



**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 R4416BC 02000 AT 711 NE HWY 99 WEST**

- DOCKET:** MP 4-20 (Tentative Partition)
- REQUEST:** Application for a Tentative Partition to partition an approximately 1.44 acre parcel into two (2) parcels of approximately 0.67 acres and 0.77 acres.
- LOCATION:** Map & Tax Lot: R4416BC 02000  
Address: 711 NE Highway 99 West
- ZONING:** C-3 (southerly portion) and C-3 PD-Ordinance 4117 (northerly portion)
- APPLICANT:** Matthew Primbs
- PROPERTY OWNER:** Matthew J. Primbs
- STAFF:** Tom Schauer, Senior Planner
- DATE DEEMED COMPLETE:** November 17, 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:** January 4, 2021, 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 4-20) to partition a property of 1.44 acres into two parcels, approximately 0.67 acres and 0.77 acres. **See Vicinity Map (Figure 1), Zoning Map (Figure 2), the Annotated Assessor's Map Showing "PD" Planned Development designations (Figure 3), and the Applicant's Proposed Partition Plan (Figure 4) below.** Other items submitted as part of the application are included with the application, which is attached.

### ***Summary of Criteria***

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.

For properties subject to Planned Development (PD) overlay designations, special provisions of the PD ordinance may also apply.

### ***Summary of Background and Key Issues***

#### **Planned Development Overlay Provisions**

This partition includes a portion of the property within a Planned Development (PD) designation that was approved in 1981 by Ordinance 4117 when the rear portion of the property was rezoned from R-4 to C-3 PD. That was amended in 2001 by Ordinance 4754.

In 1980, there was an application to rezone the northerly 216.65 feet of Tax Lots 2000 and 2100, as they existed at the time, from R-4 to C-3 PD, adopted on January 6, 2001 by Ordinance 4117. The front portions of those tax lots were already zoned commercial. **See Figure 5.** There appears to have been a larger rezone effort around the same time to rezone properties with C-4 zoning to a C-3 zone. At the time of the application, Tax lot 2000 included what are now tax lots 2000 and 2001 to the north. Tax lot 2100 to the west included what are now three tax lots: 2100, 2101, and 2102. **See Figure 5.** The properties were subsequently partitioned sometime prior to November 2001.

The planned development was intended to allow development of a movie theater on the rear of the lots. The staff report indicated that the Planned Development designation only applied to the rear portions of the lots, and Ordinance 4117 describes the northerly 216.65 feet of the properties; however there was a master plan that also showed existing and future development on the front portion of the lots. **See Figure 6.** The development of the front portion of the lots has not occurred as shown on the master plan. There was an amendment to the PD on the rear portion of Tax Lots 2001 and 2101 as they existed in 2001, by Ordinance 4754, adopted November 27, 2001. The original PUD limited the uses of the rear portion of the property, which could only be revised through an amendment to the Planned Development Ordinance. The 2001 amendment by Ordinance 4754 allowed for use of the property on Tax Lots 2001 and 2101 as a church.

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#### *Attachments:*

Attachment 1 – Application and Attachments

The other conditions of the Planned Development in Ordinance 4117 have remained unchanged. This included a condition regarding access and circulation and associated easements that applied to Tax Lots 2000 and 2100 as they existed at that time.

The PD conditions required an amendment to the PD for any other use, and for development that differed from the master plan. The front portions of the property did not develop consistent with the master plan, so it appears the Ordinance was only intended to apply to the rear portion of the property with the PD designation. The ordinance provided for authorization of minor amendments by the Planning Director.

However, one condition addresses circulation, which applied to the entirety of Tax Lots 2000 and 2100 as they existed in 1980. That condition required a one-way circulate pattern as follows, and as shown on the master plan in **Figure 6**. That conditions states:

- (d) That the middle driveway as shown on the proposed plan be for ingress only and the western driveway be for egress only. Lighted “entrance only” and “exit only” signs must be placed by the appropriate access points where they meet the highway. The egress drive must be divided into two lanes, one for right turns and one for left turns and be so designated.

### **Current Conditions**

Currently, those driveways still exist, but there is no delineation or signage for a one-way circulation pattern, and there is no designation for left and right exits at the westerly egress driveway. Both driveways are being used for two-way access. In addition, there is an additional access immediately east of the easterly ingress driveway which appears serves as an exit from the drive-through window of Sandwich Express, which is an additional access that wasn’t shown on the master plan. There is a sign near the driveway labeled as “exit only.” This driveway is separated from the adjacent driveway with a concrete barrier for part of the distance and striped parallel parking between the two driveways. There is an additional driveway further to the east which provides two-way access to the property. It is further east than the location shown on the master plan for the Planned Development.

Approximately the north 100 feet of the current Tax Lot 2000 would be part of the area subject to the C-3 PD conditions in Ordinance 4117 and subject to the master plan. However, that portion of the property differs from the master plan for the PD approval. The master plan also showed that area to be developed for retail use. Ordinance 4117 allowed for minor amendments to be made by the Planning Director.

### **Partition Issues**

The proposed partition includes Parcel 2 configured as a flag lot. The Zoning Ordinance prioritizes other methods of access before authorizing the option of a flag lot for access. In this case, whether the proposed partition were to include the proposed flag lot or an easement access without a flag lot, that doesn’t change the actual on-site circulation pattern. The circulation pattern would occur the same way with or without a flag lot if the underlying shared access easements are the same – provided the easement allows for access across the entirety of the flagpole, and not just from the end of the flagpole to the rest of the lot. Otherwise, the easement would not preclude any fencing or other access control that would otherwise restrict opportunities for shared access using the area proposed to be within the flag lot. If the easement couldn’t be provided accordingly, then the preferred option for the partition would be to utilize only easement access rather than a flag lot.

Part of the ingress easement is currently on tax Lot 2000. When it is partitioned, it will be located on the flag pole of proposed Parcel 2. If the current easement wouldn’t provide for access to proposed Parcel 1, the easement will need to be modified, or an additional easement granted, providing shared access of the flag pole to proposed Parcel 1.

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The Zoning Ordinance requires parcels to have frontage on a public street, with an exception that unusually deep lots can have access by easement, provided no more than three parcels, including the original parcel, use the easement. The Zoning Ordinance discussed flag lots and easements, and describes easements as the preferred option to a flag lot.

If there were two separate ingress/egress easements at each of the westerly driveways, that would be three parcels per easement accessing each driveway, but the configuration is a one-way circulation pattern that contemplated phased development; however, it did not explicitly address land divisions that would be subject to a limit on the number of parcels using an access easement.

The applicant is proposing a flag lot for proposed Parcel 2, which would correspond with the existing access easement that exists where the flagpole is proposed. The Zoning Ordinance doesn't explicitly address the issue of having both a flag lot and easement providing access to separate parcels. This issue is discussed further under the applicable criteria below. In commercial development, shared access, parking, and circulation are encouraged, but this often occurs when commercial parcels would separately meet the frontage requirements without the shared agreements, and the shared agreements are intended to allow for cross access and circulation among the properties to the different access points.

With this application, there are currently five tax lots that share the approved one-way circulation system (currently operating as two-way circulation), and tax lot 2000 has two additional accesses serving the land uses on that tax lot. With the proposed partition, there would be six tax lots sharing the same one-way circulation system (currently operating as two-way circulation), and the other two driveways would serve the new parcels, also with the opportunity to allow for cross-access to the shared one-way circulation system.

Tax lot 2000 currently has its own frontage and the additional easterly driveway. With the proposed partition, that access will remain, and proposed Parcel 2 will have easement access to that driveway via an easement across Parcel 1, meeting the access requirements independent of, and in addition to, the other shared circulation easement.

Any potential issues of the one-way circulation system approved in Ordinance 4117 currently operating as two-way driveways and differing from the PD approval in Ordinance 4117 is an issue to be addressed separately among all of the affected properties, separate from the partition application, provided the partition application itself doesn't cause or create noncompliance or conditions that would conflict with compliance with the PD approval.

In addition, the structure built on proposed Parcel 2 was approved utilizing a shared trash enclosure with the structure on Parcel 1 under the premise that both structures were on the same property. Now with the partition proposal a new trash enclosure per Section 17.61 of the McMinnville Municipal Code would need to be constructed on Parcel 2.

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Figure 1. Vicinity Map

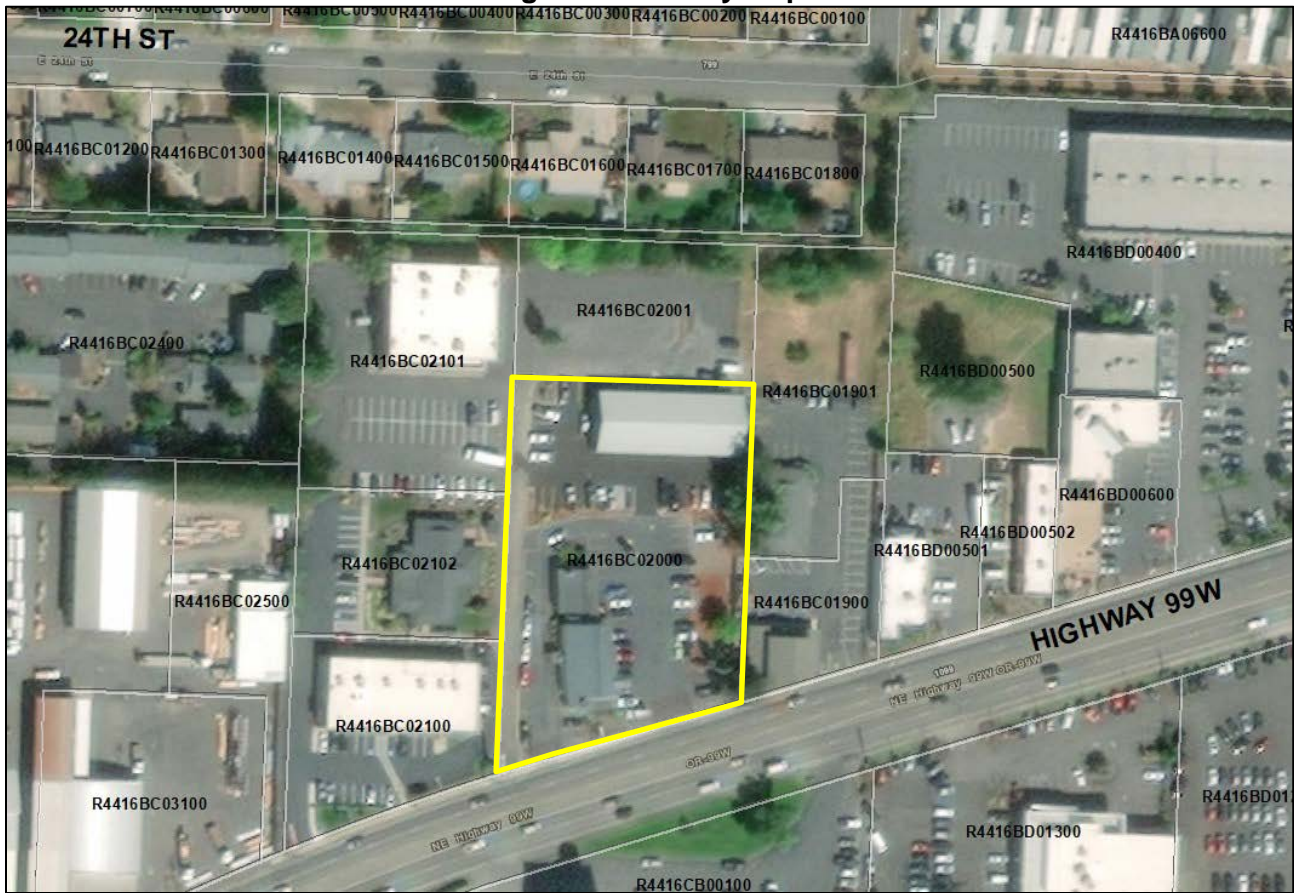
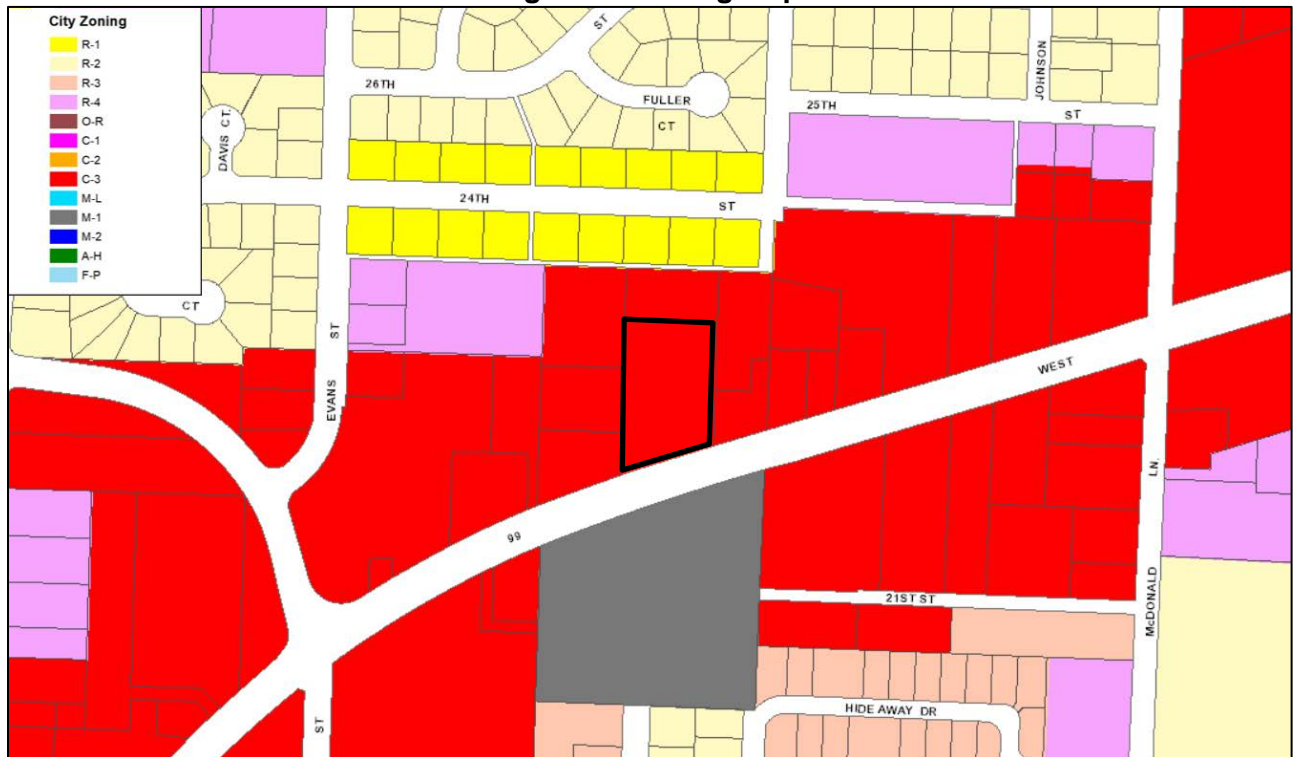


Figure 2. Zoning Map



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Figure 3. Annotated Assessor's Map

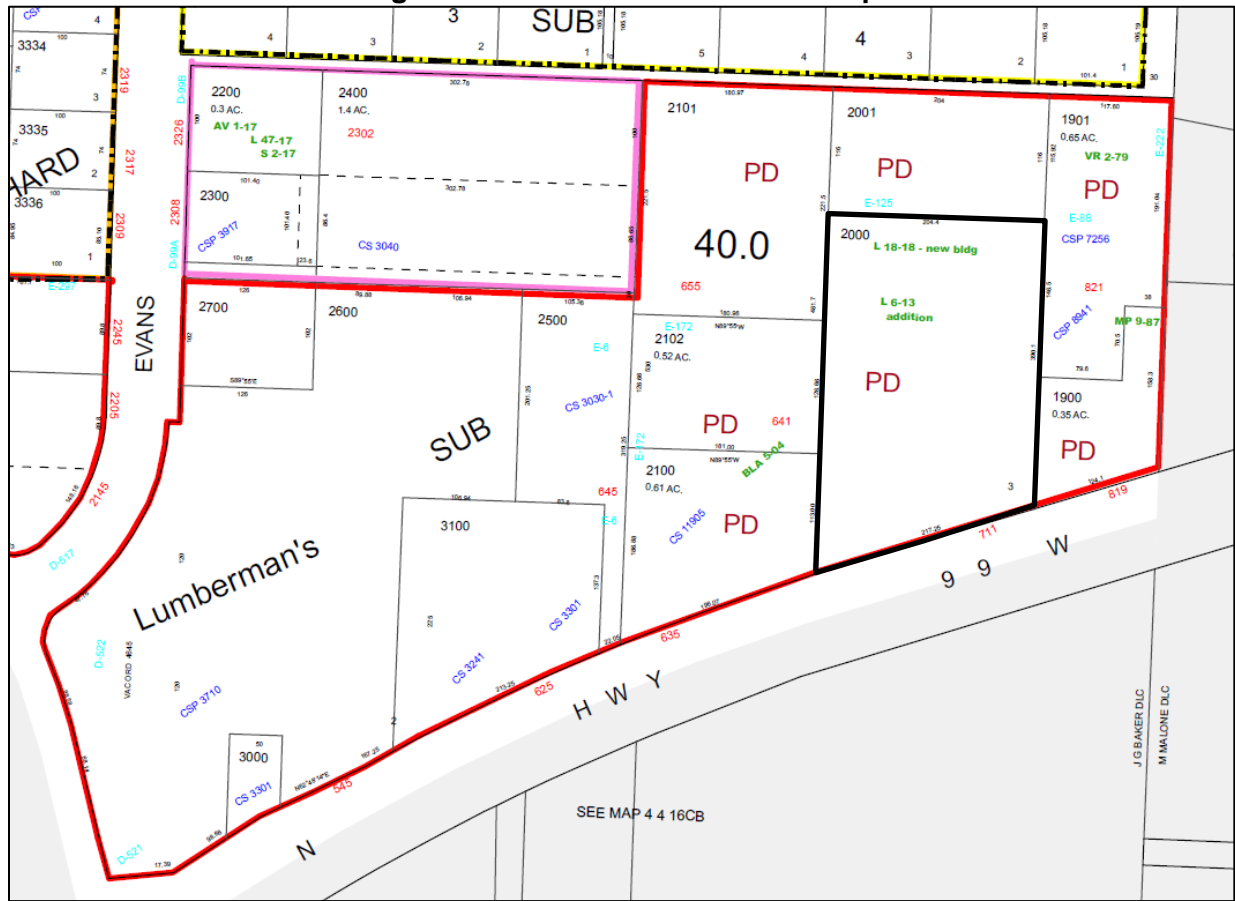
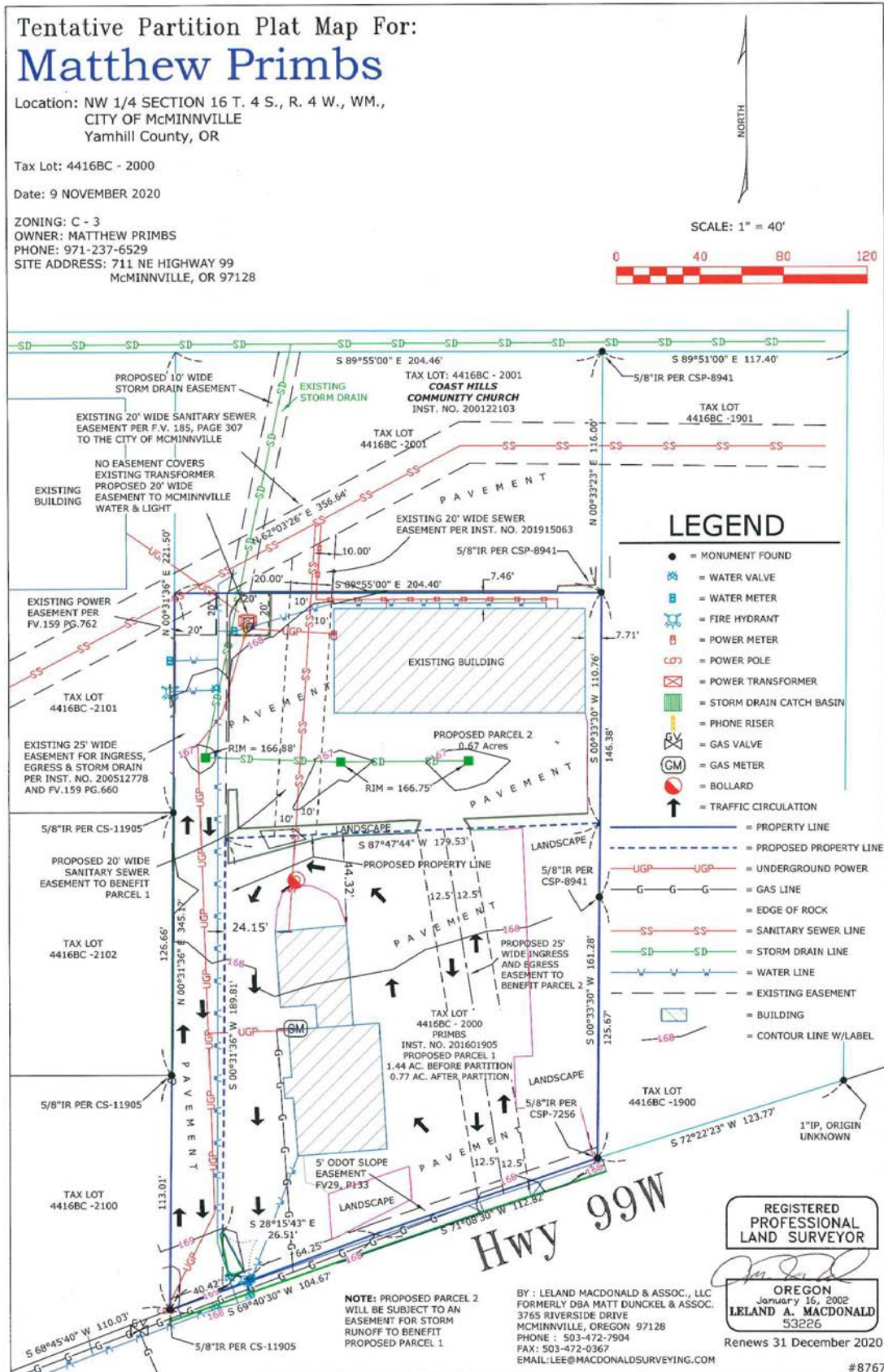


Figure 4. Applicant's Proposed Partition Plan

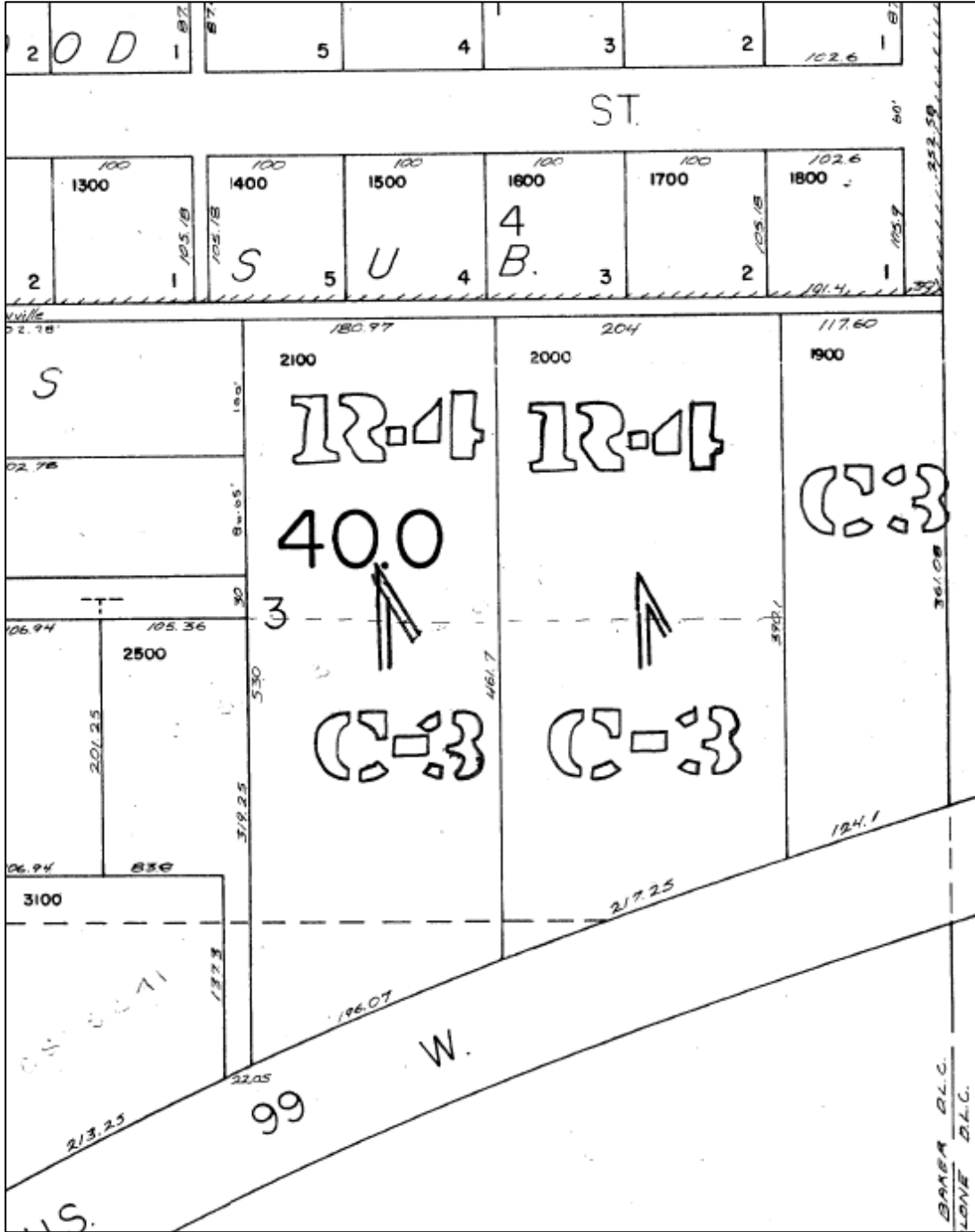


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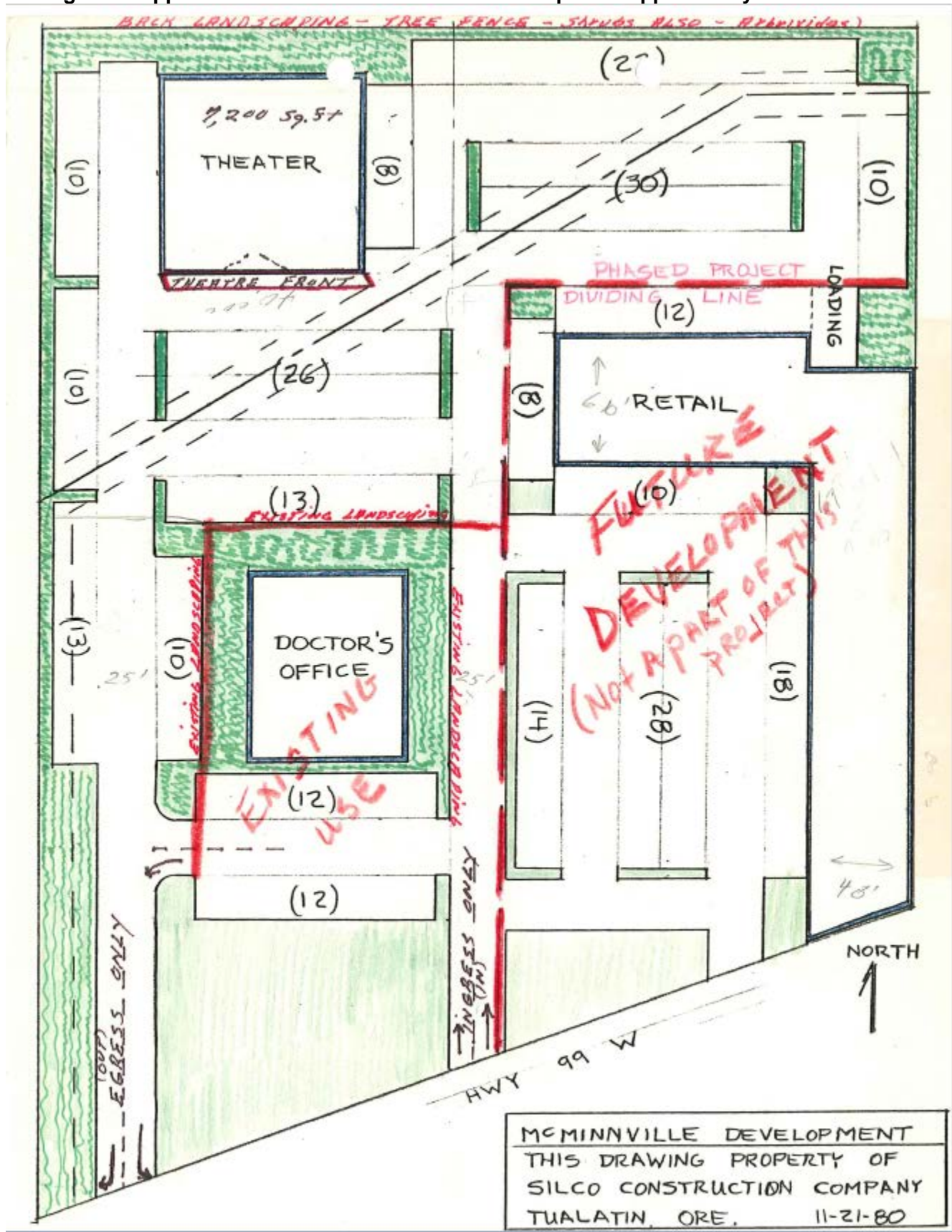
**Figure 5. Assessor's Map from 1980 Application  
Showing Tax Lot Configuration and Zoning Prior to Amendment**



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Figure 6. Approved Master Plan for Planned Development Approved by Ordinance 4117



**II. CONDITIONS:**

1. The final partition plat shall include easements for access, sanitary sewer, and storm water facilities as shown on the tentative partition plan. The easements shall be noted as private.
2. The final plat shall include the proposed easement for the easting transformer shown on the tentative plan subject to the requirements of McMinnville Water and Light.
3. The applicant shall also dedicate a 10' wide public utility easement along the property's Hwy 99W frontage as part of the final partition plat.
4. Maintenance agreements as necessary for the existing private sanitary sewer and storm water facilities serving each of the proposed parcels shall be submitted to the Planning Department for review and approval prior to the approval of the final partition plat.
5. Maintenance agreements as necessary for the proposed 25' wide ingress and egress easement to benefit Parcel 2 shall be submitted to the Planning Department for review and approval prior to approval of the final partition plat.
6. Maintenance agreements as necessary for the existing private storm water facilities crossing tax lot 4415BC-2001 in the proposed 10' wide private storm drain easement, shall be submitted to the Planning Department for review and approval prior to approval of the final partition plat.
7. Prior to approval of the final partition plat, the existing private sewer drainage easement and maintenance agreement with Coast Hills Community Church, included in the submittal, shall be revised as necessary to reflect the proposed partitioning.
8. The applicant shall provide evidence that the existing shared access easement on tax lot 2000 will be adequate as written to serve all existing benefitting parcels as well as proposed Parcels 1 and 2, or the applicant shall ensure the easement is updated to benefit all currently benefitting parcels and Parcels 1 and 2 of the proposed partition.
9. Prior to approval of the final partition plat, the applicant will need to construct a trash enclosure for the structure on Parcel 2 per Section 17.61 of the McMinnville Municipal Code.
10. Two copies of the final partition 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.
11. That approval of this tentative plat will expire 12 (twelve) months after the date of issuance of this letter. If the final plat has not been submitted prior to expiration of the tentative plat, or a written request for an extension of this approval has not been submitted and approved within that same period, the applicant must resubmit a tentative plat for further consideration, and comply with regulations and conditions applicable at that time.
12. This partition will not be considered a legal partition until such time that a copy of the recorded document is provided to the City of McMinnville's Planning Department.

**III. ATTACHMENTS:**

1. MP 4-20 Application and Attachments (on file with the Planning Department)

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

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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; Northwest Natural Gas; and ODOT Region 2.

Responses were received from the following agencies, provided below:

- McMinnville Building Department: No building code concerns
- McMinnville Fire Department: No issues
- McMinnville Water & Light: No comments
- McMinnville Engineering Department: See below.

**Engineering Department:**

- The applicant shall also dedicate a 10' wide public utility easement along the property's Hwy 99W frontage as part of the final partition plat.
- The final partition plat shall include easements for access, sanitary sewer, and storm water facilities as shown on the tentative partition plan. The easements shall be noted as private.
- Maintenance agreements as necessary for the existing private sanitary sewer and storm water facilities serving each of the proposed parcels shall be submitted to the Planning Department for review and approval prior to the approval of the final partition plat.
- Maintenance agreements as necessary for the proposed 25' wide ingress and egress easement to benefit Parcel 2 shall be submitted to the Planning Department for review and approval prior to approval of the final partition plat.
- Maintenance agreements as necessary for the existing private storm water facilities crossing tax lot 4415BC-2001 in the proposed 10' wide private storm drain easement, shall be submitted to the Planning Department for review and approval prior to approval of the final partition plat.
- Prior to approval of the final partition plat, the existing private sewer drainage easement and maintenance agreement with Coast Hills Community Church, included in the submittal, shall be revised as necessary to reflect the proposed partitioning.

**Notes:**

- The existing sanitary sewer later was evaluated and separate connections to the public main were made for each proposed parcel as part of Permit #569-19-000940-PLM.
- Hwy 99W frontage was upgraded to PROWAG Standards with work completed in Permit #569-18B0516-STR.

**Public Comments**

Notice of this request was mailed to property owners located within 100 feet of the subject site. No public testimony was received.

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

1. The application was submitted on July 7, 2020.
2. The application was deemed complete on November 17, 2020.
3. On November 23, 2020, 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

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Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; Northwest Natural Gas; and ODOT Region 2.

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

4. On November 25, 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.
5. The 14-day public comment period closed on December 9, 2020.
6. No Public testimony was submitted to the Planning Department.
7. The Planning Director issued a decision on December 29, 2020.

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

1. **Location:**
  - a. Address: 711 NE Hwy 99W
  - b. Map & Tax Lot: R4416BC 02000
2. **Size:** 1.44 acres
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:**
  - a. **Subject Property:** C-3 (General Commercial), southerly portion, and C-3 PD, northerly portion (Ordinance 4117, amended by Ordinance 4754)
  - b. **Surrounding Properties:**
    - i. **North:** C-3
    - ii. **South:** M-1, across Highway 99
    - iii. **East:** C-3
    - iv. **West:** C-3
5. **Overlay Zones/Special Districts:** None identified, other than the C-3 PD Overlay described above
6. **Current Use:**
  - a. Front Portion of TL 2000: Sandwich Express and Trask Mountain Lock and Key
  - b. Back Portion of TL 2000: McMinnville Auto Detail
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** None identified.
8. **Other Features:**
  - a. **Slopes:** The property is generally flat
  - b. **Easements and Utilities:** There are numerous easements across the property and benefitting the property on adjacent properties for access and utilities. **See Figure 4.** The McMinnville Engineering Department has also provided comments regarding easements. *See Section IV.*
9. **Utilities:**
  - a. **Water:** Water mains and services are shown on the tentative plan.

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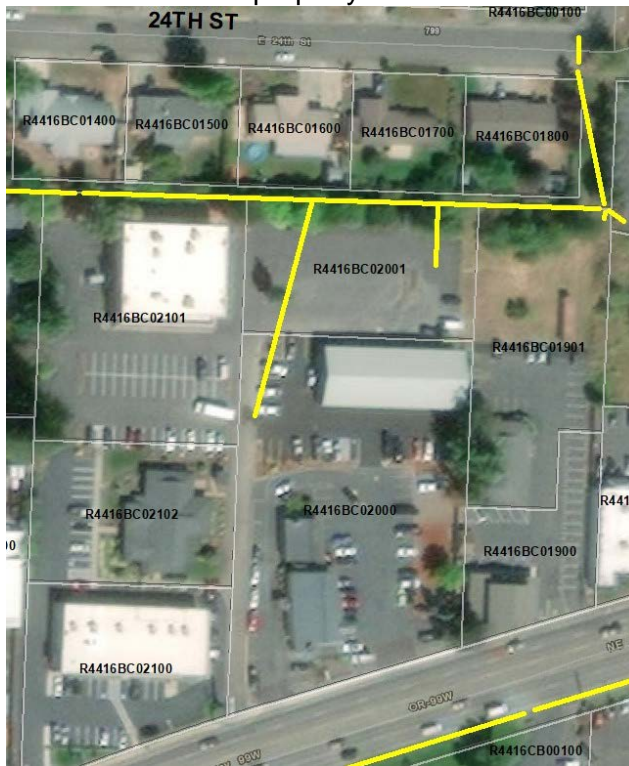
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- b. **Sewer:** Municipal sewer mains are shown below and on the tentative plan. :



- c. **Stormwater:** The property drains to the north as shown below and on the tentative plan.



- d. **Other Services:** Other services are available to the property. There is an existing transformer on the property near the northwest corner. The tentative plan shows the above utilities and also gas lines and underground power.

**10. Transportation and Access:**

Tax lot 2000 has frontage on Hwy 99, and includes three access points onto the highway: The easterly 2-way driveway, a one-way egress which serves the drive-through window for Sandwich Express, and the ingress driveway that was required as part of a one-way circulation loop in the

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Planned Development approval in Ordinance 4117, which is currently operating as a 2-way driveway.

The applicant is proposing to create a flag lot to the rear portion of proposed Parcel 2 which would correspond with the shared ingress driveway. No new streets are proposed within the partition to serve proposed parcels.

**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 117.00            The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.*

*Policy 120.00            The City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows.*

*Policy 125.00            The City of McMinnville shall adopt measures to control access onto US Highway 99W from heavy traffic-generating developments. Planned development overlays on new large commercially or industrially designated areas adjacent to the highway would give the City needed access controls.*

*Policy 132.41.25        Consolidate Access – Efforts should be made to consolidate access points to properties along major arterial, minor arterial, and collector roadways.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITIONS.** The proposed partition utilizes existing shared access points. No new streets or access points are proposed. Conditions of approval 1-8

requiring easements for use of shared circulation and access points address consistency with these policies.

- 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: SATISFIED WITH CONDITIONS.** The proposed partition retains the current access and circulation system without revisions. The properties are already developed. The partition allows for buildings on one parcel to be separately owned on separate parcels, while providing necessary easements for shared access and circulation and use of existing access points to Highway 99. No new streets are proposed. Conditions 1-8 regarding easements and maintenance agreements ensure consistency with these policies.

**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: SATISFIED WITH CONDITIONS.** The existing development is served with municipal utilities including sanitary sewer, water, and storm water drainage. These policies are satisfied with conditions of approval which require easements necessary for the continued access to these utilities with the partitioning of the property. No natural drainage ways are affected by the

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partition. These policies are satisfied with conditions 1-8 regarding easements and maintenance agreements.

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

*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(A). Submission of Tentative Partition Plan...**

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The applicant submitted an application which was deemed complete upon a determination that the items specified in Section 17.53.060(A) were submitted.

**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.** The application was processed in accordance with Section 17.72.100. 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*

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*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: SATISFIED WITH CONDITIONS.** The conditions required for this partition are no greater than would be required for a subdivision application.

The proposed partition will not result in more than three parcels within a calendar year. The proposed partition doesn't result in any parcels of one acre or more in size.

The proposed partition results in a parcel configuration in which utilities and access will cross the proposed property line. This includes easements between Parcels 1 and 2, as well as easements related to services across other adjacent parcels where utilities which currently cross property lines without current easements. In addition, a public utility easement is required along the frontage of the property. This criterion is satisfied subject to conditions 1-8 in Section II of this decision which require dedication of easements and maintenance agreements where utilities and access cross property lines, will cross the proposed property line, and where the dedication of the public utility easement along the frontage of the property is required.

**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: SATISFIED WITH CONDITIONS.** Conditions of approval 10-12 are included to specify that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision, and the final plat must be finalized or the tentative plan will expire, unless an extension is approved as specified in the Zoning Ordinance.

### ***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: SATISFIED WITH CONDITIONS.** Although the site has already been developed, at the time of development, the applicant received a waiver on providing a trash enclosure for the

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improvements on proposed Parcel 2 under the premise that those businesses would share a trash enclosure with the business on Parcel 1 since they were on the same property. With the partition, the applicant will need to come into compliance with Section 17.61 of the McMinnville Municipal Code regarding a trash enclosure and a solid waste and recycling plan for the businesses on Parcel 2. Condition of approval 9 provides the requirements for this trash enclosure to meet this provision of the code.

### **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.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** No new street is proposed.

- 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.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** No new street is proposed.

- 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 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.*

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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.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITIONS.** The existing property has approximately 210 feet of frontage on Highway 99. With the proposed partition, proposed Parcel 1 would have approximately 185 feet of frontage on Highway 99, and proposed Parcel 2 would be a flag lot having approximately 25 feet of frontage on Highway 99 via a flagpole along the west side of Parcel 1. No new public street is proposed.

This application is unique in that the subject property (tax lot 2000), and tax lots 2001, 2100, 2101, and 2102 currently have interconnecting parking lots and access, with multiple access points to Highway 99. Three of those tax lots do not have frontage on Highway 99 or another public street.

The proposed partition would result in an additional parcel sharing existing access points, one via a flag lot that overlaps with an existing ingress/egress easement. The flag lot doesn’t replace the easement, but is in addition to the easement. While the flag pole would provide access to proposed Parcel 2, the existing easement already provides access to other properties, so those properties would continue to use that easement access via the flag lot.

While shared access and circulation are encouraged for commercial properties in order to facilitate internal circulation between uses and reduce the number of direct access points on highways, the limitations on the number of properties served by easement access still applies.

This provision can be interpreted to mean that shared easement access exceeding three parcels may be allowed provided that is if the shared access is secondary access, and each easement provides primary access to no more than three parcels.

For this application, in addition to the access via the shared access easement which was required as a condition of the Planned Development approval, Ordinance 4117, tax lot 2000 has two additional direct access points. With the partition, in addition to the flagpole, an access easement is proposed across Parcel 1 to serve Parcel 2 using the existing easterly access point and on-site drive aisle. Therefore, this can be considered the primary access for Parcels 1 and 2, consistent with the limitation of three parcels sharing an easement access, and the flagpole and shared easement along the west side of tax lot 2000 can be considered secondary shared access. Conditions of approval 1-8 to ensure adequate easements for shared access for both of these accesses will satisfy this criterion.



Together, Sections 17.53.100(C) and 17.53.105(B) provide that all new lots or parcels are to have frontage on a public street, except that access for a partition may be provided by easement access subject to a determination that the conditions of 17.53.100(C) apply. Subsection (C)(3) provides that, “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.

Therefore, priority for providing frontage and access for a property resulting from a land division is: first, public street frontage without a flag lot; second, easement access; and third, a flag lot.

The Zoning Ordinance doesn’t state the reasons why 17.53.100(C)(3) specifies that, “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,” but some of the reasons may include:

- A flag lot creates property lines for the flag pole portion of the lot, which in some zones, requires adjacent properties to have additional setbacks from those property lines, whereas an easement allows for access across those properties more like a driveway, without creating new property lines and setback requirements, which can create additional unbuildable area on a lot or parcel.
- If a flag lot is created rather than an easement, that flag pole is only used by one property, unless there is also an easement across the flagpole benefitting another property. In that case, an easement alone would suffice for access to all properties served rather than using a flag pole with an easement across it, which still creates the setback issues described above.
- The provisions of this section are to provide an option to a short public street access to rear lots which would be land consumptive, if an easement access would suffice. If more than one rear lot would be served by a flag lot, such that there are two adjacent flag lots with flag poles with separate driveways, then there is typically no efficiency provided and the rear lots could be served with a public street access rather than two flag lots.

With the current application, the property and surrounding properties are zoned C-3, which doesn’t require setbacks from property lines, so some of the above considerations are not applicable. However, there can be situations where the building code requires a structure to be

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of fire resistive construction if located within a certain distance of a property line. That can be more expensive than other construction methods, and may preclude windows and/or door openings in walls within a specified distance of the property line, resulting in blank walls that may not otherwise be required if access was provided by an easement rather than a flag lot.

With this application, there is existing commercial development, and the partition would not result in any new vacant parcels. The only parcel that would have potential setback issues due to adjacency to the proposed flagpole is proposed Parcel 1. However, that parcel has existing commercial development which is already set back from the flagpole by a driveway area. In addition, additional easement access to proposed Parcel 2 is proposed across proposed Parcel 1 via a new shared access easement which reflects the existing access, circulation, and parking configuration on the parent parcel.

No new access points are proposed. Parcel 2 would have access at two points: one via the flag pole that corresponds with the existing access easement, and one using the existing easterly access it now uses, but with a new easement across Parcel 1 which is required as a result of the partition.

For situations where a flag lot is authorized, the proposed partition complies with the definition of “Flag Lot,” which specifies the flag pole portion of the lot is not less than 25 feet, and the frontage width specified in 17.53.105(B), with frontage on a public street of at least 25 feet.

*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 APPLICABLE.** The application is for a partition, not a subdivision, and a private way/drive is not proposed.

17.53.101                      Streets.

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- 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:

COMPLETE STREET DESIGN STANDARDS									
		Arterial		Collector		Neighborhood Connector	Local Residential	Alley	
		Major	Minor	Major	Minor				
Streetscape	Street Profile	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	See Street Width	20 ft.
		Median / Center Turn Lane	14 ft.	12 ft.	12 ft.	10 ft.	None	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
	Preferred Adjacent Land Use – Intensity	High	Medium to High	Medium	Medium	Medium to Low	Low	Low	
	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.

- 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

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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 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, 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: NOT APPLICABLE.** No new street is proposed, and no new access point is proposed. As a condition of approval, adequate easements will be required to assure use of existing access points and shared on-site circulation.

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.

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** No new streets are proposed.

- 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.

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** No new streets are proposed.

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

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*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, 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: SATISFIED WITH CONDITIONS.** Conditions of approval 1-8 addressing easements and maintenance agreements address compliance with (C)(1). Subsections (2) and (3) are not applicable.

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: SATISFIED WITH CONDITIONS.** The proposed partition doesn't create any new vacant parcels. The parcel configuration is designed to accommodate existing development and associated parking on each parcel. Each parcel has frontage on Highway 99 for a minimum of 25 feet. The proposed configuration of Parcel 2 includes a flag lot which corresponds with an existing shared access easement, and this is in addition to a separate shared access easement to a separate easterly access point on Highway 99 which is via easement rather than a flagpole. The findings addressing Section 17.53.100(C) above are also applicable to Subsection (E) of this section addressing the flagpole access, and the proposal satisfies the standards of this

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*Attachments:*

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section. Conditions of approval 1-8 regarding easements and maintenance agreements ensure these standards are satisfied.

**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.*
- 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: SATISFIED WITH CONDITIONS.** The subject property is flat, and is already developed, including storm drainage facilities. No new grading or development is proposed as part of this partition. Conditions of approval 1 and 6 regarding storm drainage, easements, and maintenance agreements satisfy this requirement.

**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: NOT APPLICABLE.** No special building setback lines are to be established.

**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: NOT APPLICABLE.** This partition of developed commercial property is unlikely to result in further partitioning. Both of the proposed parcels are already developed.

**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: NOT APPLICABLE.** The proposed parcels correspond to existing development.

### **Chapter 17.33. C-3 General Commercial Zone**

Note: There is no minimum lot size in the C-3 zone.

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*Attachments:*

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17.33.030. Yard Requirements. Except as provided in Section 17.54.050, and “A” and “B” below, there shall be no required yards in a C-3 zone:

- A. Side yard shall not be less than twenty feet when adjacent to a residential zone;
- B. Rear yard shall not be less than twenty feet when adjacent to a residential zone.

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** There is no adjacent residential zone.