

ORDINANCE NO. 5081

AN ORDINANCE AMENDING THE ZONING MAP DESIGNATION FROM R-1 (SINGLE-FAMILY RESIDENTIAL) TO R-3 (TWO-FAMILY RESIDENTIAL) ON A 2.93 ACRE SITE.

RECITALS:

The Planning Department received application ZC 3-19 (Zone Change) from Leonard Johnson, property owner, requesting approval of a Zone Change from R-1 to R-3 for the subject property; and

The subject site is located on NE Newby Street between NE Grandhaven Drive and NE 27th Street, and is more specifically described as Tax Lot 1100, Section 9DC, T. 4 S., R 4 W., W.M.; and

A public hearing before the McMinnville Planning Commission was held on July 18, 2019, after due notice had been provided in the local newspaper on July 9, 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 and public testimony was received.

The Planning Commission, being fully informed about said Zone Change request, found that the application conformed to the applicable Comprehensive Plan goals and policies and review criteria 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, by a vote of 9-0, recommended approval of said Zone Change to the Council; and

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

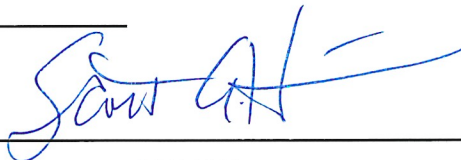
NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit A for ZC 3-19; and
2. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 27th day of August 2019, by the following votes:

Ayes: Drabkin, Garvin, Geary, Menke, Peralta

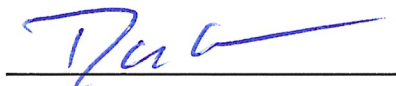
Nays: _____



MAYOR

Approved as to form:

Attest:



CITY ATTORNEY



CITY RECORDER



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

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DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A ZONE CHANGE FROM R-1 TO R-3 FOR A 2.93 ACRE PARCEL ON NE NEWBY STREET

- DOCKET:** ZC 3-19 (Zone Change)
- REQUEST:** Application for a zone change from R-1 to R-3
- LOCATION:** NE Newby Street between NE Grandhaven and NE 27th Street (Tax Lot 1100, Section 9DC, T. 4 S., R. 4 W., W.M.)
- ZONING:** R-1
- APPLICANT:** Leonard Johnson (property owner)
Ron Pomeroy, Navigation land Use Consulting (applicant's representative)
- STAFF:** Tom Schauer, Senior Planner
- DATE DEEMED COMPLETE:** June 7, 2019
- HEARINGS BODY & ACTION:** The McMinnville Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision, per MMC 17.72.070
- HEARING DATE & LOCATION:** July 18, 2019, Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.
- PROCEDURE:** An application for a Zone Change is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. The application is reviewed by the Planning Commission in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.
- CRITERIA:** The applicable criteria for a Zone Change are specified in Section 17.74.020 of the Zoning Ordinance, which include consistency with the Comprehensive Plan.
- APPEAL:** As specified in MMC 17.72.130, a Planning Commission recommendation of approval of the application (or approval of the application in a different form) is transmitted to the City Council to make a final decision. However, a Planning Commission recommendation of denial is a final decision unless the decision is appealed to the City Council. Such an appeal must be filed within 15 calendar days of the date the written notice of decision is mailed. The City Council's final

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

COMMENTS:

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; and Northwest Natural Gas. Comments were received from the McMinnville Engineering Department and Oregon Department of State Lands. Their comments are provided in this document.

DECISION

Based on the findings and conclusionary findings, the City Council finds the applicable criteria are satisfied and **APPROVES** the Zone Change from R-1 to R-3 (ZC 3-19).

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DECISION: APPROVAL
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City Council: Scott Hill
Scott Hill, Mayor of McMinnville

Date: 8/27/19

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

Date: 8/29/19

Planning Department: Heather Richards
Heather Richards, Planning Director

Date: 8/29/19

I. APPLICATION SUMMARY:

Subject Property & Request

The proposal is an application for Zone Change (ZC 3-19) to rezone the property from R-1 to R-3. The application was submitted concurrently with an application for a 17-lot subdivision for the property.

The subject property is a 2.93 acre parcel located on NE Newby Street between NE Grandhaven and NE 27th Street. Grandhaven Subdivision to the north was platted in 1999, with Buel Drive stubbed to the north property line of the subject property. **See Exhibit 1.**

The subject property and properties to the west, south, and northeast are zoned R-1. Property to the north is zoned R-2 PD, and property to the east and southeast is zoned R-3 PD. **See Exhibit 2.** Predominant surrounding uses are single-family homes and duplexes to the north, single-family homes to the east and west, Adventure Christian Church to the south, and Life Care Center south of the church. Grandhaven Elementary School is located across NW Grandhaven Street to the north. The subject property is vacant. It previously had substantial tree cover as shown in the aerial photo, which has since been cleared by the applicant, with an arbor vitae screen remaining. There is a natural drainageway generally running east-west on the property, and a portion of the drainageway is a designated wetland. Curb, gutter, and sidewalk are present along the property frontage on NE Newby Street.

The concurrent requests would rezone the property from R-1 to R-3 and approve a 17-lot single family residential subdivision, with 15 single-family detached homes and 2 single-family attached homes (Lots 4 and 5). **Exhibit 3** shows the proposed zoning. While not part of the zone change application, the following exhibits are provided for reference. **Exhibit 4** is the proposed subdivision tentative plan, and **Exhibit 5** shows the proposed public improvements and utilities. Most lots would access a new local street that would extend in an "L" between Buel Drive and Hoffman Drive. Lots 1 and 2 would have access from NE Newby Street. Lot 13 would have access to the new local street via a private easement across Lot 14.

Summary of Criteria & Issues

The application is subject to the Zone Change criteria in Section 17.74.020 of the Zoning Ordinance, which include consistency with the Comprehensive Plan.

Comprehensive Plan Policies

The primary substantive requirements are the provisions of Chapter V of the Comprehensive Plan (Housing and Residential Development), which include locational criteria for applying the R-3 zoning designation, need and adequacy of the buildable land inventory to provide adequate amounts of land in applicable zoning districts to provide for needed housing, and adequacy of utilities and services for the use and development permitted by the proposed zoning. The application was submitted before the effective date of the Great Neighborhood Principles, so those do not apply to this application.

There are no significant issues with the rezoning of the property as it relates to the criteria and these key issues. There is only one Comprehensive Plan map designation of "Residential", which authorizes residential zoning districts based on locational policies. The subject property is contiguous with existing R-3 zoning to the east, and there is an existing mix of R-1, R-2, R-3, and R-4 zoning and development throughout this area. While residential Policy 71.06 discusses limitations on where R-1 and R-2 zoning should be applied, including locations with natural drainageways and wetlands, this isn't prohibitive to designation of other zoning where some such features may be present, including policies about where R-3 zoning may be applied.

Residential Policies 71.09 and 71.10 discuss factors for where R-3 and R-4 zoning should be applied. Given the existing land use pattern of the area, the proposal is consistent overall. While Policy 71.09 discusses locational considerations of areas that have direct access from collector or arterial streets, the property has access to collectors via NE Newby Street, and the area includes existing development within the R-3 zone immediately to the east accessing NE Newby Street, which provides a connection between Grandhaven (a major collector) and 27th (a minor collector). Further, transportation policy 121.00 discourages the direct access of small-scale residential developments onto major or minor arterial streets and major collector streets.

The applicant has not requested a Planned Development, so approval of the requested zone change does not bind the applicant to a specific development proposal for the property once the property is rezoned. The subdivision tentative plan application is an independent application.

Exhibit 1. Vicinity Map & Aerial Photo

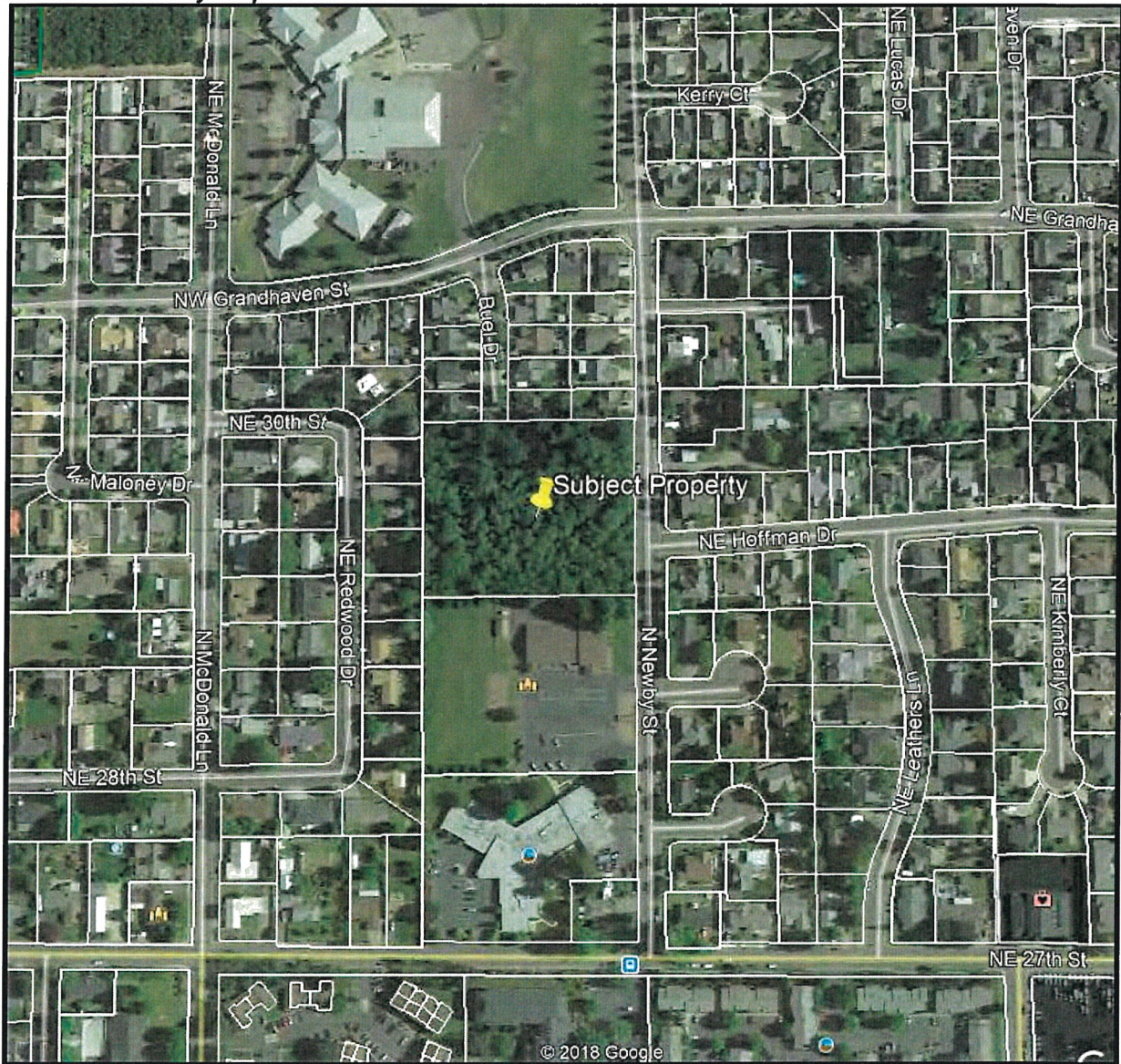


Exhibit 2. Current Zoning

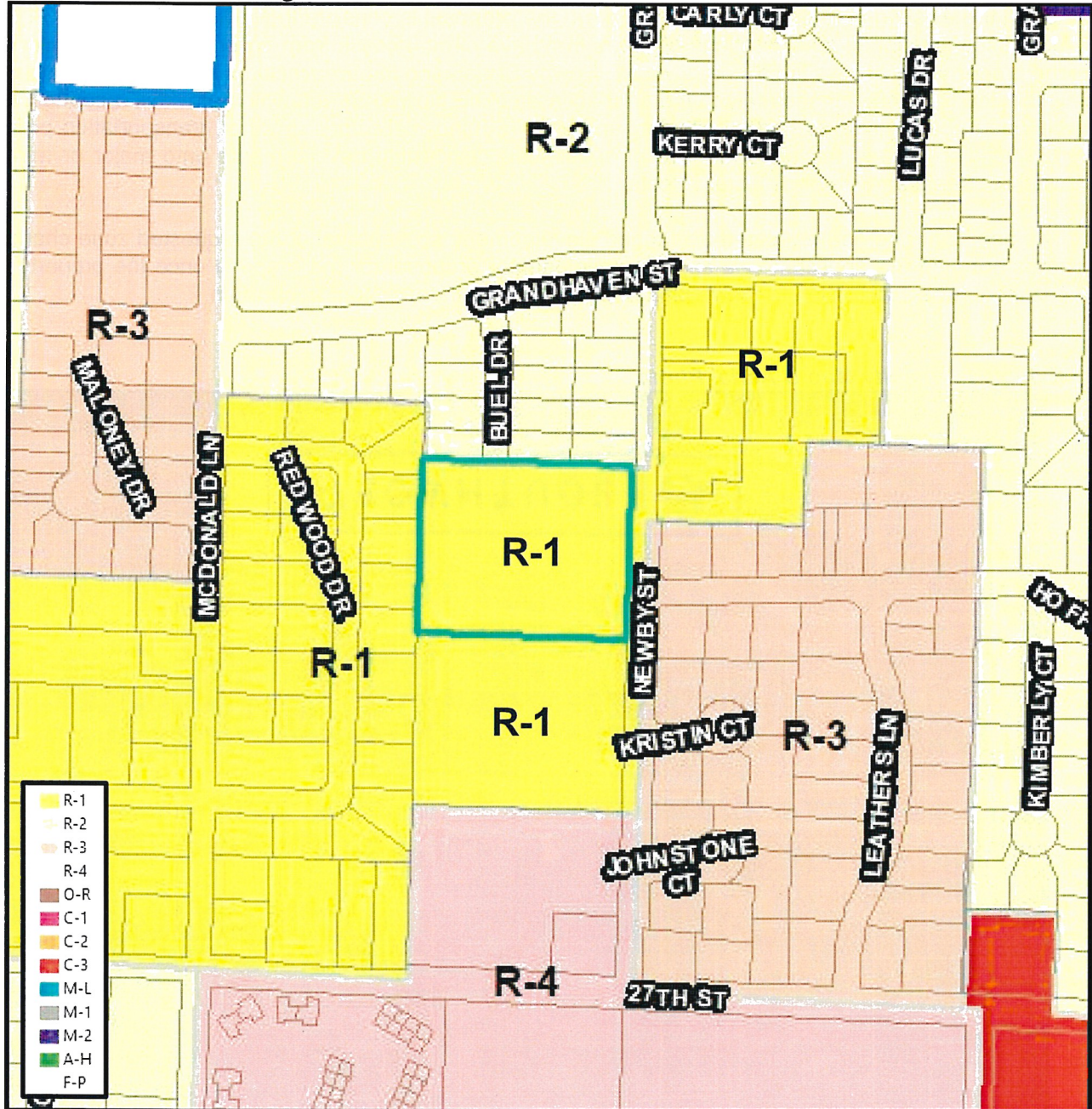


Exhibit 3. Proposed Zoning

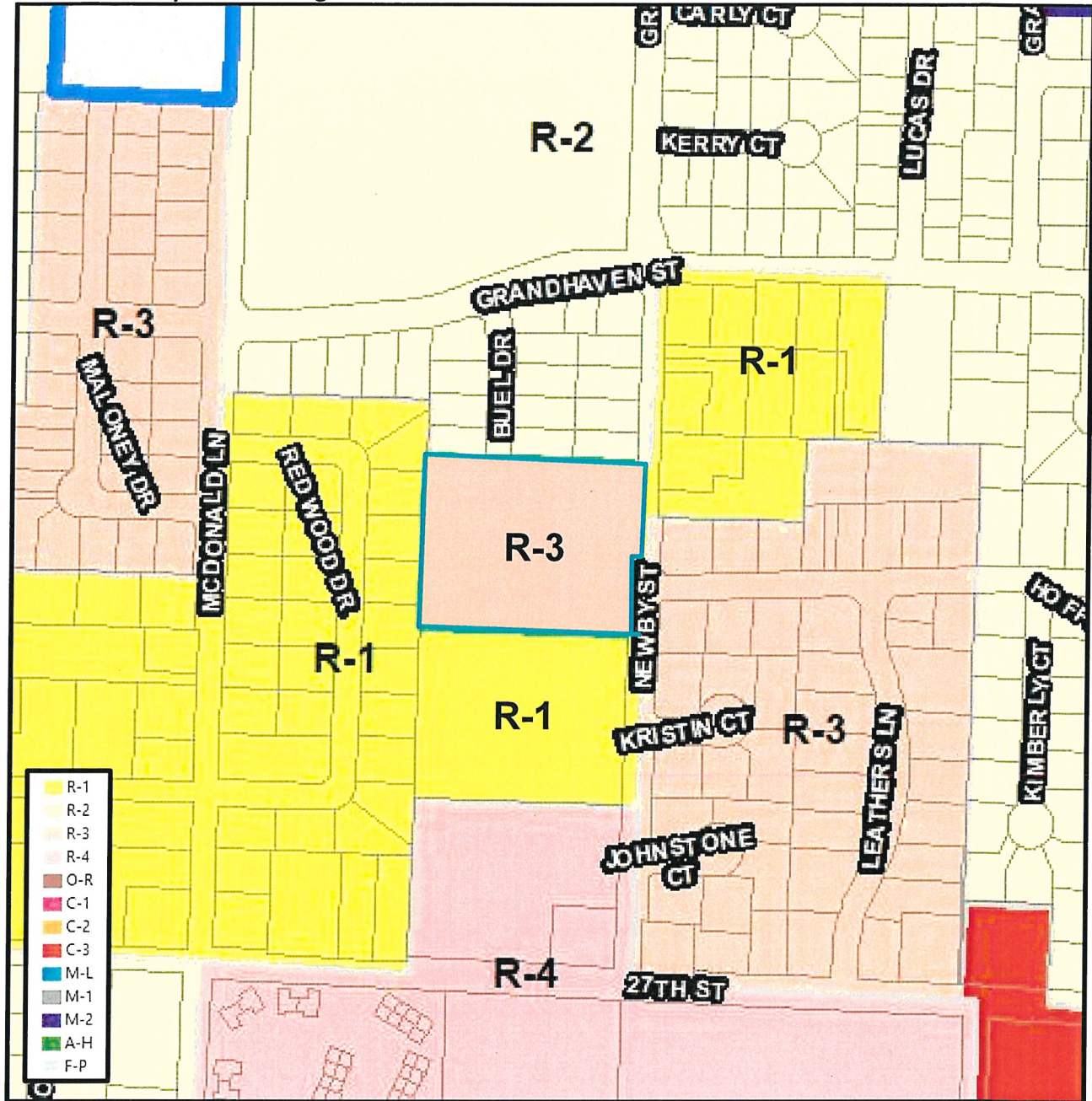


Exhibit 4. Proposed Subdivision Tentative Plan

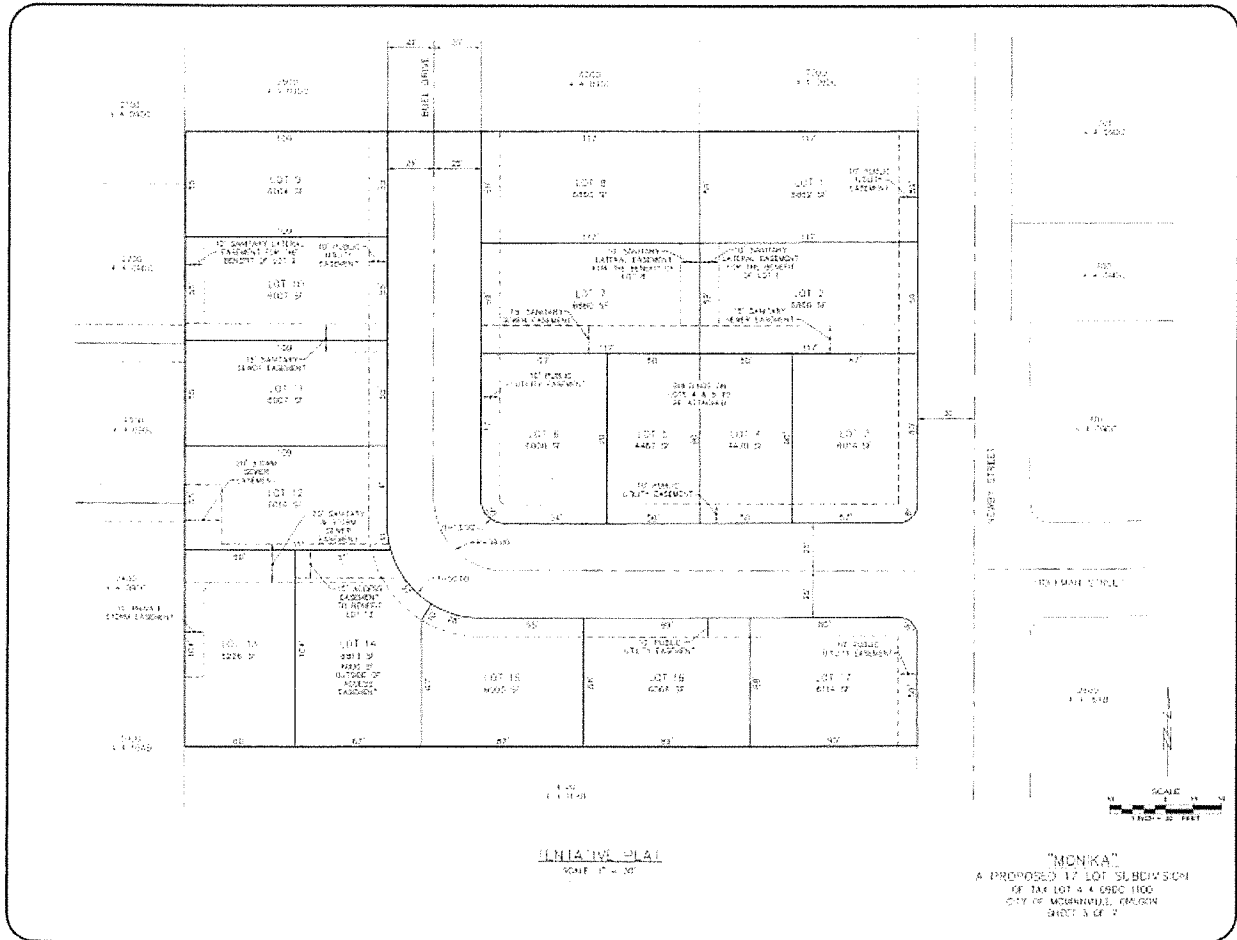
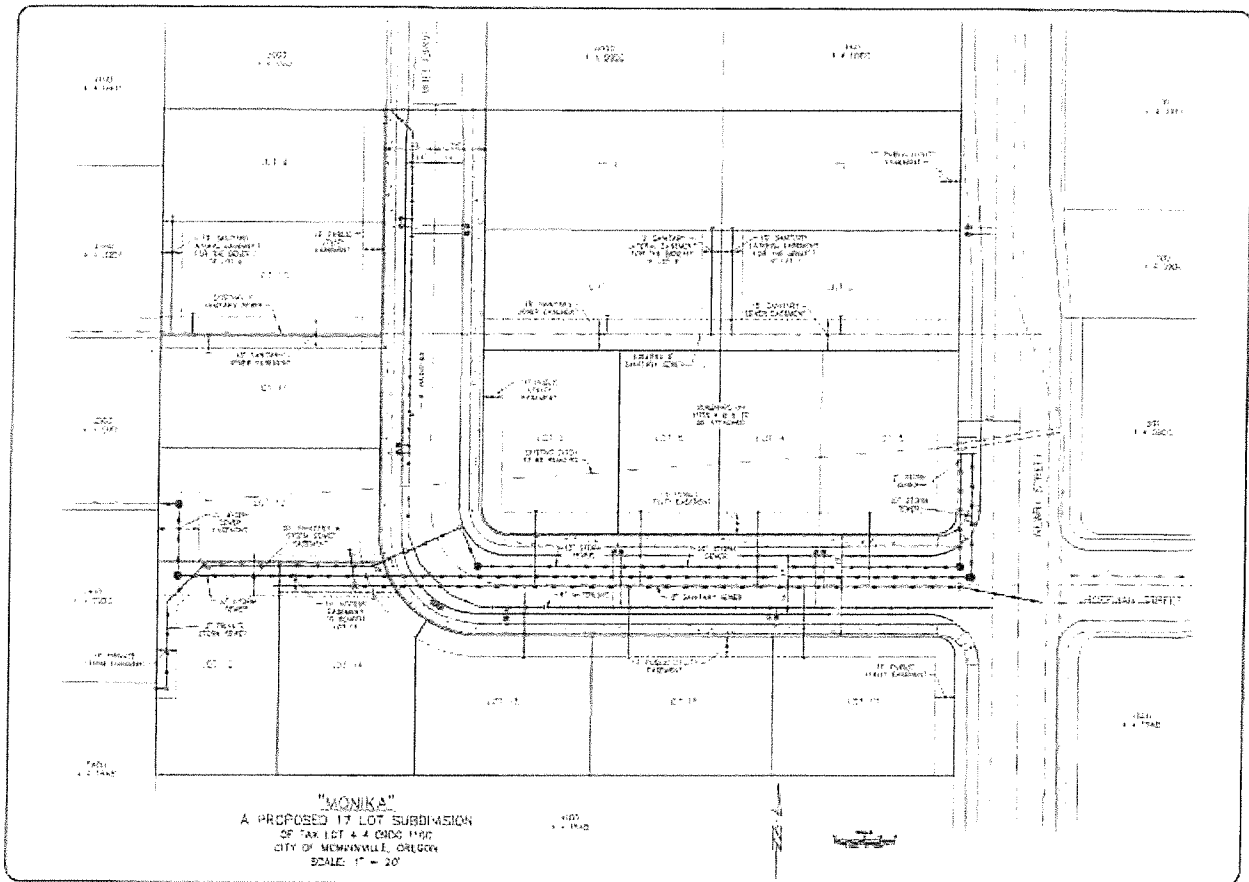


Exhibit 5. Proposed Public Improvements and Utility Plan



II. CONDITIONS:

Not Applicable.

III. ATTACHMENTS (on file with the Planning Department):

1. ZC 3-19 Application and Attachments
2. PowerPoint presentation from July 18, 2019 Planning Commission meeting
3. Minutes from July 18, 2019 Planning Commission meeting

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. Comments were received from the Engineering Department and the Oregon Department of State Lands. However, they apply to the concurrent subdivision application.

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, July 9, 2019. As of the date of the Planning Commission public hearing on July 18, 2019, no public testimony had been received by the Planning Department.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant held a neighborhood meeting in accordance with Section 17.72.095 of the Zoning Ordinance on January 29, 2019.
2. The application was submitted on May 7, 2019
3. The application was deemed complete on June 7, 2019.
4. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Notice was also provided to the Oregon Department of State Lands.

Comments received from agencies are addressed in the Decision Document. The letter from the Department of State Lands (DSL) was submitted as part of the application by the applicant, and DSL copied the City on the letter.

5. Notice of the application and the July 18, 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.
6. Notice of the application and the July 18, 2019 Planning Commission public hearing was published in the News Register on Tuesday, July 9, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.

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

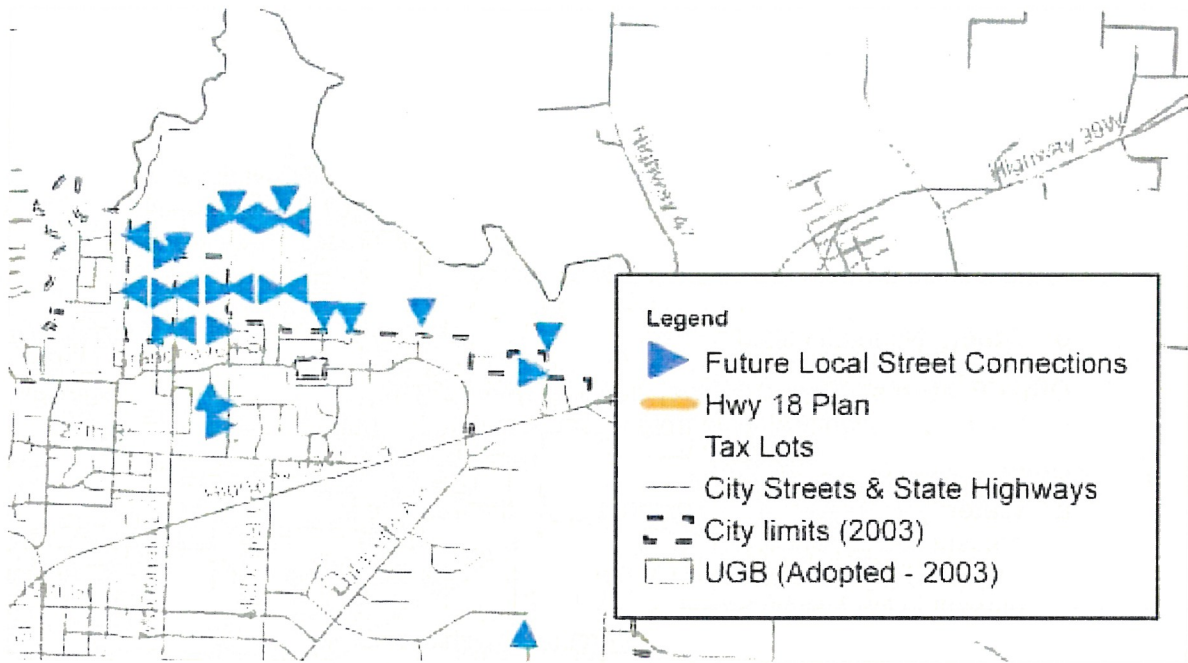
7. On July 18, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT - GENERAL FINDINGS

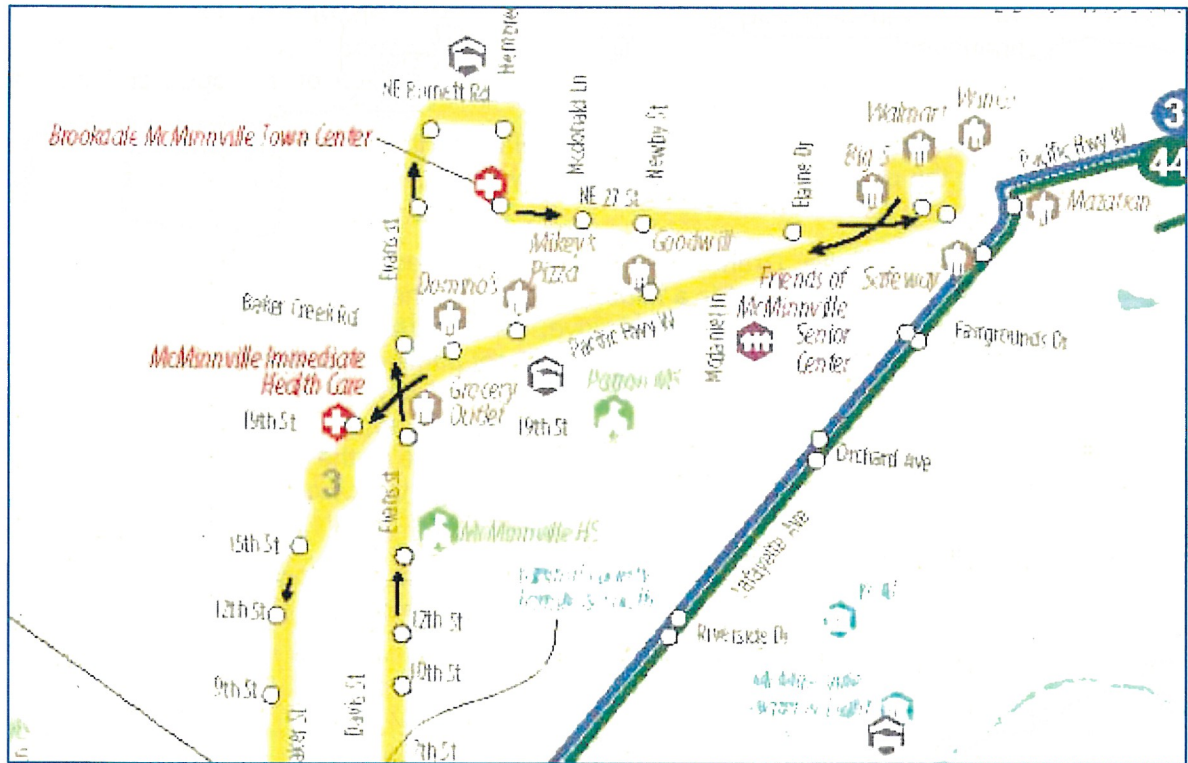
1. **Location:** NE Newby Street between NE Grandhaven and NE 27th Street (Tax Lot 1100, Section 9DC, T. 4 S., R. 4 W., W.M.):
2. **Size:** 2.93 acres
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** Current: R-1, Requested: R-3

5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Vacant
7. **Inventoried Significant Resources:**
 - a. **Natural Resources:** Jurisdictional waters, described in the National Wetland Inventory as riverine wetlands (approximately 3,099 square feet / 0.07 acres). The wetland/jurisdictional waters delineation determined no wetlands were present, but the requirements for the jurisdiction waters are substantially the same.
 - b. **Other:** None Identified
8. **Other Features:** Generally level site slightly sloping toward the natural drainageway that runs east west, and slightly sloping from west to east.
9. **Utilities:**
 - a. **Water:** A 6" water main is present along the frontage in NE Newby and an 8" water main is present in Buel Drive.
 - b. **Sewer:** A 12' sewer main crosses the property from west to east. A 15" sewer main is present in NE Newby Street.
 - c. **Stormwater:** Presently, storm drainage within a larger basin generally westerly of the property is captured in storm drain pipe and routed to a 30" stormdrain pipe in an easement that then discharges to the open east-west drainageway on this property at the west side of the property. The drainageway crosses NE Newby Street in a culvert, and remains piped for approximately 200' before daylighting again, where it continues as a natural open drainageway to the North Yamhill River via open natural tributary drainageways. The east-west drainageway is the uppermost upstream stretch of this open drainageway that is un piped. *See Exhibits 6 & 7.*
 - d. **Other Services:** Other services are available to the property. Overhead utilities are present along the property frontage on NE Newby Street. Underground utilities are present in Buel Drive.
10. **Transportation:** NE Grandhaven is a Major Collector, NE 27th is a Minor Collector, and McDonald Lane to the west is a Minor Collector. Other streets in the vicinity are local streets, including NE Newby Street and Buel Drive. *See Exhibit 8.* Buel Drive is improved with planter strips and sidewalks on both sides with on-street parking in a 50' wide right-of-way. NE Newby Street is improved with sidewalks and on-street parking on both sides. The right-of-way width of NE Newby varies along the property frontage from approximately 50' to 60'. There appears to be adequate right-of-way along the property frontage on the west side for planter strips without additional right-of-way dedication. However, the street frontage is already improved with curbtight sidewalk.

The Local Street Connectivity Map, Figure 2-1 in the Transportation System Plan, identifies future local street connections to the south terminus of Buel Drive and to NE Newby Street aligned with NE Hoffman Drive.



Transit is available on NE 27th Street, with a stop near NE Newby Street.



11. **Parks & Public Facilities:** Chegwyn farms Neighborhood Park is located approximately 1,000 to the northwest in a straight line, about 1,800 feet via a walking route. Grandhaven Elementary School is located approximately 300 feet to the north.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Zone Change are specified in 17.74.020 of the Zoning Ordinance, which include consistency with the Comprehensive Plan.

The applicant's findings for the proposed rezone and subdivision tentative plan are attached as an exhibit.

McMinnville Zoning Ordinance

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

17.74.020. Comprehensive Plan Map Amendment and Zone Change - Review Criteria.

An amendment to the official zoning map may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

- A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan;

FINDING: Satisfied. See responses to applicable Comprehensive Plan policies below.

- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;

FINDING: Satisfied. The proposed development is located in an area with available services, with a mix of zoning and residential development, in proximity to shopping, services, parks, and transit. The city's Buildable Land Inventory identifies a deficit of residential land.

- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

FINDING: Satisfied. The proposed development is located in an area with available services to serve the property.

When the proposed amendment concerns needed housing (as defined in the McMinnville Comprehensive Plan and state statute), criterion "B" shall not apply to the rezoning of land designated for residential use on the plan map.

FINDING: Satisfied. Criterion B is satisfied; however, the proposed amendment relates to needed housing, so this application is not required to meet Criterion B.

In addition, the housing policies of the McMinnville Comprehensive Plan shall be given added emphasis and the other policies contained in the plan shall not be used to: (1) exclude needed housing; (2) unnecessarily decrease densities; or (3) allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delay.

FINDING: Satisfied. As addressed below, the housing policies of the Comprehensive Plan are addressed, and the effect of this decision doesn't exclude needed housing, decrease densities, or discourage needed housing through unreasonable cost or delay.

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 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 a development proposal at the time of application, including the Subdivision Tentative Plan application which was submitted concurrent with this Zone Change application. Therefore, where applicable standards exist which are addressed at the time of a development proposal, subsequent findings regarding the parallel comprehensive plan policies are not made when they are duplicative or a restatement of the specific standards which achieve and implement the applicable goals and policies.

The following findings are made relating to specific Goals and Policies. The applicant has provided more detailed findings regarding Comprehensive Plan policies.

71.09 *Medium and High-Density Residential (R-3 and R-4) - The majority of residential lands in McMinnville are planned to develop at medium density range (4 – 8 dwelling units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses. High density residential development (8 – 30 dwelling units per net acre) uses typically include townhouses, condominiums, and apartments:*

1. *Areas that are not committed to low density development;*
2. *Areas that have direct access from collector or arterial streets;*
3. *Areas that are not subject to development limitations such as topography, flooding, or poor drainage;*
4. *Areas where the existing facilities have the capacity for additional development;*
5. *Areas within one-quarter mile of existing or planned public transportation; and*
6. *Areas that can be buffered from low density residential areas in order to maximize the privacy of established low density residential areas. (Ord. 4961, January 8, 2013; Ord. 4796, October 14, 2003)*

FINDING: Satisfied. The proposed development is located in an area with available services, with a mix of zoning and residential development, in proximity to shopping, services, parks, and transit as documented in the application submittal. The property is level, and is not located within a floodplain. Drainage can be addressed through an acceptable drainage plan. The property has nearby access to collector streets at each end of NE Newby Street, provide proximity to these streets, while still consistent with transportation policy 121.00 which discourages direct access onto arterials and collectors by small-scale residential development.

71.10 *The following factors should be used to define appropriate density ranges allowed through zoning in the medium density residential areas:*

1. *The density of development in areas historically zoned for medium and high density development;*
2. *The topography and natural features of the area and the degree of possible buffering from established low density residential areas;*
3. *The capacity of the services;*

4. *The distance to existing or planned public transit;*
5. *The distance to neighborhood or general commercial centers; and*
6. *The distance from public open space. (Ord. 4796, October 14, 2003)*

FINDING: Satisfied. The proposed development is located in an area with available services, with a mix of zoning and residential development, in proximity to shopping, services, parks, and transit. The location allows for a development plan that can be designed to be compatible with nearby development and densities.

121.00 The City of McMinnville shall discourage the direct access of small-scale residential developments onto major or minor arterial streets and major collector streets.

FINDING: Satisfied. The site is located in close proximity to nearby collectors streets, but development can be designed to have convenient access to these facilities while avoiding direct driveway access onto them, since access will be via a new local street with two lots accessing the existing adjoining local street (NE Newby).

TS:sjs