



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

503-434-7311  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPLICATION FOR A TENTATIVE PARTITION OF TAX LOT R4524 01900**

**DOCKET:** MP 2-20 (Tentative Partition)

**REQUEST:** Application for a Tentative Partition to partition an approximately 4.8 acre parcel into two (2) parcels of approximately 1.2 acres and 3.6 acres.

**LOCATION:** Map & Tax Lot: R4524 01900 (Vacant property south of Redmond Hill Road, with no site address assigned at this time).

**ZONING:** R-1

**APPLICANT:** Eric Amerson

**PROPERTY OWNER:** Eric Amerson and Kristi Amerson

**STAFF:** Tom Schauer, Senior Planner

**DATE DEEMED COMPLETE:** March 3, 2020

**DECISION MAKING BODY & ACTION:** The McMinnville Planning Director makes the final decision, unless the Planning Director's decision is appealed to the Planning Commission.

**DECISION DATE & LOCATION:** April 20, 2020, Community Development Center, 231 NE 5<sup>th</sup> Street, McMinnville, Oregon.

**PROCEDURE:** An application for a Tentative Partition is processed in accordance with the procedures in Section 17.72.110 of the Zoning Ordinance. The application is reviewed by the Planning Director in accordance with the Director's Review with Notification procedures specified in Section 17.72.110 of the Zoning Ordinance.

**CRITERIA:** The applicable criteria for a Tentative Partition are specified in Section 17.53.060 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.



## **I. APPLICATION SUMMARY:**

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

The proposal is an application for a Tentative Partition (MP 2-20) to partition a property of 4.8 acres into two parcels, approximately 1.2 acres and 3.6 acres. R4524 01900 (Vacant property south of Redmond Hill Road, with no site address assigned at this time). **See Vicinity Map (Figure 1), Zoning Map (Figure 2), Applicant's Proposed Partition Plan (Figure 3), and Future Development Plan (Figure 4) below.** Other items submitted as part of the application are included with the application, which is attached.

### ***Summary of Criteria & Key Issues***

The application is subject to the standards and procedures established in Chapter 17.53 (Land Division Standards) of the Zoning Ordinance, which are intended to “[...] provide uniform procedures and standards for the subdivision and partitioning of land, and adjustment of property lines; to assure adequate width and arrangement of streets; to coordinate proposed development with plans for utilities and other public facilities; to avoid undue congestion of population; to assure adequate sanitation and water supply; to provide for the protection, conservation, and proper use of land; to secure safety from fire, flood, slides, pollution, drainage or other dangers; to provide adequate light and air, recreation, education, and adequate transportation; to promote energy conservation; to protect in other ways the public health, safety, and welfare; and to promote the goals and policies of the McMinnville Comprehensive Plan.”

The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

This application presents some unique issues and questions about Comprehensive Plan polices pertaining to public facilities, including water, sewer, and access. Most of the standards for a partition are contained in Chapter 17.53 of the Zoning Ordinance. However, many of these issues aren't answered within the criteria and standards of the Zoning Ordinance, and therefore require review and analysis of other provisions of the Municipal Code, other City ordinances, and the McMinnville Urban Growth Boundary Management Agreement (Ordinance 4146).

For example, the property is approximately 1,500 from municipal sewer and water, and the applicant is proposing to serve the proposed parcels with wells and septic systems. As discussed in the findings, the Zoning Ordinance doesn't explicitly address this issue for partitions, requiring review of other City ordinances and any prior precedential decisions.

Further, the application includes proposed access via easements across existing parcels which aren't part of the subject property. One easement access is across property within the UGB but outside City limits, accessing a county road within the UGB and outside City limits. The other proposed access is via an accessway within a separate tax lot (2090) which serves other properties, including property outside the UGB in the same ownership as Tax Lot 2090

These issues are discussed in more detail in the findings. However, while many of these issues could potentially be addressed through conditions, the application fails to meet one of the objective standards in the Chapter 17.53 of the Zoning Ordinance regarding access for a partition.

Section 17.53.105(B) provides in part that, “Each lot shall abut upon a street other than an alley for a width of at least 25 (twenty-five) feet or shall abut an access easement which in turn abuts a street for at least 15 (fifteen) feet if approved and created under the provisions of 17.53.100(C).

Section 17.53.100(C)(1) allows for access by easement, “If it is the only reasonable method by which the read portion of a lot being unusually deep or having an unusual configuration that is large enough

---

#### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

to warrant partitioning into two or more parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access and said access shall be not less than 15 (fifteen) feet in width and shall have a hard surfaced drive of 10 (ten) feet width minimum.”

The application proposes access for Parcel 1 by use of an easement across property to the north to Redmond Hill Road. This easement currently provides access for Tax Lots 1800, 1801, and 1900 (subject property). If proposed Parcel 1 uses this easement, that doesn't increase the allowed use of the easement beyond three parcels, but it cannot serve any additional parcels.

The application proposed access for Parcel 2 via the “flagpole” portion of Parcel 2 across the private accessway across Tax Lot 2090, owned by McKee Properties LLC. This private accessway already serves Tax Lots 1400, 1500, 1600, and 2000 to the south outside the UGB. The subject property (Tax Lot 1900) has a flagpole that terminates at Tax Lot 2090, but does not have physical access improvements within the flagpole. While the subject property (Tax Lot 1900) abuts Tax Lot 2090, it has an improved easement access to the north.

Staff reviewed prior applications in the vicinity to determine whether the City had previously determined any historic public access use over Tax Lot 2090, and found that there was no such determination as recently as the Heiser Addition Subdivision, which recognized Tax Lot 2090 as a private access, and didn't require any frontage improvement of the accessway where Tax Lot 2090 abutted the subdivision.

The partition would create a new parcel (Parcel 2) which can't use the existing northerly easement access to Redmond Hill Road without exceeding three parcels using that access. The accessway in Tax Lot 2090 already serves more than three parcels. Even if there is an existing right to use Tax Lot 2090 for access to the existing property, that access isn't permitted for purposes of further partitioning property, since it already serves more than three properties. In addition, the March 25, 2020 title report does not indicate that the property has an access easement across Tax Lot 2090, which is owned by McKee Properties LLC.

It should be noted that if the application was authorized to take access via easements for the partition, Section 17.53.100(C)(1) requires a hard-surfaced drive of 10 feet in width minimum, which would be required for the easement to Redmond Hill Road and an easement across Tax Lot 2090 to Redmond Hill Road. A hard-surfaced drive would need to be asphalt or concrete. More than the minimum width might be required, subject to review by the Fire Department.

Private streets are not authorized for access for partitions. A private street is only authorized for access to serve lots in a subdivision (4 or more lots), subject to the standards of Section 17.53.100(D)

***The proposed partition doesn't meet the access standards for a partition provided in Sections 17.53.105(B) and 17.53.100(C)(1).*** The application would exceed the number of parcels that can take easement via existing easements, even if there was easement access across Tax Lot 2090. In addition, Parcel 2 can't take access via the easement to the north to Redmond Hill Road without exceeding three parcels using that easement. The issue can't be resolved through a condition of approval. The proposed partition would either require a public street to serve the property or access via another easement that wouldn't exceed three parcels using the easement.

The applicant has indicated the immediate intent of making Parcel 1 available for sale. Another potential option would be a property line adjustment between Tax Lot 1900 and the applicant's property to the west (Tax Lot 1801), such that no new parcel would be created, and the property could be configured to match Parcel 1, where Parcel 2 would be the balance of Tax Lot 1900 plus the area in Tax Lot 1801 to the west.

---

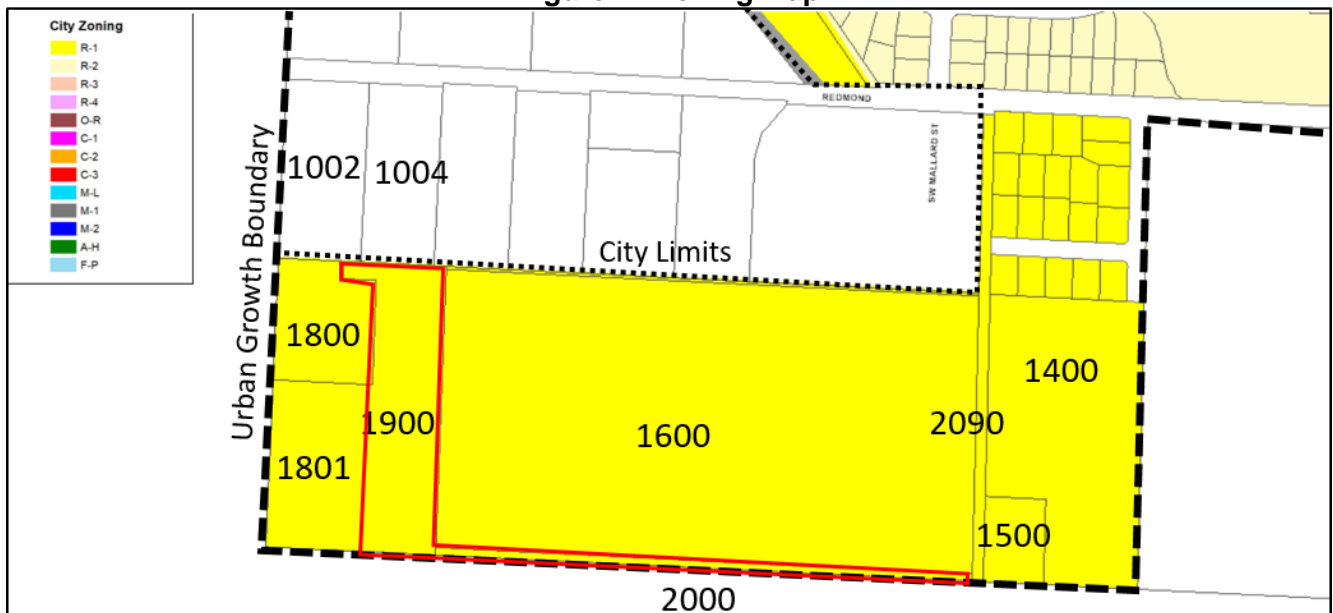
*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

Figure 1. Vicinity Map



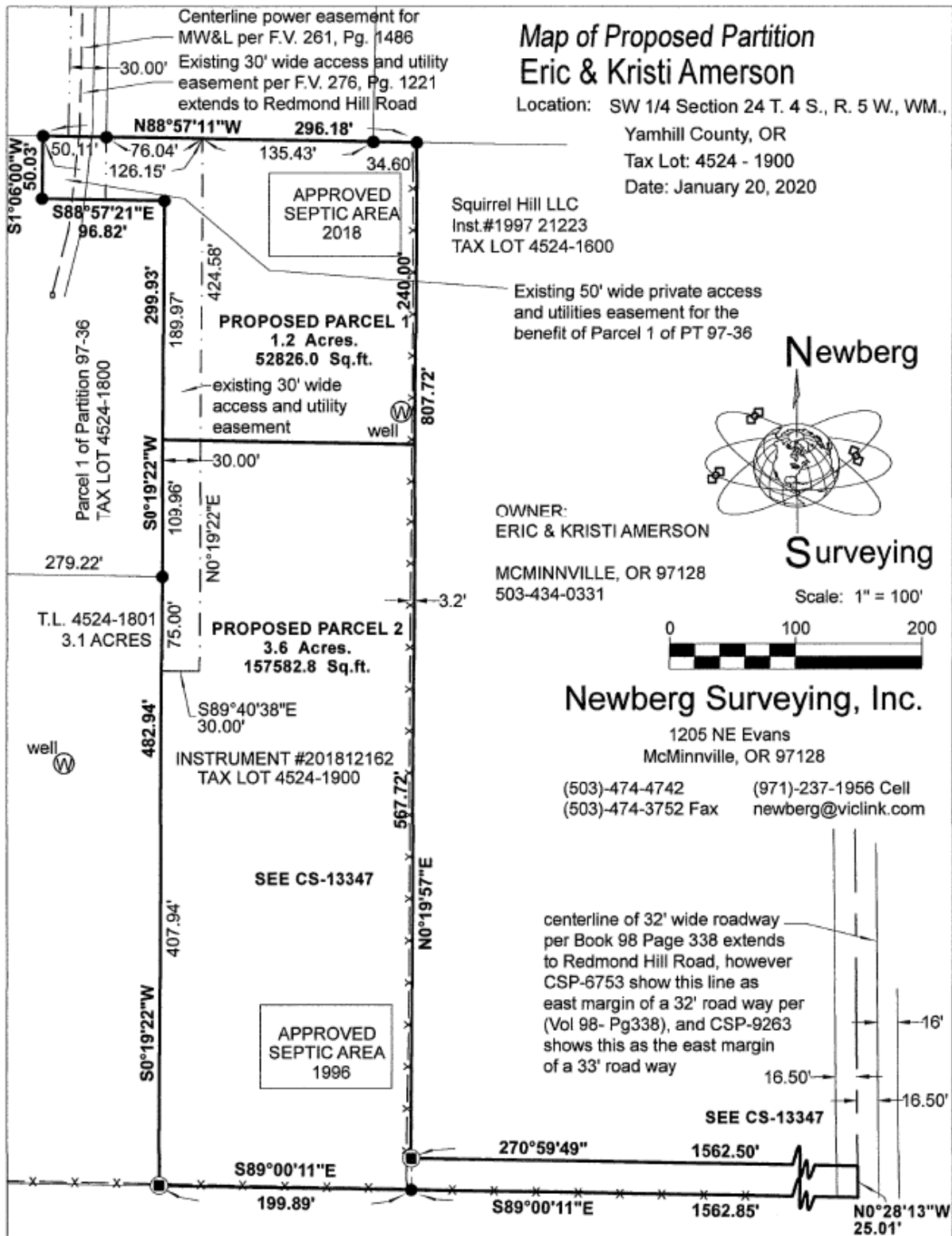
Figure 2. Zoning Map



Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

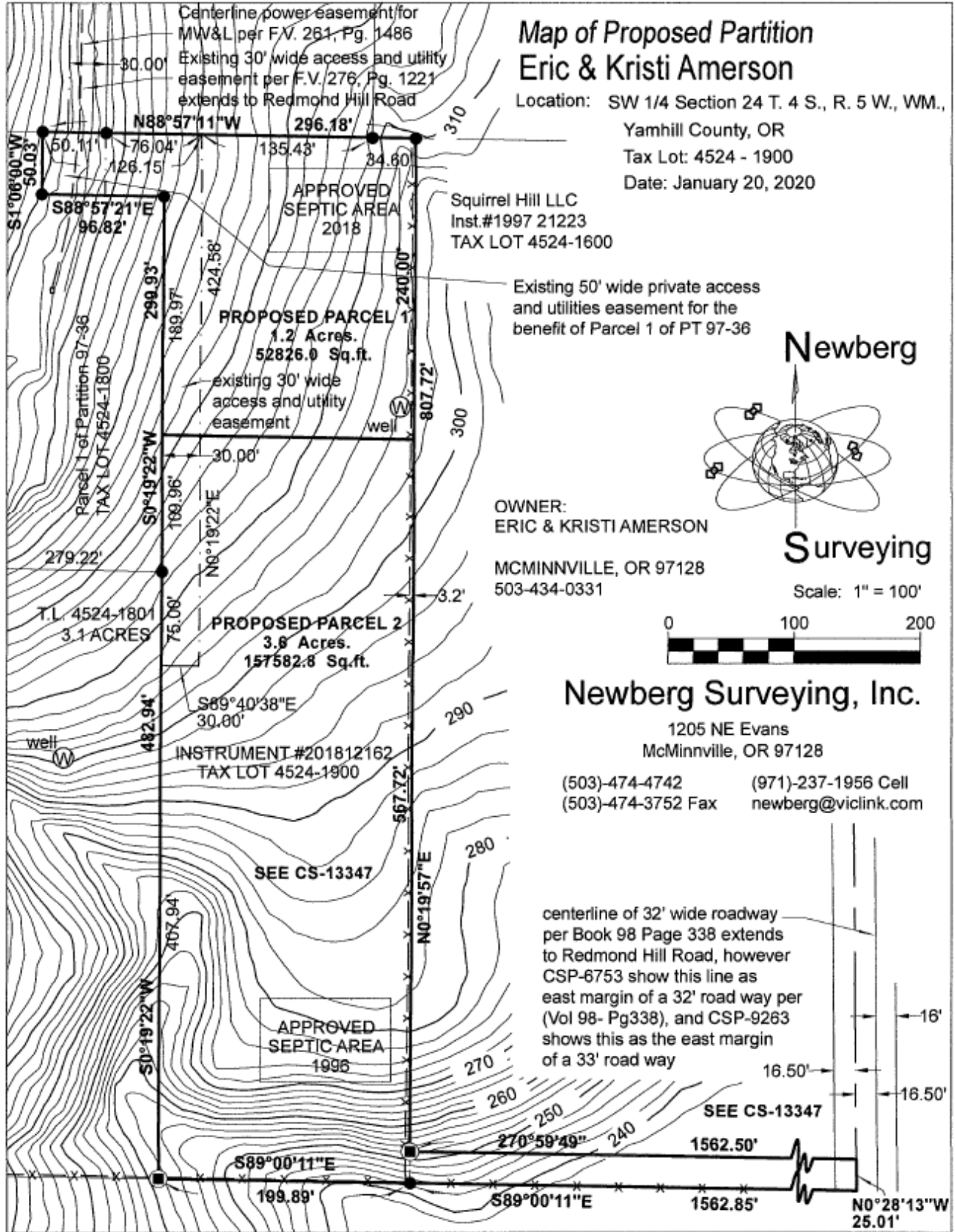
Figure 3a. Applicant's Proposed Partition Plan



**Attachments:**

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

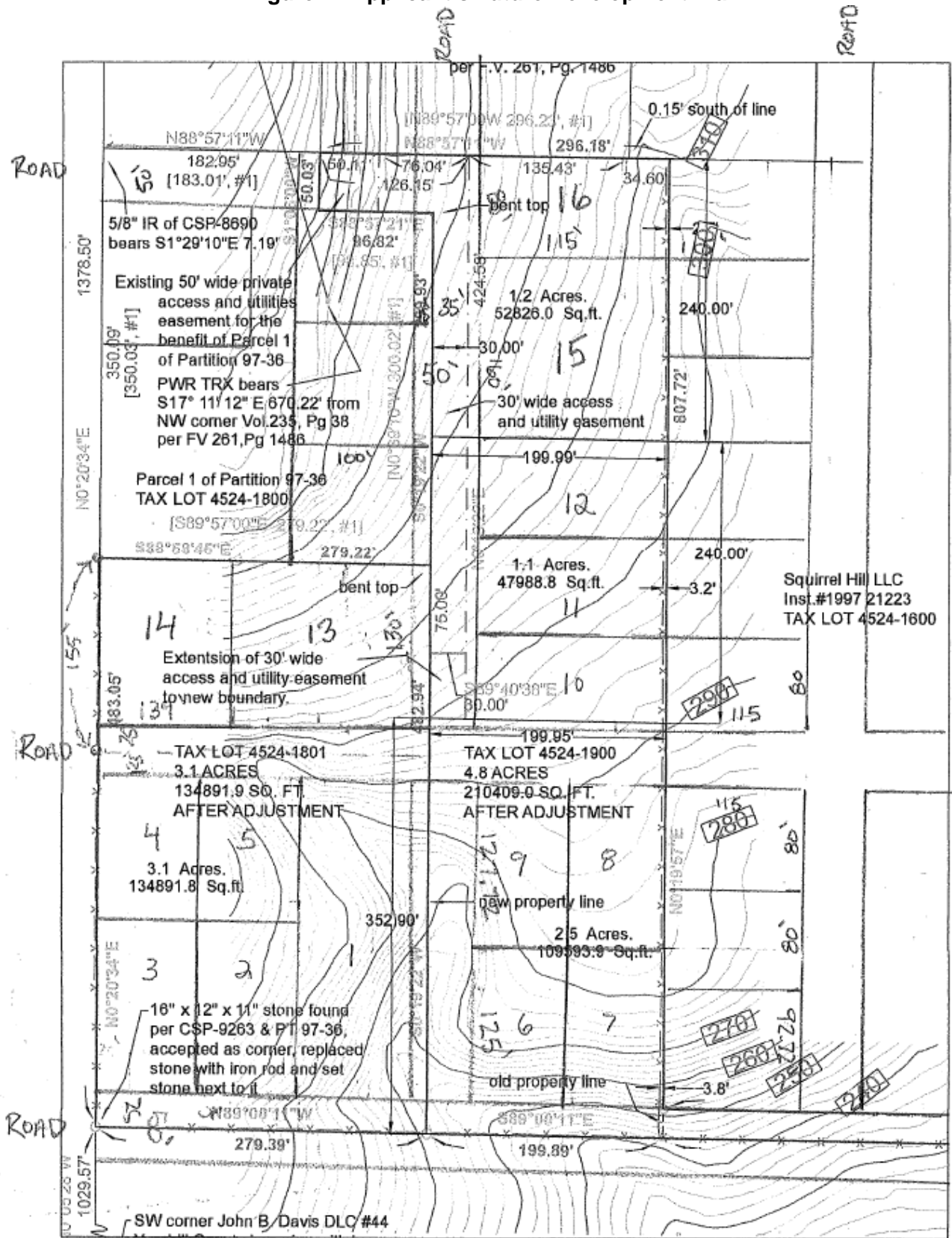
Figure 3b. Applicant's Proposed Partition Plan



Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

Figure 4. Applicant's Future Development Plan



Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony



**II. CONDITIONS:****Not Applicable****III. ATTACHMENTS:**

1. MP 1-20 Application and Attachments (on file with the Planning Department)
2. Public Testimony Received (on file with the Planning Department)
  - a. Letter from Lori L. Coukoulis, on behalf of James and Deborah Cooley and Tammy Gibson, dated March 18, 2020, 3030 SW Redmond Hill Rd. (Tax Lot 1500)
  - b. Letter from Nancy L. Case dated March 20, 2020, 3500 SW Redmond Hill Rd. (Tax Lot 1004)
  - c. Letter dated George Zakaib, MD dated March 23, 2020, 3400 SW Redmond Hill Rd. (Tax Lot 1800), received after close of public comment period

**IV. COMMENTS:****Agency Comments**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

Comments were received from the following agencies, provided below:

- McMinnville Engineering Department
- McMinnville Water & Light
- Oregon Department of State Lands
- McMinnville Engineering Department
  - The utility plan does not clearly indicate the method of storm water disposal for the parcels (17.53.060(A)(12)). The application indicates that storm water will be managed through infiltration & storm water detention. Prior to the approval of the final plat, soil Percolation tests shall be completed with reports stamped by a registered Professional Engineer in the State of Oregon, indicating the soils are appropriate for, and have the capacity for, this type of storm water disposal. Storm Water Detention systems typically require an emergency overflow to an approved drainage. Private storm drainage easements shall be required from the site to an approved discharge location into a natural drainage way.
  - The proposed "future development plan" does not include all lot dimensions. Further the sketch for future street locations does not clearly show proposed street grades in consideration of the area topography and "table top" intersections required to provide compliant accessibility in the right-of-way. Thus, it is not clear that this future development plan is buildable (17.53.060(2) and 17.53.080);
  - The applicant shall provide a grading plan to show how the proposed parcel 2 access driveway to the east, 1562 LF in length, can be built within the 25' width considering the existing topography and fire department requirements. The driveway to the north already serves three parcels (17.53.100(1)).

---

**Attachments:**

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

- Text on the map in “PROPOSED PARCEL 1” (page 3 of the pdf) shows an “existing 30’ wide access and utility easement”. Surveyor should note whether it is a private or public easement and how it was created (i.e., plat, subdivision, survey etc.). I found this easement on Survey number 13347 (attached) and even on that survey it is ambiguous as to how it was created.
- Existing public sewer is approximately 1,700’ from the property and is not within 150’ of public sewer. Per Municipal Code 13.04.070, a septic system would be allowed since the public sanitary sewer is not within 150 feet of the proposed property lines
- Department of State Lands
  - When you receive applications for ground disturbance/construction on these properties please submit WLUN. Please include the septic findings that were attached here – or just attach this notice package if that is easier for you.
- McMinnville Water & Light
  - This Partition Application appears to indicate a well will be used at one or both parcels created by this Partition Application even though both parcels are within city limits. This is the only path to water for these parcels at this time since they exist almost entirely above McMinnville Water and Lights zone one service area limit of 275’ elevation. Also, the nearest public water main is approximately 1600’ to the east of these parcels.

McMinnville Water and Light is a signatory for Partition Plats. Please note there are three options to certify a plat: ORS 92.090(4). *[Citation attached]*.

## Public Comments

Notice of this request was mailed to property owners located within 100 feet of the subject site. Public testimony received by the Planning Department is described in Section III (Attachments) above. One comment was received after the close of the public comment period. While this may affect a determination of whether this is part of the official record and may affect potential appeal rights, staff has still reviewed the testimony for any relevant facts pertaining to the application.

## V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The application was submitted on January 29, 2020.
2. The application was deemed complete on February 28, 2020.
3. On March 4, notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.110 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

Comments received from agencies are addressed in Section IV of the Decision Document.

---

### Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

4. On March 6, 2020, notice of the application and public comment period was mailed to property owners within 100 feet of the subject property in accordance with Section 17.72.110 of the Zoning Ordinance.

Public Testimony received is listed and Section III and provided as attachments.

5. The 14-day public comment period closed on March 20, 2020.
6. Public testimony, provided in Section IV of the Decision Document, was submitted to the Planning Department prior to the Planning Director's review of the application.
7. The Planning Director issued a decision on April 20, 2020.

## **VI. FINDINGS OF FACT - GENERAL FINDINGS**

1. **Location:** Map & Tax Lot: R4524 01900 (Vacant property south of Redmond Hill Road, with no site address assigned at this time).
2. **Size:** 4.8 acres
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:**
  - a. **Subject Property:** R-1 (Single-Family Residential)
  - b. **Surrounding Properties:**
    - i. **North:** Property to the north between the subject property and Redmond Hill Road is in the UGB outside City limits; it has county VLDR 2.5 zoning.
    - ii. **South:** Property to the south is outside the UGB and has county EF-80 zoning.
    - iii. **East:** R-1
    - iv. **West:** R-1
5. **Overlay Zones/Special Districts:** None identified.
6. **Current Use:** Vacant
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** None identified.
8. **Other Features:**
  - a. **Slopes:** The property generally slopes from northwest to southeast, from about 350' elevation at the northwest corner to about 240' at the southeast corner, excluding the long east-west portion of the property. There is a natural drainage that runs southerly along the west property line and easterly near the south property line.
  - b. **Easements and Utilities:** There are several easements on the property as described in the title report and shown on the tentative plan, including an access and utility easement along a portion of the property, as well as an easement benefitting the property across property to the north.
9. **Utilities:**
  - a. **Water:** The nearest municipal water is located in Redmond Hill Road approximately 1,460 feet east of the easement serving the subject property. Municipal water is also present within the Heiser Addition Subdivision to the east. The applicant is proposing to serve the parcels with private wells. The well for Parcel 1 is located on Parcel 1, shown on the preliminary

---

### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

plat. The well for Parcel 2 is a shared well, located within the utility and access easement to the north of the property. A portion of the property is within Water Pressure Zone 2, and would require Zone 2 infrastructure and/or booster pumps to serve that portion of the property with municipal water in the future.

- b. **Sewer:** The nearest municipal sewer is located in Redmond Hill Road approximately 1,460 feet east of the easement serving the subject property. The applicant is proposing to serve the parcels with private on-site septic systems. The well for Parcel 1 is a shared well, located within the utility and access easement to the north of the property. Municipal water is also present within the Heiser Addition Subdivision to the east.
- c. **Stormwater:** There are no municipal storm drainage facilities downslope from the buildable portions of the subject property. Redmond Hill Road is a county road with a rural cross-section. Further to the east, Redmond Hill Road is improved to urban standard with curb, gutter, and sidewalk providing collection of stormwater in a piped and surface conveyance system.

The application indicates that stormwater will be managed through infiltration and stormwater detention. The Engineering Division has provided comments regarding the proposed method of stormwater management.

- d. **Other Services:** Other services are available to the property.

#### 10. **Transportation and Access:**

The subject property has an access easement across Tax Lot 1002 to Redmond Hill Road to the North, which is shared by tax lots 1800 and 1801 to the west. The subject property has a narrow strip of land that runs east-west from the main portion of the property to Tax Lot 2090 to the east.

The applicant is proposing to use the easement across tax Lot 1002 to Redmond Hill Road to serve Parcel 1. The applicant is proposing to take access across Tax Lot 2090 to Redmond Hill Road to serve Parcel 2, providing a driveway across the “flagpole” portion of the property.

No new streets are proposed within the partition to serve proposed parcels.

11. **Key Issues and Standards:** Key issues in this application involve the following questions regarding applicable codes and standards in general.

- **Can a property use a well and septic system, rather than connecting to municipal sewer and water? If so, in what circumstances?**

#### ***Zoning Ordinance***

Chapter 17.53 of the Zoning Ordinance contains standards for land divisions, including subdivisions and partitions. Some standards apply to all applications subject to the Chapter, while others apply only to certain application types. Sections 17.53.150-17.53.153 provide standards for improvements. Section 17.53.153 specifies that all lots within a subdivision (a land division creating 4 or more lots) shall be served by the City water supply system and the City sewer system; however, no such requirement is specified for a partition (a land division creating 2 or 3 parcels).

Staff sought guidance on whether the intent of those provisions was whether “subdivision” was used generically to mean land divisions in general, or whether it was used specifically

---

#### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

to mean subdivisions and exclude partitions. The provisions have been interpreted as written, to apply specifically to subdivisions.

There are no other provisions of the Zoning Ordinance which address use and/or installation of private or public systems for partitions or new development on existing properties. Therefore, other ordinances and policies are reviewed for applicable standards.

### ***Municipal Code***

Chapter 13.04 of the Municipal Code, Sections 13.04.070 and 13.04.080, include the following provisions regarding public sewer and private wastewater disposal facilities.

#### ***13.04.070. Use of Public Sewers Required***

*A. It is unlawful of any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the city of McMinnville, or in any area under the jurisdiction of the city, and human or animal excretion, garbage, or other objectionable waste material which creates an offensive odor or health hazard and/or attracts vermin.*

*B. It is unlawful to discharge to any natural outlet within the city of McMinnville or in any area under the jurisdiction of the city, any wastewater, commercial or industrial wastewater, or other polluted water, except where suitable treatment has been provided in accordance with provisions of Chapters 13.04 through 13.12 MMC.*

*C. Except as hereinafter provided, it is unlawful to construct or maintain any privy, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.*

*D. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city of McMinnville, and abutting on any street, alley, easement, or right-of-way in which there is now located or may in the future be located a sanitary sewer of the city, is required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper sewer in accordance with the provisions of Chapters 13.04 through 13.12 MMC, within 90 days after date of official notice to do so, provided that the sewer is within 150 feet of the property line. (Ord. 4987, 2015).*

#### ***13.04.080. Private Wastewater Disposal***

*A. Where a public sanitary sewer is not available under the provisions of MMC 13.04.070(D), the building sewer shall be connected to a private sewage system complying with the provisions of this section.*

*B. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the county sanitarian. The application for such permit shall be made in writing and supplemented by any plans, specifications, and other information as are deemed necessary by the county sanitarian and Director. A permit and inspection fee as required shall be paid to the proper agency at the time the application is filed.*

*C. A permit for the private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the county sanitarian. The*

---

#### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

*agent of the city shall be allowed to inspect the construction and no underground portions shall be permitted to discharge to any public sewer or natural outlet.*

*D. At such time, as a public sewer becomes available to a property served by a private wastewater disposal system, a connection shall be made to the public sewer in compliance with Chapters 13.04 through 13.12 MMC, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and after pumping filled with suitable material at the time of said connection.*

*E. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city of McMinnville.*

*F. No statement contained in Chapters 13.04 through 13.12 MMC shall be construed to interfere with any additional requirements that may be imposed by the health officer. (Ord. 4987, 2015).*

**Sewer.** These provisions explicitly address requirements for remediating an unsanitary situation where existing development isn't connected to municipal sewer or a private wastewater disposal facility. They specify that such development shall be connected to municipal sewer, or if it is more than 150 feet from the property, a private wastewater facility may be authorized as specified in Section 13.04.080, provided the development connects to municipal sewer once it becomes available to the property.

The City has interpreted these provisions to also apply to new development on a property which is more than 150 feet from municipal sewer, and to partitioning of a property which is more than 150 feet from municipal sewer.

**Subdivisions.** Therefore, any subdivision must provide municipal sewer to every lot within the subdivision as specified in the Zoning Ordinance. If sewer isn't present, it must be extended, or a subdivision may not occur until sewer is extended to meet these requirements.

**Other.** For development of property or partitioning of property within 150 feet of municipal sewer, the sewer must be extended to serve the property. For development of property or partitioning of property more than 150 feet from municipal sewer, the property has the option of using a private wastewater disposal system.

**Water.** The Municipal Code doesn't contain similar provisions addressing municipal water or use of wells. Therefore, we look to any applicable standards of McMinnville Water & Light. McMinnville Water & Light has commented, "Neither our policies nor past practice addresses mandating parcels to connect to the public water system."

**Subdivisions.** Therefore, any subdivision must provide municipal water to every lot within the subdivision as specified in the Zoning Ordinance. If water isn't present, it must be extended, or a subdivision may not occur until water is extended to meet these requirements.

**Other.** For development of property or partitioning of property within 150 feet of municipal sewer, there appear to be no standards requiring connection to municipal water nor prohibitions on use of wells.

---

*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

### **Comprehensive Plan**

Goal VII.1 of the Comprehensive Plan is “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.

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

- **When a well and septic system are authorized, what are the applicable requirements?**

#### **Wastewater.**

**On Site System.** The City doesn’t have separate standards governing septic systems. Those are governed by applicable state law administered by other agencies. The City would coordinate to ensure applicable requirements have been satisfied. .

**Future Sewer.** The above provisions of the Municipal Code would apply at such time municipal sewer is extended.

#### **Water.**

**Well.** The City doesn’t have separate standards governing wells. Those are governed by applicable state law administered by other agencies. The City would coordinate to ensure applicable requirements have been satisfied.

**Future Water.** McMinnville Water & Light provided comments that in the past they used deferred development agreements and front footage charges, but don’t currently use those tools for water main extensions. These are tools sometimes used to recapture the cost from development of property to help pay for deferred frontage improvements that occur at a future date rather than at the time of development if there is an obligation for the developer to provide frontage improvements. MWL hasn’t required deferred development agreements since the mid-1980s, and the front footage charge was used from the mid-1990s to a few years ago, but no longer exists for water mains. Therefore, there are no future obligations for water that would be recorded against the property for future installation or participation in costs. MWL does have requirements in cases where a property is served by both a well and municipal water to protect the municipal system. This requires either a reduced pressure backflow assembly or abandonment of the well at such time as a property may be served by municipal water.

- **Can a property access a public road via an easement? What are the applicable standards?**

**Yes.** Section 17.53.100(C) of the Zoning Ordinance allows an easement providing access to property to allow the partitioning of land, subject to the conditions specified in that section.

This is typically used when a property to be partitioned has frontage on a public right-of-way, where the easement would be across a parcel created through the partition to provide access to another a parcel created through the partition located to the rear of parcels on the frontage. However, there is nothing in this section that prohibits a parcel that lacks frontage onto a specified public right-of-way from taking access to that right-of-way via an easement

---

#### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

across an existing property between the property to be partitioned and the right-of-way, in order to serve newly partitioned parcels, subject to the applicable conditions and standards.

Among other requirements, not more than three parcels may be provided access via the easement, the easement must be at least 15 feet in width, with a hard surfaced drive of 10 feet width minimum.

- **For a property within City limits, can access be taken to a County road that isn't inside City limits?**

The McMinnville Urban Growth Boundary Management Agreement (MUGBMA) contains policies in Sections I and II of the agreement. Most of these pertain to development of land in the UGB but outside City limits. These include Section I, Policy H regarding transportation facilities, and provisions regarding notification and coordination regarding land use decisions.

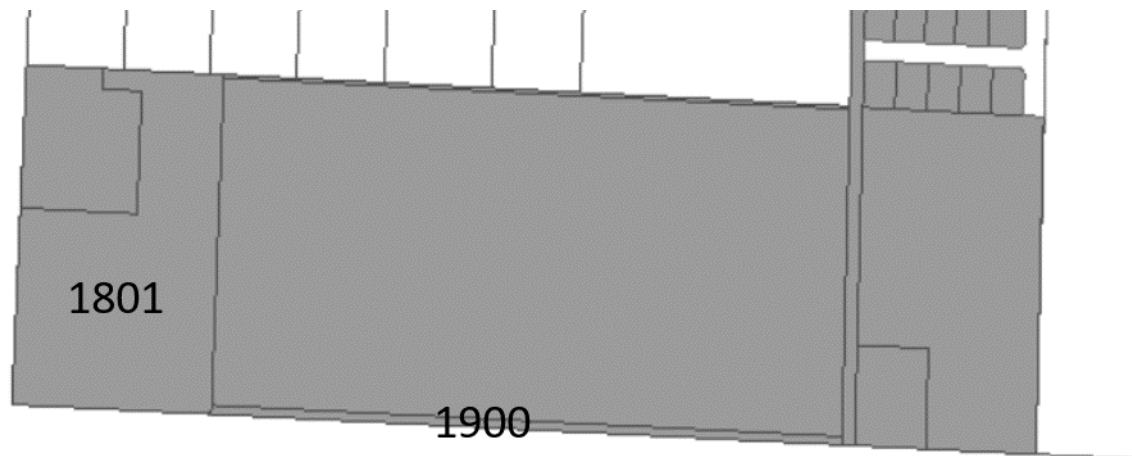
There is nothing in the agreement which precludes this access. Any work within the county right-of-way or access permits would be coordinated and/or referred to Yamhill County.

Key issues regarding the above items which are specific to this application include the following:

- **The application proposes access to Parcel 1 via an easement to Redmond Hill Road and access to Parcel 2 via Tax Lot 2090 to Redmond Hill Road. Does this comply with the access requirements?**

The subject property was created in its current configuration by property line adjustment BLA 4-17. This adjusted the property line between former tax lots 1900 and 1801, as shown below.

#### Exhibit 5. Property Before Boundary Line Adjustment



Tax lot 1801 had easement access to Redmond Hill Road. Tax lot 1900 was an unimproved, unbuildable narrow strip of land. It didn't have frontage on a public right-of-way or easement access to a public right-of-way. As now configured, the property line adjustment added about a 3.8 acre portion of tax lot 1801 to tax lot 1900, making it a parcel with a developable area added to the strip of land. That is the subject of this partition application. The other adjusted parcel remaining is tax lot 1801 to the west, now approximately 3.1 acres in size. It does not have frontage on a public right-of-way and also takes access to Redmond Hill Road via the same easement. The property line adjustment resulted in an increase from two parcels

#### Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony



to three parcels with access via the easement. The proposed partition would not increase the number of parcels using the easement. Parcel 1 is the northerly portion of the property, and would continue to have access via the easement. Parcel 2 is the southerly portion of the property and the east-west strip of land, and access is proposed with a driveway across the strip of land to Tax Lot 2090, a north-south strip of land, and via that tax lot to Redmond Hill Road. The applicant has submitted a document describing a roadway in the vicinity of Tax Lot 2090.

- **Can Parcel 1 utilize the easement to Redmond Hill Road for access?**

The subject property currently has access via this easement, and the northerly portion of the property would continue to have access via this easement without affecting the number of parcels using this easement.

There is nothing in the Zoning Ordinance or other ordinance that would prohibit use of this easement to access Parcel 1. It would need to be improved to the standards of Section 17.53.100 of the Zoning Ordinance, and any work within the right-of-way of Redmond Hill Road would require authorization from Yamhill County Public Works. The applicant is responsible for ensuring there are no private restrictions regarding the use of that easement to serve the property.

While this easement would provide access to the subject property, which is inside City limits, by easement over Tax Lot 1002, which is inside the UGB but outside City limits, to a portion of Redmond Hill Road which is outside City limits, there was no specific regulatory prohibition discovered for this access configuration.

- **Can Parcel 2 utilize Tax Lot 2090 to Redmond Hill Road for access?**

At a minimum, to be used for access, Tax Lot 2090 would need to be a public road, so the “flag pole” portion of Parcel 2 would have frontage on a public road, or with the flag pole portion of Parcel 2 having frontage on that public road, or Tax Lot 2090 would need to provide easement access to Redmond Hill Road to meet the access requirements for the partition.

Both are examined:

- **First, is Tax Lot 2090 a public street?**

**No.** Assessment records do not identify Tax Lot 2090 as a public right-of-way. It is privately owned by McKee Properties LLC, as is Tax Lot 2000 at the south terminus outside the UGB. Physical improvements are an unpaved gravel surface, with signs near the intersection with Redmond Hill Road identifying this as a private access.

Further, the land use decisions for Heiser Addition subdivision (S 1-16, amended by S 1-17) provide further records that the City did not recognize this as a public street. It is identified as a private access and private drive in the record of that decision, and the abutting lots in Heiser Addition were not required to make frontage improvements.

- Second, does the applicant have an easement across Tax Lot 2090 to Redmond Hill Road?

The applicant provided a recorded document regarding a roadway, shown on the tentative plan. The title report submitted by the applicant doesn't indicate an easement across Tax Lot 2090 for the benefit of the subject property, Tax Lot

---

*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

1900. There is no historic use of Tax Lot 2090 to provide access to the subject property, either before or after the property line adjustment, and there is no improved access leading from the subject property to Tax Lot 2090.

The application discusses a roadway in the general vicinity of Tax Lot 2090, but it doesn't provide evidence of public or private status, or which properties it benefits. Further, the application notes a discrepancy in survey records regarding the location and width of the roadway.

Finally, the access standards of Section 17.53.100 contemplate that access will be via a cul-de-sac, flag lot, or easement, with easement access being the preferred option to serve partitioning of deep lots **instead of** a flag lot or cul-de-sac. The proposed partition proposes access via a long flag pole which in turn abuts a long accessway to the public right-of-way. Even should there be an access right or easement across tax lot 2090 to benefit Parcel 2, access via a flag pole and easement isn't contemplated in allowing use of an easement rather than direct access on a right-of-way per Section 17.53.100.

This application raises unique questions. As noted above, the provisions of the Zoning Ordinance that allow a partition with easement access to properties may or may not have contemplated that the easement would cross other properties which are not part of the parent parcel in the partition application or serve other properties which are not part of the parent parcel in the partition application, as is the case with this application. Also unique with this application that the proposed access for the partition also currently provides access to an EF-80 zoned parcel outside the UGB.

Further, an existing legal access to serve an existing property may not meet the access standard necessary to partition the property.

In this case, Tax Lot 2090 already provides access to at least four properties (Tax Lots 1400, 1500, 1600, and 2000, in addition to any access right for the applicant's property (Tax Lot 1900).

Even if the applicant has an access right or easement across Tax Lot 2090, the application doesn't meet the easement access standard, which limits the number of parcels served by easement access to three parcels.

---

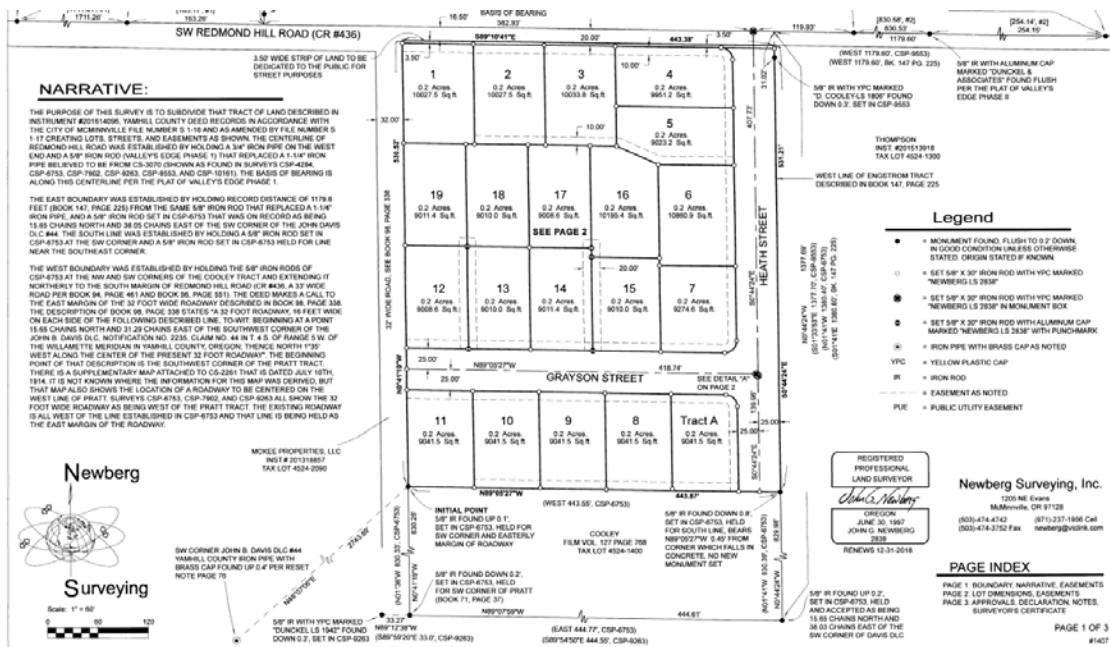
*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

Exhibit 6. Excerpt from Heiser Addition Subdivision Application



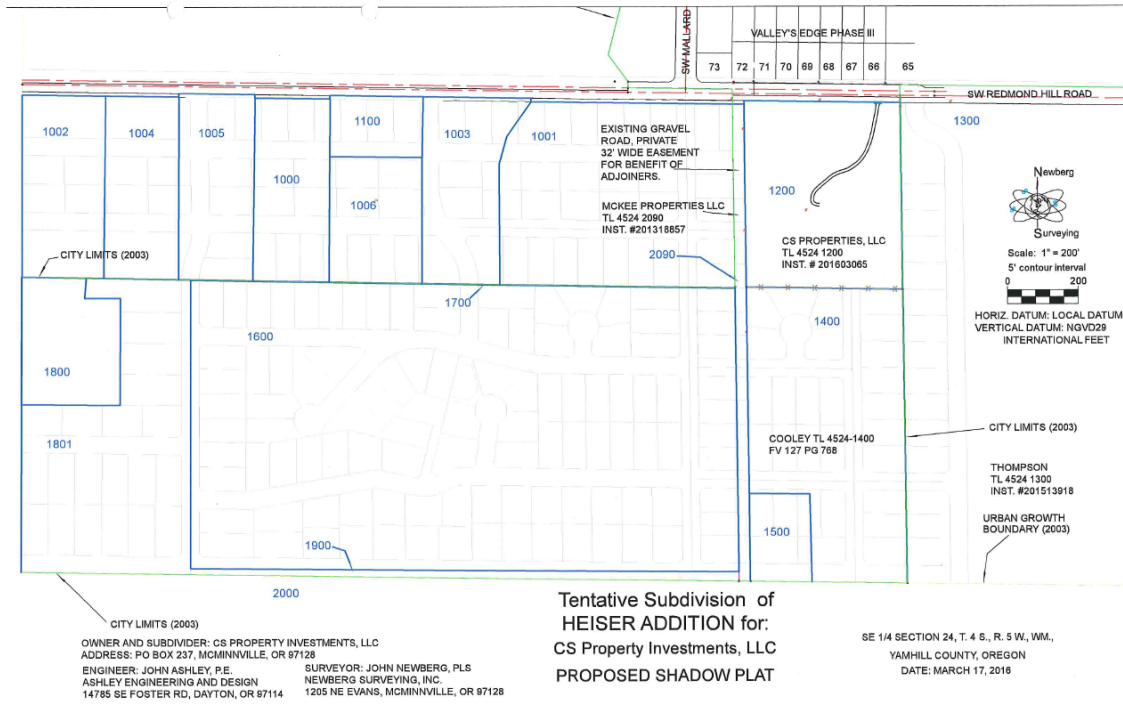
Exhibit 7. Excerpt from Heiser Addition Subdivision Application



Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

**Exhibit 8. Excerpt from Heiser Addition Subdivision Application**



**Questions Not Part of this Application.** The following information is intended to clarify information received related to this application, but which issues are not part of the application.

- **Would the property be eligible for further land divisions?**

Further partitions (3 or fewer parcels) could be reviewed for the property, subject to applicable standards, with similar considerations to this application. The property would not be eligible for a subdivision (4 or more lots) unless municipal sewer and water are extended, and where each lot within the subdivision could be provided with municipal sewer and water, as required by Section 17.53.153. A portion of the property is in Water Pressure Zone 2, and would require necessary Zone 2 infrastructure or determinations regarding booster pumps.

- **Would ADUs (Accessory Dwelling Units) be allowed on the resulting parcels? Yes, Subject to Verification of Adequate Water and Wastewater Facilities.**

This is not part of the current partition application, but this application would create new parcels that would be buildable for uses permitted in the R-1 zone.

An ADU is a permitted use in the R-1 zone and would be a permitted use in conjunction with a primary dwelling. The property owner would need to ensure compliance with applicable requirements and standards for the well and wastewater disposal system with the applicable laws governing those systems. The property would also need to independently determine compliance with the terms of any private easements and any existing restrictions associated with the easement and/or property.

*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

## **VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Minor Partition are specified in Chapter 17.53 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.**

*Policy 132.29.05      Off-site improvements to streets or the provision of enhanced pedestrian and bicycle facilities in the McMinnville planning area may be required as a condition of approval for land divisions or other development permits.*

**APPLICANT’S RESPONSE:** None.

**FINDING: THIS CRITERION COULD BE SATISFIED WITH CONDITIONS.** If necessary to ensure safe egress and ingress, a condition of approval could be applied ensuring adequate safe access that may exceed minimum standards of the Zoning Ordinance.

*Policy 132.40.05      Conditions of Approval – In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:*

- 1. Improvement of on-site transportation facilities,*
- 2. Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards; and [...]*

**APPLICANT’S RESPONSE:** None.

**FINDING: THIS CRITERION COULD BE SATISFIED WITH CONDITIONS.** If necessary to ensure safe egress and ingress, a condition of approval could be applied ensuring adequate safe access that may exceed minimum standards of the Zoning Ordinance.

---

#### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

*Policy 132.62.00 TSP as Legal Basis – The City of McMinnville shall use the McMinnville TSP as the legal basis and policy foundation for actions by decision makers, advisory bodies, staff, and citizens in transportation issues. The goals, objectives, policies, implementation strategies, principles, maps, and recommended projects shall be considered in all decision-making processes that impact or are impacted by the transportation system.*

*Policy 132.62.20 TSP Use in Review of Land Use Actions – The City of McMinnville shall consider and apply the goals, policies, planning principles, recommended projects, implementation strategies, and maps contained in McMinnville TSP in the review of land use actions and development applications.*

**APPLICANT’S RESPONSE:** None.

**FINDING: THIS CRITERION COULD BE SATISFIED WITH CONDITIONS.** If necessary to ensure safe egress and ingress, a condition of approval could be applied ensuring adequate public safety access that may exceed minimum standards of the Zoning Ordinance.

**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.**

*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 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.*

*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: THIS CRITERION COULD BE SATISFIED WITH CONDITIONS.** Conditions of approval could be included consistent with agency regulations and standards to meet requirements for wells and on-site wastewater systems, as well as future requires that apply at such time as water and sewer may be extended and/or serve the subject properties. These may include backflow requirements, connection to municipal sewer and abandonment of on-site systems, etc.

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

---

*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

*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:** None.

**FINDING: SATISFIED.** The process for a Tentative Partition provides an opportunity for citizen involvement through the public notice and comment period. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials prior to the McMinnville Planning Director’s review of the request. All members of the public have access to provide testimony and ask questions during the public review process.

**McMinnville Zoning Ordinance (Title 17 of the Municipal Code)**

The following Sections of the Zoning Ordinance provide criteria applicable to the request:

**Chapter 17.53. Land Division Standards:**

**Land Division Standards - Partition**

**17.53.060(B).** *Upon receiving a complete application for a partition, notification and review shall be provided as stated in Section 17.72.110. The Director’s decision shall be based upon a finding that the tentative plan substantially conforms to the requirements of this chapter.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SEE BELOW.** Findings regarding substantial conformance of the tentative plan with the requirements of this Chapter are addressed individually below.

**17.53.060(C).** *The Planning Director may require such dedication of land and easements and may specify such conditions or modifications in the plan as are deemed necessary to carry out the McMinnville Comprehensive Plan. In no event, however, shall the Planning Director require greater dedications or conditions than could be required if the entire parcel were subdivided.*

1. *If the parcel of land to be partitioned, being large in size, shall be divided into more than three parcels within any one calendar year, full compliance with all requirements for a subdivision plat may be required if the Planning Director should determine, in his judgment, that the entire parcel is in the process of being subdivided.*
2. *Where a parcel is proposed to be divided into units of one acre or more, the Planning Director shall require an arrangement of parcels and streets such as to permit future partitions or subdivision in conformity to the street requirements and other requirements contained in this ordinance. Refer to Section 17.53.080 for future development plan requirements.*
3. *For notice of decision, effective date of decision and the appeal process, refer to Chapter 17.72 (Applications and Review Process).*
4. *The effective date of the Planning Director’s decision shall be 15 (fifteen) calendar days following the date the notice of decision is mailed unless an appeal is filed.*

**APPLICANT’S RESPONSE:** None.

**FINDING: THIS CRITERION COULD BE SATISFIED WITH CONDITIONS.** Please see response below regarding the future development plan.

---

**Attachments:**

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

**17.53.060(D).** *Approval of a Tentative Partition Plat shall be valid for a one-year period from the effective date of approval. Upon written request, the Director may approve a one-year extension of the decision. Additional extensions shall require the approval of the Planning Commission.*

**APPLICANT’S RESPONSE:** None.

**FINDING: THIS CRITERION COULD BE SATISFIED WITH CONDITIONS.** A condition of approval could be included to confirm that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision.

### **Land Division Standards - Future Development Plan**

**17.53.080. Submission of Future Development Plan.** *A future development plan is required when it is evident that the property to be subdivided or partitioned can be further divided...*

*It shall be the responsibility of the Engineering Department and Planning Department to review a future plan to ensure that it substantially conforms to the requirements of this chapter. The review body will ensure that the infrastructure for the future plan is consistent with the current development requirements. The Planning Director may reject a future plan if it is found that it does not substantially conform to the requirements of this chapter. The review body may make any of the following recommendations:*

- A. The construction of streets and utilities or the dedication of right-of-way for future improvements.*
- B. Any easements as deemed necessary for the extension of utility services.*

**APPLICANT’S RESPONSE:** None.

**FINDING: THIS CRITERION COULD BE SATISFIED WITH CONDITIONS.** A condition of approval could be included to address the Engineering Departments comments regarding the future development plan.

### **Land Division Standards – Approval of Streets and Ways**

#### 17.53.100 Creation of Streets.

- A. The creation of streets shall be in conformance with requirements for a subdivision except, however, the City Council shall recommend the creation of a street to be established by deed if any of the following conditions exist:
 
  - 1. The establishment of the street is initiated by the City Council and is declared essential for the purpose of general traffic circulation, and the partitioning of land is an incidental effect rather than the primary objective of the street;*
  - 2. The tract in which the street is to be dedicated is an isolated ownership of one acre or less;*
  - 3. The tract in which the street is to be dedicated is an isolated ownership of such size and condition as to make it impractical to develop more than three (3) lots.**
- B. In those cases where approval of a street is to be established by deed, a copy of the proposed deed shall be submitted to the City Engineer at least 15 (fifteen) days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Sections 17.53.060 to 17.53.079 and Section 17.53.101 of these regulations, shall be recommended for approval with such conditions as are necessary to preserve these standards.*
- C. An easement providing access to property and which is created to allow the partitioning of land for the purpose of lease, transfer of ownership, or building development, whether*

---

#### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony



*immediate or future, shall be in the form of a street in a subdivision, except that a private easement to be established by deed without full compliance with these regulations may be approved by the Planning Director under the following conditions:*

1. *If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access and said access shall be not less than 15 (fifteen) feet in width and shall have a hard surfaced drive of 10 (ten) feet width minimum;*
  2. *The Planning Director shall require the applicant to provide for the improvement and maintenance of said access way, and to file an easement for said access way which includes the right to passage and the installation of utilities. Such requirements shall be submitted to and approved by the City Attorney.*
  3. *Access easements shall be the preferred form of providing access to the rear lots created by partition if the alternative is the creation of a flag lot.*
- D. *A private way/drive which is created to allow the subdivision of land shall be in the form of common ownership, provide on-street parking or parking bays to replace that displaced by limited parking area, be approved by the Planning Commission in the form of a planned development, and meet the following conditions:*
1. *If it is the only reasonable method by which the rear portion of the existing parcel can be provided with access; or because of unusual topography, vegetative cover (preservable trees), lot size, or shape, it is the most feasible way to develop the parcel.*
  2. *The Planning Commission shall require the subdivider to provide the improvements to standards as set forth in Section 17.53.101(P) and maintenance of said private way/drive; to establish binding conditions upon each parcel taking access over said private way/drive, not limited to only the required maintenance, but to include adherence to the limited parking restrictions imposed by the individual planned development ordinance; and to provide necessary easements for the installation, operation, and maintenance of public utilities.*
  3. *Provisions must be made to assure that the private streets will be properly maintained over time and that new purchasers of homes or lots within the subdivision are notified, prior to purchase, that the street is private and that maintenance fees may be charged. Such provisions must meet with the approval of the Planning Commission.*
  4. *Street sign posts on private streets must contain a sign stating that the street is private. The design and location of such signs must be approved by the City Engineer.*
  5. *Gates are prohibited within or across public rights-of-way. Gates are prohibited across private streets that serve single-family residential development of four or more lots or parcels, multi-family housing complexes, manufactured home parks, or commercial or industrial subdivisions (Amended 8/14/07 by Ordinance No. 4879).*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT SATISFIED.** As discussed in the General Findings in Section VI, the application proposed access via easements rather than frontage on a public street, and the application doesn’t meet the applicable requirements of this Section for easement access for a partition. Access must be provided to each parcel in accordance with this Section, and the proposed access for Parcel 2 would result in more than three parcels having access via the accessway in Tax Lot 2090. This is not a public right-of-way or public street, and the accessway already serves more than three parcels. Subsection (C)(1) limits use of an easements to three parcels. There is not a condition of approval that could be applied to meet this criterion.

**NOTE:** *Private streets are only authorized access for a subdivision (4 or more lots) subject to the standards of 17.53.100(D)*

---

*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

**17.53.101 Streets.**

- A. **General.** The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. Where location is not shown in a comprehensive plan, the arrangement of streets in a subdivision shall:
1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; or
  3. Maximize potential for unobstructed solar access to all lots or parcels. Streets providing direct access to abutting lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features. The east-west orientation of streets shall be integrated into the design.
- B. **Rights-of-way and street widths.** The width of rights-of-way and streets shall be adequate to fulfill city specifications as provided in Section 17.53.151 of this chapter. Unless otherwise approved, the width of rights-of-way and streets shall be as shown in the following table:

			Arterial		Collector		Neighborhood Connector	Local Residential	Alley	
			Major	Minor	Major	Minor				
Streetscape	Street Profile	Bike	Auto/Truck Amenities (lane widths) <sup>1</sup>	2-4 lanes (12 ft.)	2 lanes (11 ft.)	2 lanes (11 ft.)	2 lanes (10 ft.)	See Street Width	20 ft.	
			Median / Center Turn Lane	14 ft.	12 ft.	12 ft.	10 ft.	None	None	
			Bike Facility <sup>2</sup>	2 lanes (6 ft.)	2 lanes (6 ft.)	2 lanes (5 ft.)	2 lanes (5 ft.) or shared lane	Shared Lane	Shared Lane	None
			Curb-to-curb Street Width <sup>3</sup>							
		On-Street Parking	na	na	na	30 or 40 ft.	28 ft.	28 ft.	Not Apply	
		Two Sides	74 ft.	46 ft.	44 ft.	30 or 40 ft.				
		None								
		Pedestrian Amenities <sup>4</sup>								
		Sidewalks (both sides)	8 ft. Com	5 ft. Res 10-12 ft. Com	5 ft. Res 10-12 ft. Com	5 ft. Res 10-12 ft. Com	5 ft.	5 ft.	None	
		Planter Strips		6 ft. Res na Com	6 ft. Res na Com	6 ft. Res na Com	5 ft. Res	5 ft. Res	None	
	Pedestrian Zone (with ADA)	Preferred Adjacent Land Use – Intensity	High	Medium to High	Medium	Medium	Medium to Low	Low	Low	
	Traffic Management	Maximum Average Daily Traffic	32,000	20,000	16,000	10,000	1,200 – 3,000	1,200	500	
		Traffic Calming	Not Typical	Not Typical	Not Typical	Permissible/Not Typical	Permissible/Not Typical	Typical	Not Typical	
		Managed Speed <sup>5</sup>	35 mph	30-35 mph	25-30 mph	25 mph	25 mph	15-25 mph	10 mph	
		Through-traffic Connectivity	Primary	Typical	Typical	Typical	Not Typical	Not Permissible	Not Permissible	
		Access Control	Yes	Yes	Some	Some	No	No	No	
		Maximum Grade	6%	6%	10%	10%	12%	12%	12%	
		Right-of-Way:	104 ft.	96 ft.	74 ft.	56 ft. (no bike lane) 66 ft. (bike lane)	50 ft.	50 ft.	20 ft.	

**General Design Notes:**

1. Lane widths shown are the preferred construction standards that apply to existing routes adjacent to areas of new development, and to newly constructed routes. For arterial and collector streets within industrial zones, lane widths shall be 12 feet.
2. An absolute minimum bike lane width for safety concern is 5 ft. on arterial and 4 ft. on collector streets, which is expected to occur in locations where existing development along an established route or other physical constraint preclude construction of the preferred facility width.
3. Street design for each development shall provide for emergency and fire vehicle access.
4. Sidewalks 10-12 feet in width are required in commercial areas to accommodate the Pedestrian zone. Street trees are to be placed in tree wells. Placement of street trees and furniture and business accesses are to meet ADA requirements for pedestrian access.
5. Speeds in the central business district may be 20-25 mph. Traffic calming techniques, signal timing, and other efforts will be used to keep traffic within the desired managed speed ranges for each Functional Class. Design of a corridor's vertical and horizontal alignment will focus on providing an enhanced degree of safety for the managed speed.
6. None with on-street parking

**Street Design Standard Notes:**

- (a) Exclusive of side slope easement which may be required in addition for cuts and fills in rough terrain.
- (b) The right-of-way and street width may be varied after consideration of the unique characteristics of the land including geography, topography, unique vegetation, and its relation to land development already present or proposed in the area.
- (c) The right-of-way, street width, improvement standards, and turnaround radius of commercial/industrial cul-de-sacs and streets shall be dependent upon the types of vehicle traffic to be served.
- (d) Intersection curb radii shall not be less than 25 feet. On-street parking shall not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb return. Where such a local residential street intersects an arterial, parking along the local street shall not be permitted within a 60-foot distance of the intersection measured from the terminus of the curb return. The developer shall be responsible for the provision and installation of "No Parking" signs as approved by the City Engineering Department.
- (e) Sidewalks and planting strips shall not be required along eyebrows.
- (f) For cul-de-sacs greater than 300 feet in length, fire hydrants may be required to be installed at the end of the bulb and appropriately spaced along the throat of the cul-de-sac as determined by the McMinnville Fire Department.

Where existing conditions, such as the topography or the size or shape of land parcels, make it otherwise impractical to provide buildable lots, the Planning Commission may accept a narrower right-of-way, ordinarily not less than 50 (fifty) feet. If necessary, special slope easements may be required.

**Attachments:**

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

- C. Reserve strips. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the Planning Commission under conditions approved by them.
- D. Alignment. As far as practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in “T” intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet.
- E. Future Extension of Streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision; and the resulting dead-end streets may be approved without a turnaround. Local streets shall provide connectivity as identified in Exhibit 2-1 of the McMinnville Transportation System Plan or connectivity that is functionally equivalent. Reserve strips and street plugs may be required to preserve the objectives of street extensions.
- F. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 (sixty) degrees unless there is a special intersection design. The intersection of an arterial or collector street with another street shall have at least 100 feet of tangent, measured from right-of-way adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 (fifty) feet of tangent measured from property line adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than 80 (eighty) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 (twenty) feet and maintain a uniform width between the roadway and the right-of-way line.
- G. Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision. The City may consider a reduction in arterial or collector street lane widths (lanes no less than 10 feet wide) by restriping existing travel lanes.
- H. Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
- I. Cul-de-sacs. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve not more than 18 (eighteen) dwelling units. A cul-de-sac shall terminate with a turnaround.
- J. Eyebrows. Where conditions do not warrant the use of cul-de-sacs and the land available in the proposed plan does not allow for a discontinuous minor street extension and where there are no more than three (3) dwelling units proposed to take access, the City Engineer or Planning Director may allow eyebrows. Eyebrows shall be limited to a maximum length of 125 feet, when measured from the main street right-of-way from which the eyebrow takes access. The City Engineer or Planning Director may allow less than that required in (d) above, after taking into consideration the effects upon traffic flows. The right-of-way width shall be 36 (thirty-six) feet, with a paved 10 (ten) foot curb-to-curb radius at the terminus. Sidewalks shall not be installed within eyebrows without additional right-of-way dedication. (Amended 11/18/94 by Ordinance 4573.)
- K. Street names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the City. Street names shall be subject to the

---

Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

approval of the Planning Director. The naming of new streets with names of local historic significance and/or where appropriate in alphabetical order is encouraged. (Amended 10/9/90 by Ordinance No. 4477.)

- L. Grades and curves. Grades shall not exceed six (6) percent on arterials, 10 (ten) percent on collector streets, or 12 (twelve) percent on any other street except as described below. Any local street grad exceeding 12 (twelve) percent shall be reviewed for approval by the Fire Code Official during the land use application process. When a local residential street is approved to exceed 12 (twelve) percent the following shall be required:
1. A maximum of 200 feet of roadway length may be allowed with a grade between 12 (twelve) percent and 15 (fifteen) percent for any one section. The roadway grade must reduce to no more than 12 (twelve) percent for a minimum of 75 linear feet of roadway length between each such section for firefighting operations.
  2. Fire sprinklers shall be installed in all residential and commercial structures whose access road is constructed at a grade higher than 12 (twelve) percent. The approval of such fire sprinklers shall be accomplished in accordance with the provisions of ORS 455.610(6).
- Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even 10 (ten) feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept sharper curves.
- M. Streets adjacent to a railroad right-of-way. Wherever the subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel with and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation, and to provide sufficient depth to allow screen planting along the railroad right-of-way.
- N. Frontage roads/streets. Where a subdivision or partition abuts or contains an existing or proposed arterial street, the Planning Commission may require frontage streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property lines, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- O. Alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission.
- P. Private way/drive. This type of street will be allowed when the conditions of Section 17.53.100(D) are met. A private drive shall be constructed to the same structural standards that would apply to a public street. Storm runoff will be controlled to prevent damage to adjacent properties. A storm drainage plan shall be approved by the City Engineer. The right-of-way width will be determined based on site conditions and proposed use and will be approved by the Planning Commission.
- Q. Bikeways. Provisions shall be made for bikeways planned along arterial and collector streets and where shown on the Transportation System Plan. Arterial streets shall be designed to be wide enough to accommodate a six (6) foot wide bike lane adjacent to each outside traffic lane. All major collector and some minor collector streets (dependent upon available right-of-way) shall be designed with five-foot wide bike lanes. Where a proposed development abuts a collector street less than 40 feet (Minor Collector) or 44 feet (Major Collector) in width, the Planning Commission may require that on-street parking be restricted to one side of the street only or that the deed(s) of the lot(s) adjacent to the street show that on-street parking will be eliminated in the future for bikeway development. (Amended 11/8/94 by Ordinance 4573.)
- R. Residential Collector Spacing. Generally, residential collector or arterial streets should be spaced no more than 1,800 feet from each other unless it is determined otherwise after consideration of the unique characteristics of the land including geography, topography,

Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

unique vegetation, and the relation of the site to developments already present or proposed in the area. (Amended 11/8/94 by Ordinance 4573.)

- S. Sidewalks. Along arterials and along major collectors with bikeways in commercial areas, sidewalks shall be eight (8) feet in width or, where less than eight (8) feet of right-of-way is available, shall extend to the property line and be located adjacent to the curb. Sidewalks in all other locations shall be five (5) feet in width and be placed one (1) foot from the right-of-way line. Sidewalks adjacent to a cul-de-sac bulb shall be located adjacent to the curb. (Amended 11/8/94 by Ordinance 4573.)
- T. Park strips. Park strips shall be provided between the curb and sidewalk along both sides of all streets except (a) commercial arterial and collector streets, in which case street trees may be placed in tree wells as specified by the McMinnville Street Ordinance; or (b) cul-de-sac bulbs. Street trees shall be planted and maintained within the park strip as specified in Chapter 17.58 (Trees) of the McMinnville Zoning Ordinance.
- U. Gates. Gates are prohibited within or across public rights-of-way. Gates are also prohibited across private streets that serve single-family residential development of four or more lots or parcels, multi-family housing complexes, manufactured home parks, or commercial or industrial subdivisions. The City may permit gates of limited duration for the purpose of facilitating public events, construction of public infrastructure, or other similar activities having a public interest or benefit at the discretion of the City Manager. (Ord. 5023, §2, 2017; Ord. 4922, §4B, 2010; Amended 8/14/07 by Ordinance No. 4879.)

**APPLICANT’S RESPONSE:** None.

**FINDING: CRITERION COULD BE SATISFIED WITH CONDITIONS.** No public streets are proposed, and the proposal doesn’t include frontage on a public street. For the future development plan, conditions of approval could be included to address issues regarding the future development plan, including the Engineering Departments comments regarding the future development plan.

17.53.103 Blocks.

- A. General. The length, width, and shape of blocks shall take into account the need for adequate lot size and street width and shall recognize the limitations of the topography.
- B. Size. No block shall be more than 400 feet in length between street corner lines or have a block perimeter greater than 1,600 feet unless it is adjacent to an arterial street, or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.
- C. Easements.
  1. Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever necessary. The easements shall be at least 10 (ten) feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six (6) feet in width. Easements of 10 (ten) feet in width shall be required along all rights-of-way. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The governing body of a city or county may not place additional restrictions or conditions on a utility easement granted under this chapter.
  2. Water courses. If a subdivision is traversed by water courses such as a drainage way, channel, or stream, there shall be provided a storm unit easement or drainage right-of-way conforming substantially with the lines of the water course and of such width as will be adequate for the purpose, unless the water course is diverted, channeled, or piped in accordance with plans approved by the City Engineer’s office. Streets or parkways parallel to major water courses may be required.
  3. Pedestrian ways. When desirable for public convenience, safety, or travel, pedestrian ways not less than 10 (ten) feet in width may be required to connect to cul-de-sacs,

Attachments:

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

*to pass through unusually long or oddly shaped blocks, to connect to recreation or public areas such as schools, or to connect to existing or proposed pedestrian ways. (Ord. 4922, §4B, 2010)*

**APPLICANT’S RESPONSE:** None.

**FINDING: CRITERION COULD BE SATISFIED WITH CONDITIONS.** No public streets are proposed, and the proposal doesn’t include frontage on a public street. For the future development plan, conditions of approval could be included to address issues regarding the future development plan, including the Engineering Department’s comments regarding the future development plan. Conditions could be included to address any requirements for easements.

17.53.105 Lots.

- A. Size and shape. *Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. All lots in a subdivision shall be buildable.*
  - 1. *Lot size shall conform to the zoning requirement of the area. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use contemplated. The depth of lot shall not ordinarily exceed two times the average width.*
- B. Access. *Each lot shall abut upon a street other than an alley for a width of at least 25 (twenty-five) feet or shall abut an access easement which in turn abuts a street for at least 15 (fifteen) feet if approved and created under the provisions of 17.53.100(C). Direct access onto a major collector or arterial street designated on the McMinnville Comprehensive Plan Map shall be avoided for all lots subdivided for single-family, common wall, or duplex residential use, unless no other access point is practical.*
- C. Through lots. *Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 (ten) feet wide, and across which there shall be no right of access, may be required along the line of lots abutting such a traffic artery or other incompatible use.*
- D. Lot side lines. *The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.*
- E. Flag lots. *The creation of flag lots shall be discouraged and allowed only when it is the only reasonable method of providing access to the rear of a lot which is large enough to warrant partitioning or subdividing.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT SATISFIED.** The proposal does not meet the access requirements of Subsection (B) since the proposed easement access doesn’t meet the standards of Section 17.53.100(C).

17.53.110 Lot Grading. *Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:*

- A. *Cut slopes shall not exceed one and one-half (1½) feet horizontally to one (1) foot vertically.*
- B. *Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.*
- C. *The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.*

---

*Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony

- D. The minimum elevation at which a structure may be erected, taking into consideration the topography of the lot, the surrounding area, drainage patterns, and other pertinent data shall be established by the City Building Official.
- E. The City Engineer shall determine whether a storm drainage system is necessary to control, manage, and dispose of water lying on or running over a subdivision. In addition, the subdivider shall be required to meet other standards and conditions imposed by state laws and city ordinances.

**APPLICANT'S RESPONSE:** None.

**FINDING: CRITERION COULD BE SATISFIED WITH CONDITIONS.** Conditions of approval could be included to address issues regarding lot grading, including those identified in the Engineering Department's comments

17.53.120 Building Lines. If special building setback lines are to be established in the subdivision or partition, they shall be shown on the plat or included in the deed restrictions.

**APPLICANT'S RESPONSE:** None.

**FINDING: CRITERION COULD BE SATISFIED WITH CONDITIONS.** Conditions of approval could be included to address setbacks from lot lines in the future development plan and any setbacks that may be required by state law associated with wells and septic systems.

17.53.130 Large Lot Subdivision. In subdividing tracts into large lots which at some future time are likely to be re-subdivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into lots, and contain such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of smaller size.

**APPLICANT'S RESPONSE:** None.

**FINDING: CRITERION COULD BE SATISFIED WITH CONDITIONS.** Conditions of approval could be included to address this standard for the future development plan.

17.53.140 Left-over Land. Islands, strips, or parcel of property unsuited for subdividing and not accepted by the City for appropriate use shall not be left unsubdivided but shall be identified as required in Section 17.53.075(A)(10).

**APPLICANT'S RESPONSE:** None.

**FINDING: CRITERION COULD BE SATISFIED WITH CONDITIONS.** Conditions of approval could be included to address this standard for the future development plan.

## **Chapter 17.12. R-1 Single-Family Residential Zone.**

### **Section 17.12.030 Lot Size.**

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The proposed parcels meet the minimum lot size requirements of the R-1 zone (9,000 square feet).

---

#### *Attachments:*

Attachment 1 – Application and Attachments; Attachment 2 – Public Testimony