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September 3, 2019

Leonard Johnson
3375 NW Westside Road
McMinnville, OR 97128

RE: Land Use Application Approvals – NE Newby Street, Tax Lot 4-4-9-DC-1100
ZC 3-19 (Ordinance No. 5081) & S 2-19 (Ordinance No. 5082)

Dear Mr. Johnson:

This is to advise you that, at a meeting of the McMinnville City Council on Tuesday, August 27, 2019, your applications for a Zone Change (ZC 3-19) and Subdivision Tentative Plan (S 2-19) were presented and considered. The subject property of approximately 2.93 acres is located on NE Newby Street, between NE Grandhaven Street and NE 27th Street, and is more specifically described as Tax Lot 1100, Section 9DC, T. 4 S., R. 4 W., W.M.

Based on the material submitted, testimony received, and the applicable review criteria, the City Council voted to take the following actions on your land use applications:

1. **APPROVE** the zone change request (ZC 3-19).
2. **APPROVE** the subdivision tentative plan request (S 2-19), **subject to conditions.**

Enclosed for your records are copies of Ordinance No. 5081 (ZC 3-19) and Ordinance No. 5082 (S 2-19), which were adopted by the City Council on August 27, 2019, and include your land use decisions with the Findings of Fact and Conclusionary Findings for approval.

The approval of the Subdivision Tentative Plan (S 2-19) included conditions of approval, which are included in Ordinance No. 5082 and your land use decision documents. We have also provided the conditions of approval below.

Subdivision Tentative Plan (S 2-19) Conditions of Approval:

This approval shall expire 12 months from the date the final decision document is signed. Prior to expiration of the approval, the applicant shall comply with the conditions, execute a Construction Permit Agreement, and commence construction, complete construction or provide required security, and submit the final plat. Upon written request, the Planning Director may approve a one-year extension of the decision. Additional extensions shall require the subdivider to resubmit the tentative plan to the Planning Commission and make any revisions considered necessary to meet changed conditions.

If the property owner wishes a one-year extension of the Commission approval of this tentative plan, a request for such extension must be filed in writing with the Planning Department a minimum of 30 days prior to the expiration date of this approval.

Rezone

1. This approval is contingent upon final approval of the zone change application ZC 3-19 from R-1 to R-3 for the subject property. The subdivision approval does not take effect until and unless the companion zone change request ZC 3-19 is approved by the City Council.

Permits

2. The applicant shall secure all required state and federal permits, including, if applicable, those related to wetland fill and impacts, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands and US Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
3. Prior to any further plan submittals, the applicant shall present evidence that DSL and the US Army Corps of Engineers have authorized off-site mitigation of any on-site jurisdictional waters and/or wetlands. The Director may authorize plan submittals prior to evidence of such authorization, with the applicant's recognition that any costs incurred by the applicant for reviews will be at the applicant's risk should authorization not be obtained from DSL and the Corps of Engineers.
4. Prior to any disturbance of jurisdictional waters or wetlands, the applicant shall present evidence that all permits and approvals have been obtained from by DSL and the US Army Corps of Engineers for any disturbance or work affecting jurisdictional waters or wetlands.

Engineering Plans and Permitting

5. Street grades and profiles shall be designed and constructed to meet the adopted Land Division Ordinance standards and the requirements contained in the Public Right-of-Way Accessibility Guidelines (PROWAG). Additionally, corner curb ramps shall be constructed to meet PROWAG requirements.
6. The applicant shall coordinate the location of clustered mailboxes with the Postmaster, and the location of any clustered mailboxes shall meet the accessibility requirements of PROWAG and the State of Oregon Structural Specialty Code.
7. On-street parking will be restricted at all street intersections, in conformance with the requirements of the City's Land Development Ordinance.
8. The applicant shall install fire hydrants to serve this development as may be required by the McMinnville Fire Department. Also, if fire hydrants are required, they shall be in working order prior to the issuance of building permits.
9. Extension agreements as necessary are required for water and electric services to the site which shall include development fees and engineered/approved drawings. The applicant shall contact McMinnville Water & Light for details. The applicant shall also fill out a subdivision design application and pay applicable design fees.

10. A detailed storm drainage plan, which incorporates the requirements of the City's Storm Drainage Master Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat. If the final storm drainage plan incorporates the use of backyard collection systems and easements, such must be private rather than public and private maintenance agreements must be approved by the City for them.
11. A detailed sanitary sewage collection plan which incorporates the requirements of the City's Collection System Facilities Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
12. The applicant shall secure from the Oregon Department of State Lands (DSL), Army Corps of Engineers, and the Oregon Department of Environmental Quality (DEQ) all applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.
13. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.

Revised Tentative Plan

14. Street names shall be submitted to the Planning Director for review and approval prior to submittal of the final plat.
15. If any revisions to the tentative plan are required as a result of the review of the engineering plans, the applicant shall submit a revised tentative plan reflecting any required revisions, including any revised easement locations that may be applicable.

Street Tree Plan

16. The applicant shall submit an application for a street tree plan to the Landscape Review Committee for review and approval prior to final plat submittal in accordance with Section 17.58.100 of the Zoning Ordinance. The plan shall provide sufficient detail about location of utility services to the lots, locations of street lights, pedestals, and meter boxes, to evaluate the suitability of proposed street tree planting locations.

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.

Other Documents

17. The applicant shall submit copies of any proposed restrictive covenants prepared for the development prior to the final plat approval.

18. Any documents creating a Homeowner's Association for the subdivision and assigning to it maintenance responsibilities of any common ownership features must be submitted to and approved by the Planning Director. The Covenants, Conditions, and Restrictions (CC&Rs) shall explicitly require the Homeowner's Association to provide notice to the City prior to amending the CC&Rs, and that all such amendments shall be subject to approval by the Planning Director. Additionally, the CC&Rs shall prohibit the Homeowner's Association from disbanding without the consent of the Planning Director. The CC&R's shall be reviewed and subject to City approval prior to final plat approval.

Construction

19. NE Newby Street shall be utilized as the main construction access for development of the proposed subdivision. However, NE Newby Street cannot be the only street providing construction access for the development since utility extensions and construction of the local residential street work at the end of the current NE Buel Drive terminus and, at times, some construction traffic on NE Buel Drive will be necessary.
20. Prior to the construction of any private storm facilities, the applicant shall obtain the necessary permits from the City's Building Division.
21. All work shall be in accordance with the approved plans and permits. Improvements shall be installed in accordance with Section 17.53.150 of the Zoning Ordinance.
22. The applicant shall submit evidence that all fill placed in the areas where building sites are expected is engineered. Evidence shall meet with the approval of the City Building Division and the City Engineering Department.
23. All new streets within the subdivision shall be improved with a 28-foot-wide paved section, curbside planting strips, and five-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way, as required by McMinnville Land Division standards. No change to the street cross-section is required to the existing frontage on NE Newby Street.
24. The City Public Works Department will install, at the applicant's expense, the necessary street signage (including stop signs, no parking signage, and street name signage), curb painting, and striping (including stop bars) associated with the development. The applicant shall reimburse the City for the signage and markings prior to the City's approval of the final plat.
25. The required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat.
26. The proposed easement access to Lot 13 across Lot 14 shall be not less than 15 feet in width and shall have a hard-surfaced drive of 10 feet width minimum.
27. Per Section 17.58.110, street trees shall be installed prior to submittal of the final plat. As an alternative the applicant may file a surety bond or other approved security to assure the planting of the required street trees as prescribed in Section 17.53.153.

Other Requirements

28. The applicant shall provide twenty-five percent (25%) of the single-family lots for sale to the general public. The applicant shall provide information detailing the number of lots that will be made available for individual sale to builders for review and approval by the Planning Director prior to recording of the final plat. Upon approval, the referenced lots will be made available for sale to the general public for a minimum of one hundred twenty (120) days.

Final Plat

29. The final plat shall be in conformance with the approved tentative plan and shall include all items required by Section 17.53.075.
30. The final plat shall include use, ownership, and maintenance rights and responsibilities for all easements.
31. The final plat shall include 10-foot wide public utility easements along both sides of all public rights-of-way for the placement and maintenance of required utilities.
32. The applicant shall submit a draft copy of the subdivision plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two copies of the final subdivision plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.

Building Permit Issuance

33. At the time of building permit application, applicable SDCs, including Parks SDCs shall be paid.

Other Completion

34. If security is provided prior to final plat for installation of street trees, the applicant shall complete installation of street trees, per the timing described in Subsection (B) below. The applicant shall plant street trees within curbside planting strips in accordance with the approved street tree plan. 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 building 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.

- B. Each year the applicant shall install street trees, from November 1 to March 1, adjacent to those properties on which a structure has been constructed and received final occupancy. This planting schedule shall continue until all platted lots have been planted with street trees.
 - C. It shall be the applicant's responsibility to relocate trees as may be necessary to accommodate individual building plans. The applicant shall also be responsible for the maintenance of the street trees, and for the replacement of any trees which may die due to neglect or vandalism, for one year from the date of planting
35. Any improvements which were secured prior to final plat approval shall be completed in accordance with the construction permit agreement.
36. As-built plans shall be submitted as required by the Engineering Department within 30 days after acceptance of the improvements by the City Engineer, as required by Section 17.53.150 of the Zoning Ordinance and applicable provisions of the construction permit agreement and other required agreements.

The City Council's decisions may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and are entitled to notice as provided in ORS 197.620 and ORS 197.830 and Section 17.72.190 of the McMinnville Municipal Code. If no appeal is filed with LUBA on or before September 24, 2019, the decision of the City Council will be final.

If you have any questions regarding this matter, please feel free to contact me at (503) 434-7311.

Sincerely,



Tom Schauer, AICP
Senior Planner

TS:sjs

- c: Heather Richards, Planning Director
- Ron Pomeroy, Navigation Land Use Consulting, LLC, PO Box 1514
- Jason Petredis, 3017 NE Buel Dr.
- Vanessa Hadick, 3017 NE Buel Dr.
- Kelly Bird, 2920 NE Redwood Dr.
- Michael DeBlasi, Oregon Department of State Lands

Enclosures (*on file with the Planning Department*):

*Ordinance No. 5081
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)*

*Ordinance No. 5082
Decision, Conditions, Findings of Fact, and Conclusionary Findings for the Approval of a Tentative Subdivision Plan for a 17-Lot Subdivision for a 2.93 acre parcel on NE Newby Street (Docket S 2-19)*