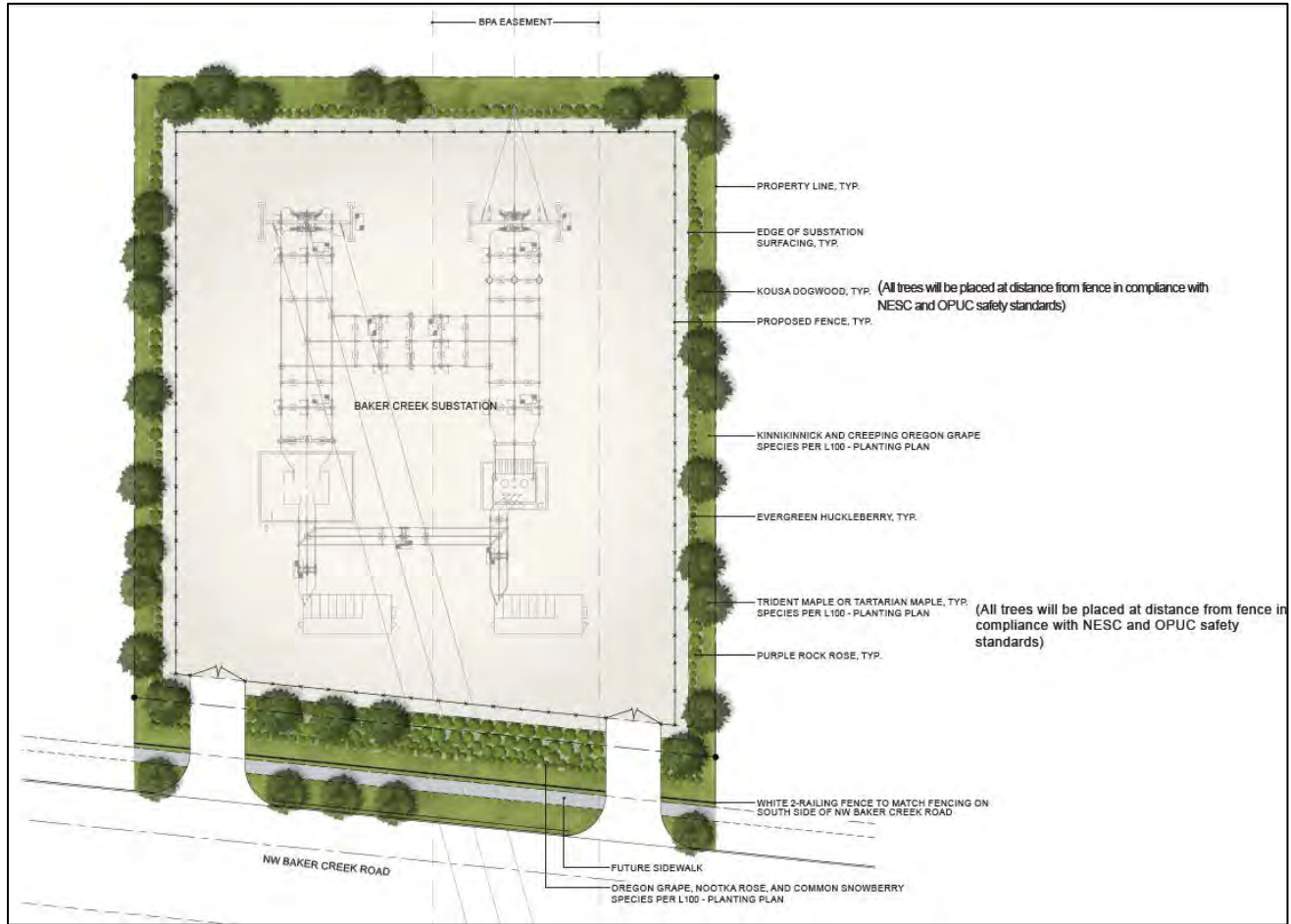


Figure 5. Preliminary Landscape Plan Rendering



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 (CU 2-19) is subject to the Conditional Use review criteria in Section 17.74.030 of the Zoning Ordinance. Requests to amend the Comprehensive Plan Map are 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 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.

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

II. CONDITIONS:

1. That prior to the development of the electrical power substation, the applicant shall submit building permits for all necessary construction activities. The site plan provided with the building permit construction plans shall be consistent with the preliminary site plan provided with the Conditional Use application.
2. That the applicant shall complete right-of-way improvements to the property's frontage along NW Baker Creek Road, as required by the McMinnville Transportation System Plan and Section 17.53.101 of the McMinnville Municipal Code.
3. That the applicant shall coordinate and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with the development of the property surrounding and immediately adjacent to the subject site on the north side of Baker Creek Road. This property is currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision.

In the event that the surrounding property does not move forward with development and subdivision in a timely manner, the applicant shall complete the right-of-way improvements by January 15, 2022. If the right-of-way improvements are deferred to a time that is past final building permit inspections, the applicant shall bond for the improvements in accordance with the Engineering Department's requirements for bonding and surety of deferred right-of-way improvements.

4. That the applicant shall submit a landscape plan and Landscape Plan Review application to the McMinnville Landscape Review Committee for their review and approval prior to the issuance of building permits for the expansion of the electrical power substation. The landscape plan shall contain the following:
 - a. Perimeter fencing around the entire substation site as identified on the preliminary site plan and preliminary landscape plan provided with the Conditional Use application. The perimeter fencing shall be sight-obscuring as proposed in the application narrative. The specific fence materials to be used shall be submitted to the Planning Director for review to ensure that they are compatible with and do not have a detrimental visual impact on surrounding properties.
 - b. White two-railing fencing along the south property line to match the fencing along the south side of Baker Creek Road.
 - c. Shrubs forming a linear row around the perimeter of the entire substation site. The shrubs selected shall be evergreen shrubs to provide year-round vegetation.
 - d. Trees proposed shall be of a species or variety that may grow to a maximum mature canopy height of 25 feet, but not so small that they don't provide visual screening above the top of the fence.

All landscaping on the site shall be installed as approved by the Landscape Review Committee prior to final building permit inspections being completed.

5. That the applicant plant street trees within curbside planting strip within the Baker Creek Road right-of-way in accordance. The proposed street tree plantings shall be included in the landscape plan required in Condition #4 above. The landscape plan shall identify the locations of all street lights, fire hydrants, utility vaults, transformers, and other public and private utilities. All street trees shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and be spaced as appropriate for the selected

species and as may be required for the location of above ground utility vaults, transformers, light poles, and hydrants. In planting areas that may be constrained, additional consideration shall be given to the tree species and other planting techniques, as determined by the Landscape Review Committee, may be required to allow for the planting of street trees without compromising adjacent infrastructure. All street trees shall be of good quality and shall conform to American Standard for Nursery Stock (ANSI Z60.1). The Planning Director reserves the right to reject any plant material which does not meet this standard.

- a. Trees shall be provided with root barrier protection in order to minimize infrastructure and tree root conflicts. The barrier shall be placed on the sidewalk side of the tree and the curb side of the tree. The root barrier protection shall be placed in 10-foot lengths, centered on the tree, and to a depth of eighteen (18) inches. In addition, all trees shall be provided with deep watering tubes to promote deep root growth.
6. That the lighting of the substation be limited to lighting that is described on page 7 (Section 1.1.3 – Substation Lighting) of the application narrative. Specifically, the substation will include only access and maintenance lighting. The access lighting will be low-intensity and controlled by photo sensors. The maintenance lighting will only be used when required for maintenance or emergency repairs. All lights on the site shall be directed downward and onto the substation site, and shall be shielded to reduce glare and minimize light visible from outside the facility.

III. ATTACHMENTS:

1. CU 2-19 Application and Attachments (on file with the Planning Department)
2. McMinnville Water and Light Letter on CU 2-19 Conditions of Approval (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

See Attachment #2 above.

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 Conditional Use application (CU 2-19) 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:** None.
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 Conditional Use are specified in Section 17.74.030 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 VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.

Streets

Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications.

1. *Major, minor arterials.*
 - Access should be controlled, especially on heavy traffic-generating developments.
 - Designs should minimize impacts on existing neighborhoods.
 - Sufficient street rights-of-way should be obtained prior to development of adjacent lands.
 - On-street parking should be limited wherever necessary.
 - Landscaping should be required along public rights-of-way. (Ord.4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION #2. The subject site is currently 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. A condition of approval is included to require that, at the time of development and building permit for the expanded electrical power substation, right-of-way improvements will be required to the standards required for a minor arterial in the McMinnville Transportation System Plan.

Growth Management

Policy 132.29.00 The construction of transportation facilities in the McMinnville planning area shall be timed to coincide with community needs, and shall be implemented so as to minimize impacts on existing development. Prioritization of improvements should consider the City's level of service standards. (Ord. 4922, February 23, 2010)

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION #3. The subject site is adjacent to and surrounded by other properties on the north side of Baker Creek Road that are currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision. In order to minimize impacts on existing development in the surrounding area, a condition of approval is included to require that the applicant coordinate with the surrounding property owner and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with adjacent subdivision development. This will ensure that Baker Creek Road corridor improvements are completed concurrently, which will result in a more consistent right-of-way facility for the use of the public and also minimize the timing and amount of reconstruction impacts on Baker Creek Road for residents in existing development in the surrounding area. However, in the event that the surrounding property not move forward with development or subdivision in a timely manner, the condition of approval requires that the right-of-way improvements be completed by January 15,

2022. This is the date that was already agreed upon between the applicant and the owner of the surrounding property that is currently undergoing development review (as documented in purchase agreement) in regards to coordinated improvement of the Baker Creek Road right-of-way. If the right-of-way improvements are extended out past final building permit inspections, the applicant shall bond for the improvements in accordance with the Engineering Department's requirements for bonding and surety of deferred right-of-way improvements.

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

Sanitary Sewer System

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

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

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

Storm Drainage

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

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

Water System

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

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. At the time of development and building permits for the expansion of the electrical power substation, 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, as described in more detail in the findings for Policy 122.00 and Policy 132.29.00 above.

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

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

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

Water and Sewer – Land Development Criteria

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

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

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. 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. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to ensure the coordinated provision of utilities to developing areas and in making land-use decisions. 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, as described in more detail in the findings for Policy 122.00 and Policy 132.29.00 above.

Energy Conservation

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

Energy Supply Distribution

Policy 171.00 The City of McMinnville shall continue to examine land use decisions in the light of present and projected supplies of electrical, fossil fuel, and other sources of energy.

APPLICANT'S RESPONSE: This application approval is consistent with policy 171.00 in providing additional transformer capacity to move the anticipated demand for electrical energy to neighborhoods and commercial areas in the city. The Electric System Planning Study, 2015, specifically recommends the expansion of the Baker Creek Substation. Electric System Planning Study 2015, Triaxis Engineering Written: Michael Antonishen. Attachment 4, page 15-7 (Figure 2-1; 2-7; Recommendations). This study further explains that McMinnville is experiencing levels of electric load at the current Baker Creek Substation that currently requires shifting load to other facilities. Electric System Planning Study, Attachment 4, at page 53; Table 6-2. Application approval is consistent with an examination of land use decisions in light of future electrical supply as described in the 2015 study.

Current projections indicate that peak load residential load is expected to grow with additional housing being developed on the west side of the City. See Memo, Jaime Phillips, Senior Power Analyst, McMinnville Water and Light (Attachment 5).

Application approval and resulting substation expansion will not impact the supply of electricity or other sources of energy. Until 2028, MW&L's supply is primarily provided by contract with the Bonneville Power Administration. However, approval of the substation expansion will increase the localized ability of MW&L to transmit available electric energy into the growing west and north sections of the city.

FINDING: SATISFIED. The City concurs with the applicant's findings.

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

APPLICANT'S RESPONSE: Review for approval of this application, and the required neighborhood meeting, and the public hearing process demonstrates coordination between the City and MW&L that is consistent with policy 173.00. The City routinely seeks comment from MW&L prior to land use decisions. MW&L comments on land use applications that appear to impact its utility purposes and facilities. The City's approval of these application demonstrate an effort to coordinate with MW&L. Applicant foresaw the need of the City in its related lot line adjustment (BLA 10-18) transaction, and dedicated real property to widen Baker Creek Road in front of the substation (Attachment 8) and also granted a public utility easement (Attachment 9) during that process. These preemptory conveyances by applicant in anticipation of the City's needs is also consistent with coordination between the City and applicant (Water and Light).

FINDING: SATISFIED. The City concurs with the applicant's findings.

Policy 175.00 The City of McMinnville, recognizing McMinnville Water and Light, Northwest Natural Gas, and other private suppliers as the agencies or groups responsible for energy distribution, encourages the extension of energy distribution services within the framework outlined below:

- 2. Facilities are planned in such a manner as to insure compatibility with surrounding land uses.*

APPLICANT'S RESPONSE: Approval of the application is consistent with policy 175.00 and proposal No. 2, in that the planned additional facilities are similar to the existing substation facilities, and along an existing high-voltage electricity transmission easement corridor. Current land use around the substation is agricultural, park, and residential. A BPA high voltage 60-foot-wide electric transmission easement runs north to south through the substation parcel. See Map. Attachment 1. The expanded substation use is consistent with the current uses.

MW&L has also developed a landscape plan to make the facility more compatible with the anticipated surrounding park, commercial and residential uses. See MW&L Landscape plan, ATTACHMENT 2.

The surrounding residential and commercial land uses, to an ever increasing degree, rely on electric energy. The electric substation is integral to the MW&L electric system supplying energy to the customers that work and live in the surrounding areas. Electric energy is both compatible and integral to both commercial and residential uses.

FINDING: SATISFIED. The City concurs with the applicant's findings. However, the City adds that the electrical power substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below, ensure that the proposed facility is planned in a manner as to be compatible with future surrounding land uses guided for both commercial and residential uses.

Policy 176.00 The City of McMinnville shall carefully consider the environmental impacts of the location and design of energy system facilities to minimize or eliminate adverse effects on residential, farm, and natural areas.

APPLICANT'S RESPONSE: This application and approval is consistent with this goal in that the application is supported by the site plan (Attachment 1) and landscape plan (Attachment 2) by TriaAxis Engineering. Design standards of the expanded facility take into account state of the art environmental protections for the expanded facility.

The expanded facility will include environmental protections. The protection (relating to the proposed new equipment) will include a secondary containment structure to catch oil that might leak from the new transformer. MW&L also maintains a current engineer-certified Spill, Prevention, Control and Countermeasures Plan. It is also noted that the Baker Creek substation is at a significant and safe distance from the nearest stream (Baker Creek), some 1,300 feet.

The applicant has identified four hazardous conditions that can occur at a power substation. The first one is the release of mineral oil from electrical equipment. To ensure that equipment failure does not occur due to the release of oil, the equipment has automatic monitoring systems to notify MW&L 24 hours a day if mineral oil is released. In addition, MW&L has designed the new substation with an oil catch basin. Any spills will be cleaned up and reported to appropriate agencies. The second identified hazard is called an arc flash. An arc flash is an electrical explosion or discharge that results from a low impedance connection through the air to ground or another piece of equipment in an electrical system. The applicant proposes to install equipment to minimize the hazards with potential arc flashes. The third hazard is catastrophic failure, which is caused when an electrical power transformer fails and the mineral oil is ignited. The system is designed to allow the transformer to burn until it self-extinguishes.

The substation is designed with separation between equipment to ensure that if a transformer ignites, neighboring pieces of equipment should not be involved in the fire. The final hazard is the potential for individuals trespassing on the property. The substation is high-voltage. The proposed substation will upgrade the security measures at the site to preclude trespass. These measures include:

- a. A new security fence with mini-mesh (small chain link) metal and topped with barbed wire.
- b. Landscaping which reduces areas where intruders may hide behind screening from MW&L personnel or patrolling law enforcement. See Attachment 2, ("landscape plan"); See OPUC, Substation Security, Attachment 12.
- c. Locks on all gates.
- d. Future installation of onsite closed circuit television to monitor unauthorized access and theft related incidents from offsite.
- e. The control enclosure will also have an electronic card credential reader and a monitored alarm.
- f. Animal guarding will be installed at key locations around the station to prevent electrocution of small animals and birds that might come near the medium and high voltage equipment.

The applicant has considered the hazardous conditions that can be created by the proposed facility and has designed the substation to limit or prevent hazardous conditions that could affect the surrounding property owners. The required criterion to approve the application are met.

FINDING: SATISFIED. The City concurs with the applicant's findings, specifically that environmental impacts of the proposed facility on surrounding residential, farm, and natural areas has been considered in the design of the site. The City also adds that the electrical power

substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below, ensure that the proposed facility is compatible with future surrounding land uses guided for both commercial and residential uses.

Proposal 31.00 The City of McMinnville should require energy system facility sites to be compatible in appearance with surrounding land uses either through landscaping or other screening methods.

APPLICANT'S RESPONSE: Applicant's landscape plan (Attachment 2) and review by Landscape Review Committee is consistent with Proposal 31.00. Applicant will also site the facility in a safe manner consistent with NESC (National Electric Safety Code) and Oregon Public Utility Commission rules that provide for the safety and security of substations, also making the facility compatible with neighboring uses.

FINDING: SATISFIED. The City concurs with the applicant's findings. However, the City adds that the electrical power substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below (some of which specifically being related to landscaping and screening methods), ensure that the proposed facility is compatible with future surrounding land uses guided for both commercial and residential uses.

Proposal 34.00 Proposed extensions of energy system facilities should be coordinated with the extension of other facilities (sewer and water, telephone lines, storm drainage, etc.) where necessary to insure provision of full urban services to developable areas within the urban growth boundary.

APPLICANT'S RESPONSE: This approval is consistent with Proposal 34.00 in that the application is taking place prior to, or concurrently with surrounding development. The land for the expansion of the substation was purchased from the adjacent developer, Baker Creek Development, LLC (BCD). An expanded substation was foreseen in the 1996 Planned Development Overlay. As part of the recent transaction, BCD contracted with the applicant to require the applicant to dedicate additional R.O.W. to the City of McMinnville, and to grant a 10-foot-wide Public Utility Easement across the applicant's frontage on Baker Creek Road for public utility use (by Applicant and other utilities) (Appendices 8 & 9). In addition, as part of the transaction, BCD granted to Applicant additional "bump out" utility easements (Attachment 7) on the adjacent property west of the Applicant's parcel-electric substation for electric utility vaults. These "bump out" easements were acquired by Applicant (MW&L) in addition to the PUE spaces in part to allow more intensive electric utility development on the parcel without conflict with other utilities using the PUE space.

FINDING: SATISFIED. The City concurs with the applicant's findings.

Proposal 35.00 Construction of facilities that could have an adverse effect on natural areas, farmlands, and residential areas should be altered in such a manner as to minimize or eliminate these impacts.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The City concurs with the applicant's findings, specifically that potential adverse impacts of the proposed facility on surrounding residential, farm, and natural areas has been considered in the design of the site. The City also adds that the electrical power substation is a conditional use in its proposed location, and additional standards and review criteria apply to conditional uses. Conditions of approval to ensure those standards and review criteria are satisfied are described in the findings for the Conditional Use review criteria below. The review of the proposed facility as a conditional use, and the conditions of approval described below, ensure that the proposed facility is compatible with future surrounding land uses guided for both commercial and residential uses.

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 Conditional Use review 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 subject site was recently rezoned to only R-1 (Single Family Residential), which 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 17.57 Landscaping

17.57.040 Specific uses requiring landscaping. [...]

B. Utility substations, subject to the landscaping requirements of commercial uses. [...]

APPLICANT'S RESPONSE: Applicant has provided a landscaping plan (Attachment 2) that is capable of review by landscaping committee. The approval and the individual applications can be made subject to required Landscape Review Committee approval for issuance of required building permits.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits.

17.57.070 Area Determination—Planning factors.

17.57.070(A)(2). *Landscaping shall be accomplished within the following ranges: [...]*
Commercial, at least seven percent of the gross area. This may be reduced to not less than five percent upon approval of the review committee. (The gross area to be landscaped may only be reduced by the review committee if there is a showing by the applicant that the intent and purpose of this chapter and subsection B of this section are met.)

APPLICANT'S RESPONSE: As indicated by the map showing the substation landscape plan (Attachment 2) there is at least 7% of the gross surface area outside of the facility fencing

available for landscaping. As a utility substation, the development will be subject to commercial landscape requirements, as reviewed by the Landscape Review Committee.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

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

17.57.070(B)(1). *Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon.*

APPLICANT'S RESPONSE: The proposed utility use is of a character that currently exists on the site adjacent to residential uses. The proposed expansion and planned improvements to landscaping will make the facility more compatible with surrounding and abutting properties (than it would be without the expansion) and will be of a nature and character that is appropriate to support affordable housing.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(2). *Screening the proposed use by sight-obscuring, evergreen plantings, shade trees, fences, or combinations of plantings and screens.*

APPLICANT'S RESPONSE: The approval will give consideration to sight-obscuring features. These features may utilize continuous fence, colored slats, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view. Complete obscuration of the facility is not practical where overhead transmission lines rise above adjacent park facilities and connect to the facility by way of towers. Security of the facility also requires line of sight into the facility grounds. Switching gear is also of a height that cannot be practically, completely obscured. However, a combination of street trees, shrubs, decorative and slat-filled-fencing (Attachment 2) can visually temper the appearance and adequately blend the facility into the landscape of the neighborhood.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(3). *The retention of existing trees and natural areas that may be incorporated in the development of the project. The existing grade should be preserved to the maximum practical degree. Existing trees shall be provided with a watering area equal to at least one-half the crown area.*

APPLICANT'S RESPONSE: There are no existing trees and the grade of the overall property will not be altered by the expansion.

FINDING: SATISFIED. Staff concurs with the applicant's findings.

17.57.070(B)(4). *The development and use of islands and plantings therein to break up parking areas.*

APPLICANT'S RESPONSE: Parking for intermittent visits to the facility can easily be accommodated by parking along the 96-foot wide right of way. The facility will also provide (See Attachment 1, site plan) for ample onsite parking within the gates for service vehicles. The design has room for vehicles inside the fence around the perimeter of the facility.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(5). *The use of suitable street trees in the development of new subdivisions, shopping centers and like developments. Certain trees shall be prohibited in parking areas: poplar, willow, fruit, nut, birch, conifer, and ailanthus.*

APPLICANT'S RESPONSE: Applicant will provide suitable trees in planting strip consistent with City standards and OPUC rules.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(B)(6). *Suitable watering facilities or irrigation systems must be included in or near all planted areas;*

APPLICANT'S RESPONSE: Irrigation facilities will be provided under the terms of approval to facilitate required landscaping.

FINDING: SATISFIED WITH CONDITION #4. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. The Landscape Review Committee shall review and make more specific findings for the applicable landscape plan review criteria at the time of their review.

17.57.070(C). *All landscaping approved through the Landscape Review Committee shall be continually maintained, including necessary watering, weeding, pruning, mowing, and replacement. Minor changes*

in the landscape plan, such as like-for-like replacement of plants, shall be allowed, as long as they do not alter the character and aesthetics of the original plan. It shall be the Planning Director's decision as to what constitutes a major or minor change. Major changes to the landscape plan shall be reviewed and approved by the Landscape Review Committee.

APPLICANT'S RESPONSE: Applicant's landscape plan demonstrates that applicant is fully capable of complying with this proposal. The site is currently served with water for irrigation.

FINDING: SATISFIED. Staff concurs with the applicant's findings.

17.57.090 Credit for work in public right-of-way. The review committee may grant an applicant credit for landscaping done in the public right-of-way provided that if at any time in the future the right-of-way is needed for public use, any landscaping removed from the right-of-way must be replaced on the subject site. The review committee shall consider the need for future use of the right-of-way for street or utility purposes before granting credit under this section.

APPLICANT'S RESPONSE: No such credit is required, but the applicant will take into the account the development of future right-of-way along the boundaries of the substation and will stage the landscaping development in coordination with the surrounding development.

FINDING: SATISFIED WITH CONDITION #3. Staff concurs with the applicant's findings, and adds that a condition of approval is included to require that the applicant coordinate with the surrounding property owner and schedule the construction of Baker Creek Road right-of-way improvements to coincide with the improvements to be completed with adjacent subdivision development. This coordination is consistent with the applicant's response above, and the condition of approval is described in more detail in the finding for Policy 132.29.00 above.

Chapter 17.58 Trees

17.58.080 Street Tree Planting—When Required. All new multi-family development, commercial or industrial development, subdivisions, partitions, or parking lots fronting on a public roadway which has a designated curb-side planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 17.58.090.

APPLICANT'S RESPONSE: MW&L will comply with tree planting requirement in planting strip along street frontage.

FINDING: SATISFIED WITH CONDITION #4 AND #5. Staff concurs with the applicant's findings, and adds that a condition of approval is included to specify that the landscape plan will be required to be submitted, along with a Landscape Plan Review application, for review by the Landscape Review Committee at the time of submittal of building permits. That landscape plan shall include proposed street tree planting for the Baker Creek Road right-of-way adjacent to the subject site. The Landscape Review Committee shall review and make more specific findings for the applicable street tree plan review criteria and street tree planting standards at the time of their review.

Chapter 17.74 Review Criteria

17.74.030. Authorization to Grant or Deny Conditional Use.

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this chapter. In the case of a use existing prior to the effective date of this

ordinance and classified in this ordinance as a conditional use, a change in the use or in lot area, or an alteration of any structure shall conform to the requirements for conditional uses. In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

17.74.030(A). *The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;*

APPLICANT'S RESPONSE: See this Exhibit 1, Section C above (Goals and Policies) for findings.

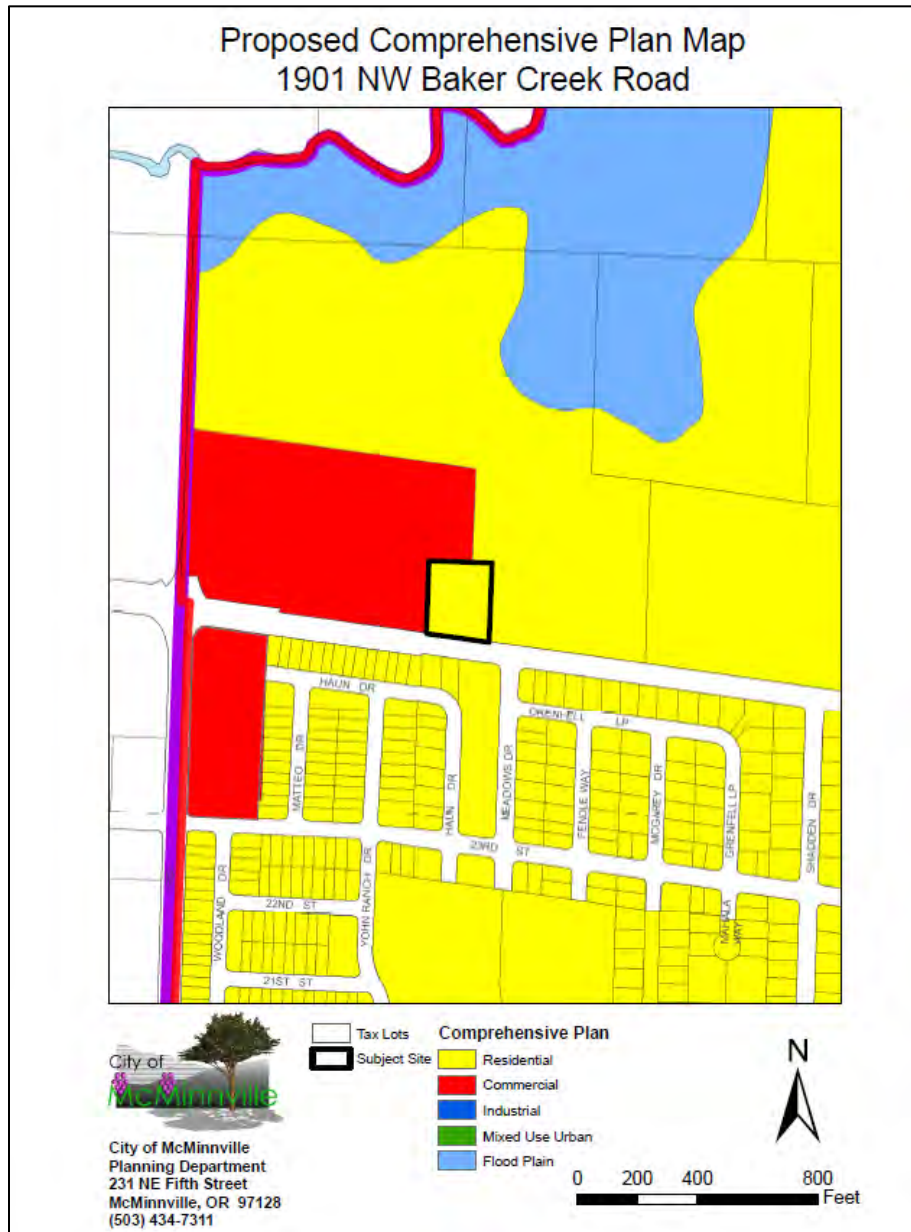
FINDING: SATISFIED. The City concurs with the applicant's findings, and also refers to the findings provided for the applicable Comprehensive Plan goals and policies in Section VII (Conclusionary Findings) above.

17.74.030(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;*

APPLICANT'S RESPONSE: The location and size of the expanded substation is reasonably suited to the development of abutting properties. The footprint is large enough to accommodate the safety AND maintenance needs of this high-voltage facility, while at the same time providing for the required buffering to adjacent uses. The expanded facility will cause an imperceptible increase in maintenance traffic compared to the existing facility. The relative small size of the site footprint will preserve ground for needed residential development in the neighborhood. The design allows for the continuation of NW Meadows across Baker Creek Road, from south to north along the eastern side of the substation. The facility takes advantage of, and abuts the existing BPA electric easement. The expanded facility meets this criteria.

FINDING: SATISFIED WITH CONDITIONS #4, #5, AND #6. The City concurs with the applicant's findings. The City adds that the property immediately adjacent to the substation site is currently undeveloped and vacant. The surrounding properties on the north side of Baker Creek Road are currently undergoing development review with land use applications that have been submitted for rezoning, Planned Development, and subdivision. These land use applications have not yet been approved so the specific uses are not yet know. However, the property immediately to the west and northwest is guided for Commercial land use on the Comprehensive Plan Map, and the property to the east and northeast is guided for Residential land use on the Comprehensive Plan Map. The existing Comprehensive Plan Map (as proposed under the concurrent Comprehensive Plan Map Amendment request (CPA 2-19)) is shown below:

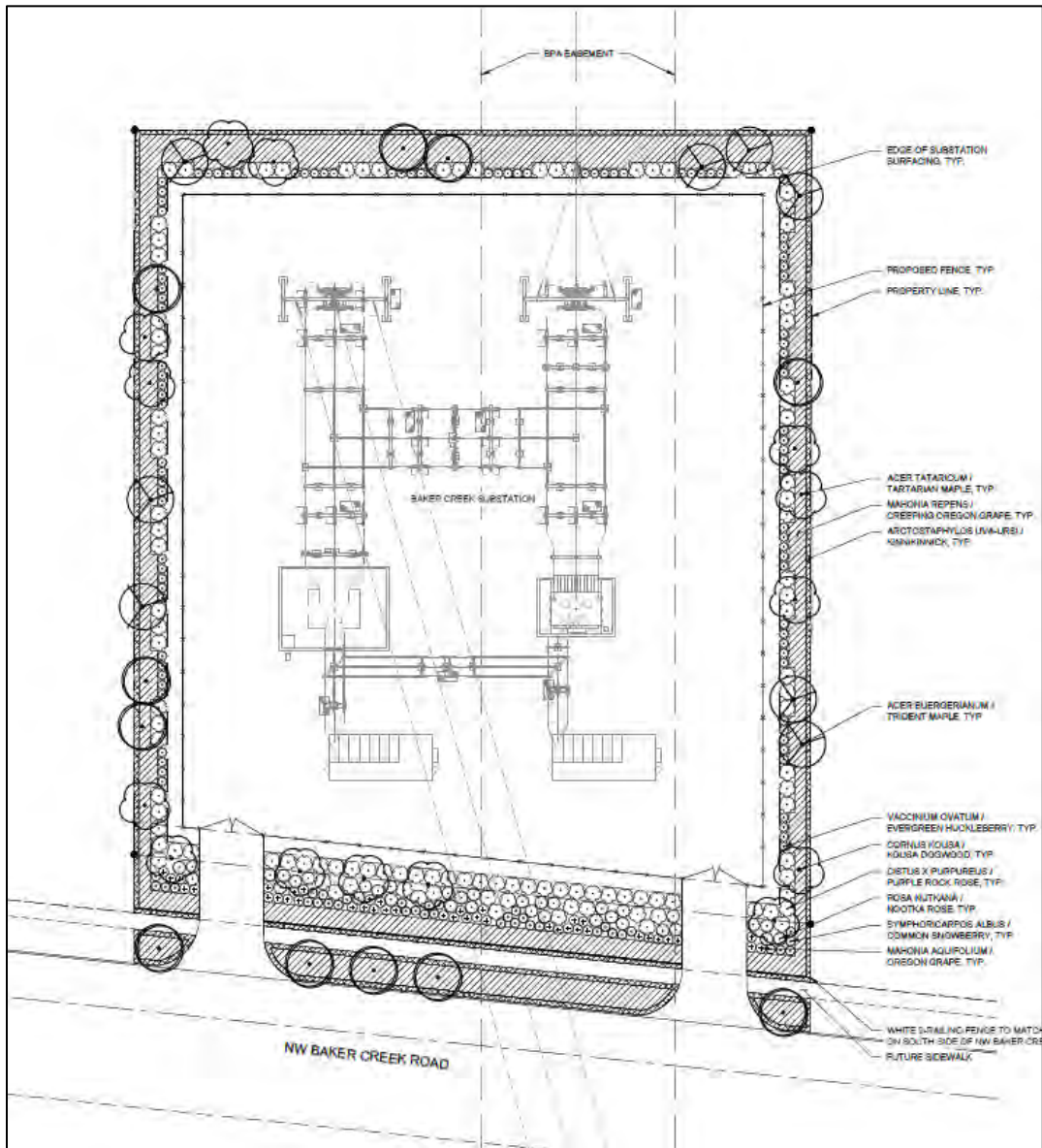
Proposed Comprehensive Plan Map
1901 NW Baker Creek Road

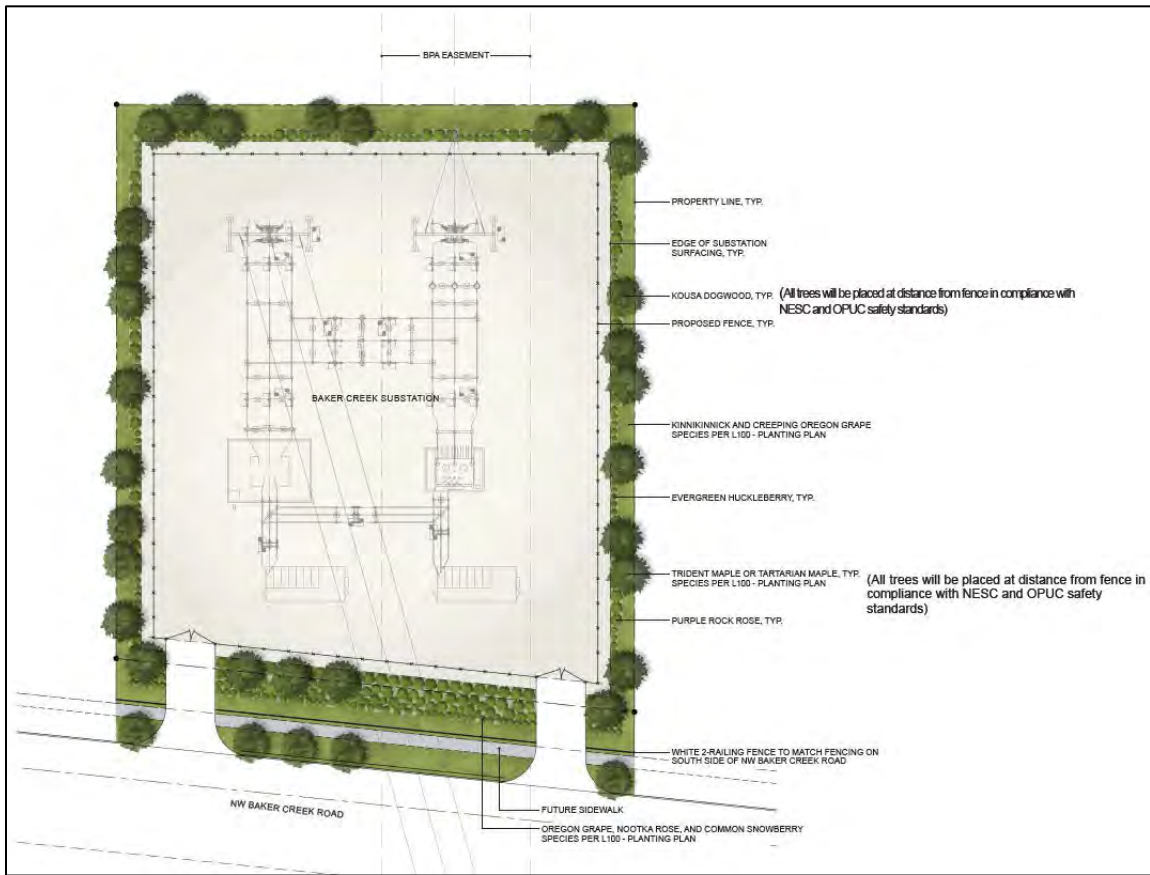


The location and size of the site for the expanded electrical power substation have been planned to allow for continued growth and development of the surrounding property. The applicant is proposing to place the new substation equipment to the west of the existing equipment on the site, which will allow for NW Meadows Drive (designated as a minor collector street in the Transportation System Plan to the south of Baker Creek Road) to continue to the north across Baker Creek Road to serve the eventual residential uses in that area. The equipment will also be located on the subject site within a fenced area that is surrounded by a landscape planting area. The new equipment within that fenced area will be placed approximately 50 feet from the west property line, 40 feet from the south property line, and 50 feet from the north property line. The siting of the equipment at these distances from the property lines will provide for compatibility and minimal impact on the livability or appropriate development of abutting properties. In addition, as part of the recently completed property line adjustment (BLA 10-18), the eastern property line was shifted to the east by approximately 37 feet. This will increase the space and separation between the existing equipment on the site and the adjacent property to the east. The property to the east will most likely consist of an extension of the BPA Trail that

exists to the south of Baker Creek Road and an extension of NW Meadows Drive, and this additional space will provide for better buffering between the trail and public spaces and the substation equipment.

As discussed above, the design of the site will include a sight-obscuring fence surrounding the equipment and a landscaping area surrounding the perimeter of the sight-obscuring fence. The fence is described by the applicant as being a six foot high fence with one-foot barbed wire placed atop the fence. The applicant has provided documentation that Rule 110 of the National Electrical Safety Code (NESC) requires this height of fence and the barbed wire atop the fence. The sight-obscuring fence is more specifically described as being a fence with colored slats inserted in the fence. The landscaping will be placed around the perimeter of the fence, in a planting space that is 10 feet wide on the west, south, and east sides of the site, and 15 feet on the north side of the site. Within the landscaping area, the applicant is proposing a combination of trees, shrubs, and groundcover. The trees are proposed to be spaced throughout the perimeter of the site, somewhat grouped together at points. Trees are also proposed within the planting strip along Baker Creek Road on the south side of the subject site. Shrubs are proposed to be in a continuous row along the entire perimeter, and groundcover shrubs are proposed to fill out the remainder of the landscape area. The landscaping area on the south side of the site, which is adjacent to the Baker Creek Road public right-of-way, is proposed to be more densely planted, which will provide for better compatibility with the public sidewalk along Baker Creek Road. The landscape plan and landscape plan rendering can be seen below:





The applicant has stated that the landscaping was designed to meet NESC and McMinnville Water and Light safety and visibility standards. The shrubs that are proposed are a variety of evergreen shrubs and roses that will provide for year-round screening of the substation site. The shrubs that were previously around the existing facility's fence were a continuous row of arborvitae, which had caused security and visibility issues for McMinnville Water and Light staff. The proposed combination of different evergreen shrubs were chosen to deter potential unwanted access to the fenced area and decrease security concerns. There are also portions of the subject site that are subject to the existing BPA easement that limits the height of landscaping within the easement and underneath the overhead power lines. Therefore, there are no trees proposed to be located within the width of the BPA easement.

To ensure that the landscaping provides adequate buffering of the site from surrounding properties, a condition of approval has been included to require that the fencing be provided as proposed in the preliminary site plan and landscape plan. However, the condition of approval requires that the specific fence materials to be used be submitted to the Planning Director for review to ensure that they are compatible with and do not have a detrimental visual impact on surrounding properties. The condition of approval also requires that the shrubs proposed around the entire perimeter of the site be evergreen shrubs that include year-round vegetation for continuous screening. The condition of approval also includes that the tree species and varieties be of a species and variety that grow to a mature canopy height of no more than 25 feet, but that the species are also not so small that they don't provide visual screening above the top of the fence. The Landscape Review Committee will be responsible for ensuring that the specific tree and shrub species proposed will meet these minimum requirements during their review of the landscape plan at the time of building permit submittal. The fencing and landscaping area, along with the specific requirements of this condition of approval, will ensure

that the expansion of the electrical power substation will be compatible with and have minimal impact on the livability or appropriate development of abutting properties.

The applicant has also stated that lighting of the electrical power substation will be limited to maintenance and access lighting. A condition of approval is included to require that the lighting of the substation be as described in the applicant's narrative, specifically to be low-intensity, controlled by photo sensors, maintenance lighting only being used when required for maintenance or emergency repairs, being directed downwards, and being shielded to reduce glare outside of the facility. This condition of approval will ensure that the expansion of the electrical power substation will be compatible with and have minimal impact on the livability or appropriate development of abutting properties.

17.74.030(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;*

APPLICANT'S RESPONSE: The electric substation will positively impact livability, value and appropriate development of abutting properties of the surrounding area, as compared to other permitted development, by facilitating the expanded electric load demand caused by dense residential development and expected commercial development. As explained by the Memo of Jaime Phillips, Attachment 5, failure to expand the substation in light of the growth of permitted residential and commercial uses would likely lead to degraded electric service in the west McMinnville electric service areas.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the location, site, design, and operations of the substation facility will not cause any significant adverse impact on the livability, value, or appropriate development of abutting properties, based on the description of the location, site, design, and operations and the additional conditions of approval described in the finding for 17.74.030(B) above.

17.74.030(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;*

APPLICANT'S RESPONSE: By its nature, an electric substation is of a utilitarian design. However, the design of the expanded substation will be symmetrical and otherwise geometrically pleasing. Landscaping will be created to buffer and screen the facility, if not entirely obscuring the facility from outside view. In fact, Water and Light being a consumer-owned utility, the neighbors and passers-by may take some pleasure in seeing the fruits of their investment in this consumer-owned facility.

FINDING: SATISFIED. The City concurs with the applicant's findings, and adds that the location, site, design, and operations of the substation facility will be as attractive as the nature of the use and its setting warrant, based on the description of the location, site, design, and operations and the additional conditions of approval described in the finding for 17.74.030(B) above.

17.74.030(E). *The proposal will preserve environmental assets of particular interest to the community;*

APPLICANT'S RESPONSE: No particular environmental assets appear on the site.

FINDING: SATISFIED. The City concurs with the applicant's findings.

17.74.030(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.*

APPLICANT'S RESPONSE: The intended expansion is described in the Electric System Planning Study of 2015 and in the MW&L "Light" Budget (Attachment 13, p. 1-2 {p. 15-16}). The applicant has a well-established municipal utility purpose as described in the McMinnville Charter of 1971, as amended in 1978. The activities of the applicant are directed by the City of McMinnville, acting by and through its Water and Light Commission, a five-member board made up of the mayor and four appointed commissioners. The utility sets rates on a cost-of-service basis at public hearings and is prohibited by state law and its own policies from acting for speculative investment purposes.

FINDING: SATISFIED. The City concurs with the applicant's findings.

17.74.040. Placing Conditions on a Conditional Use Permit.

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions which it finds necessary to avoid a detrimental environmental impact and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include, but need not be limited to, the following:

- A. Limiting the manner in which the use is conducted including restrictions on the time a certain activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor;
- B. Establishing a special yard or other open space, lot area, or dimension;
- C. Limiting the height, size, or location of a building or other structure;
- D. Designating the size, number, location and nature of vehicle access points;
- E. Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way;
- F. Designating the size, location, screening, drainage, surfacing, or other improvement of a parking area or truck loading area;
- G. Limiting or otherwise designating the number, size, location, height and lighting of signs;
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding;
- I. Requiring diking, screening, landscaping, or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance;
- J. Designating the size, height, location, and materials for a fence;
- K. Protecting and preserving existing trees, vegetation, water resource, wildlife habitat, or other significant natural resource;
- L. Such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the intent and purposes set forth in this ordinance.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The applicant did provide suggested conditions of approval on Page 32 and 33 of the application narrative. However, those exact conditions of approval are not included in the City's decision on the conditional use application. The conditions of approval included are described in more detail above, and are specifically focused on the construction of right-of-way improvements in a timely manner with surrounding land uses, designating the size and materials for fencing and landscaping to ensure screening of the subject site, and limiting the type of lighting on the site to that described by the applicant in the application narrative.

Based on the application as proposed and submitted, together with the conditions of approval, the proposal avoids detrimental environmental impact, allow for the development of the City in an orderly and efficient manner, and protect the best interest of the surrounding area and the community as a whole.

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