

# **Attachment 3**

## **Applicable Required Findings**

This narrative includes Kimco's findings of compliance with the applicable Statewide Planning Goals, McMinnville Comprehensive Plan. The applicable criteria are in **bold** with the relevant applicant response following in *italics*.

These findings incorporate and are intended to supplement the summary provided in the application narrative. Terms capitalized in these findings but not specifically defined, such as Property and Project, are defined in the application summary.

### **Sections:**

- 1. Summary of Applicable Criteria**
- 2. Statewide Planning Goals**
- 3. McMinnville Comprehensive Plan**
- 4. McMinnville Zoning Ordinance**

## 1. Summary of Applicable Criteria

The City of McMinnville is currently engaging in several long-range planning efforts that are at various stages of adoption, and rely upon different planning documents and assumptions. From the outset of Kimco's quasi-judicial application, it is important to clarify what are the applicable criteria, what may be relevant as supporting evidence, and what is not applicable to this application.

The applicable approval criteria include relevant provisions of the zoning ordinance and comprehensive plan that are in effect and acknowledged, and Statewide Planning Goals (including implementing statutes and administrative rules). These findings list and address only the relevant provisions of these criteria.

The comprehensive plan includes incorporated plans, such as an economic opportunities analysis. As detailed below, Goal 2 and implementing case law, as well as some of the administrative rules, provide that in order to be applicable to a quasi-judicial planning process, an incorporated study must be acknowledged. However, the data and analyses in furtherance of planning processes that are not applicable can be relied upon as evidence, which as explained in these findings, provides further support for this application. As applied here:

- Economic Opportunities Analysis:
  - The adopted and acknowledged **2013 EOA** (Ordinance No. 4976) is binding on and applicable to this application.
  - Superseded EOA's, such as the 2001 EOA (Ord. 4795) and the reversed and remanded 2003 McMinnville Growth Management and Urbanization are not applicable.
  - Draft but unadopted and unacknowledged updated EOA, such as the **draft 2020 EOA** update, is not applicable.
- 2020 UGB Expansion:
  - Amendment to McMinnville Urban Growth Boundary (the "**2020 UGB Expansion**"): Ordinance 5098, adopted December 8, 2020: amends the McMinnville Comprehensive Plan Map, McMinnville Comprehensive Plan and McMinnville Municipal Code (Chapter 17), approving the McMinnville Growth Management and Urbanization Plan (**MGMUP**) and its appendices, and expanding McMinnville's' UGB. This decision is in response to Oregon Court of Appeal's remand of the 2003 UGB

Expansion, which was based in part on the then-applicable 2001 EOA. Ordinance 5098 has not yet been acknowledged and is not applicable.

- Three Mile Lane Area Plan
  - The Three Mile Lane Area Plan (the “**3MLAP**”) is a draft that has not been adopted or acknowledged. It is not binding upon this application.

#### **A. Summary of Goal 2 and Case Law**

Oregon Statewide Planning Goal 2, Part I, requires that a local land use authority’s quasi-judicial decision must be based on “an adequate factual base.” A study or assessment constitutes an adequate factual base for purposes of Goal 2 when it is “incorporated” into the jurisdiction’s comprehensive plan or acknowledged planning documents. *1000 Friends v Dundee*, 203 Or App 207, 216 (2005). For an assessment to be “incorporated” into these authorities, it must be both adopted and effective. *1000 Friends v Dundee*, LUBA Nos. 2004-144 and 2004-145, 2006 WL 559077 (Feb. 23, 2006) (on remand, interpreting that “incorporate[ion]” requires “adopt[ion]”); *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384, 396 (Feb. 2, 2001) (affirming City’s use of then- effective housing inventory, despite that new inventory was being developed, because only the current inventory “describe[d] the . . . provisions of the comprehensive plan”).

Though these Goal 2 requirements apply to all “land use actions,” they are particularly important when an action involves “estimat[ing] the amount of needed land.” See *D. S. Parklane Development, Inc. v. Metro*, 165 Or App 1, 22-23 (2000) (holding Metro could not rely on urban growth report not yet adopted as part of the comprehensive plan because, “[u]nder Goal 2, the computation of need must be based upon the functional plan and/or Metro’s other applicable planning documents”). Nor may a jurisdiction avoid these requirements by attempting to merely “update” an assessment that was previously adopted and incorporated by reference into planning standards. See *Lengkeek v. City of Tangent*, 54 Or LUBA 160, 166 (Apr. 25, 2007) (city could not “rely on [an] updated [buildable lands inventory (“BLI”)] without first amending the [comprehensive plan] to replace the expired BLI with the updated BLI”).

The Court of Appeals has explained the purpose behind these requirements:

The comprehensive plan is the fundamental document that governs land use planning. Citizens must be able to rely on the fact that the acknowledged comprehensive plan and information integrated in that plan will serve as the basis for land use decisions, rather than running the risk of being “sandbagged” by government’s reliance on new data that is inconsistent with the information on which the comprehensive plan was based.

*1000 Friends v Dundee*, 203 Or App at 216.

Unadopted planning efforts, such as the draft 2020 EOA or 3MLAP, which are not adopted, effective and acknowledged do not constitute an “adequate factual base” on which the City may base its land use findings during this quasi-judicial planning process. Simply put, the draft 2020 EOA is not a valid land use criterion and cannot be the sole basis for consideration of Kimco’s application. To employ it as such would pose the very risk the *1000 Friends v. Dundee* court warned against — that stakeholders in the land use process would be “sandbagged” by having to interpret and apply information inconsistent with the information that informed the operative comprehensive plan. However, these unadopted analyses and the supporting data may be relied upon to confirm or further support approval of Kimco’s application, so long as the primary basis for the approval is the adopted and acknowledged information, such as the 2013 EOA. *McDougal Bros. Investments v. City of Veneta*, 59 Or LUBA 207 (2009); *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1, 12 (2013); *see also Gunderson, LLC v. City of Portland*, 62 Or LUBA 403, rev’d in part on other grounds and remanded, 243 Or App 612, 259 P3d 1007 (2011), other grounds aff’d 352 Or 648, 290 P3d 803 (2012).

In summary, so long as the acknowledged information such as the 2013 EOA provides an adequate primary basis for the City’s approval, the decision can be further supported with new unacknowledged data. The findings below comply with this mandate. The 2013 EOA and acknowledged portions of the adopted comprehensive plan support the conclusion that some of the City’s excess industrial land should be converted to satisfy the deficit of commercial land and describe conversion suitability factors. While Kimco’s analysis could stop there, the application also evaluates the data and analysis in updated but unadopted planning efforts, such as the 3MLAP, which provide further support for the application because those analyses show that the commercial deficit is growing and that the Three Mile Lane area is a suitable location for commercial development.

## **2. Statewide Planning Goals**

A post-acknowledgement comprehensive plan amendment, such as this application, must comply with all applicable Statewide Planning Goals. The Goals that will be most relevant to this application are (A) Goals 9 and (B) 12.

### **A. Goal 9: Economy of the State**

The state’s Goal 9 resource page can be accessed at:  
<https://www.oregon.gov/lcd/OP/Pages/Goal-9.aspx>

The requirements of Goal 9 are detailed in the administrative rules in OAR Chapter 660, Division 9:  
<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3059>

- **Applicant Response:** *Goal 9 requires the City to “[t]o provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and*

prosperity of Oregon’s citizens.” See [www.oregon.gov/LCD/docs/goals/goal9.pdf](http://www.oregon.gov/LCD/docs/goals/goal9.pdf)) and ORS 197.712(1). As relevant to this application, Goal 9 requires the City to provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for industrial and commercial uses consistent the City’s comprehensive plan and the acknowledged 2013 EOA. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013) (a proposed amendment must be consistent with the City’s “most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan” which address Goal 9).

The 2013 EOA determined that the City has a deficit of 35.8 acres of commercial land and a surplus of 235.9 acres of industrial land<sup>1</sup> and concludes that excess industrial land should be converted to commercial land to address the unfulfilled need. 2013 EOA, pg 56, Table 26. Goal 9’s requirement for an adequate land supply requires that the land need in the 2013 EOA be met, meaning that the identified deficit of commercial land must be remedied. Goal 9 does not prohibit providing land in excess of the adopted land need. For example, hypothetically, converting 50 acres of industrial land to commercial land is consistent with Goal 9 because post-amendment, there is an adequate supply (meaning no deficit) of industrial and commercial land. Simply stated, conversion from one category of land to another can result in a surplus in one or both categories, so long as a deficit is not created in any category.

Goal 9 does not consider only the total acreage needed in a particular category. The suitability of the land to meet an identified need is also relevant. “Suitable” land is defined as “serviceable land designated for industrial or other employment use that provides, or can be expected to provide the appropriate site characteristics for the proposed use.” OAR 660-009-0005(12). “Site characteristics” relate to features that a site needs to accommodate a particular use, and is defined to mean “the attributes of a site necessary for a particular industrial or other employment use to operate. Site characteristics include, but are not limited to, a minimum acreage or site configuration including shape and topography, visibility, specific types or levels of public facilities, services or energy infrastructure, or proximity to a particular transportation or freight facility such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes.” OAR 660-009-0005(11).

As applied here, the 2013 EOA recommends to re-designate “at least” 36 acres from industrial to commercial use, which will allow retail development that captures retail leakage and growth related retail needs. The 2013 EOA (see pg. 57, 62, and 73) describes the suitability factors to consider when determining which sites to redesignate,

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<sup>1</sup> Although not applicable, as reference, the 2001 EOA concluded that the City has a deficit of 106 acres of commercial land and the draft 2020 EOA estimates that the commercial land deficit ranges from 286 to 295 acres, with a surplus of 159 acres of industrial land.

which these findings refer to as the **“2013 EOA Conversion Suitability Factors,”** as including:

- “sites with the greatest suitability for commercial development” (2013 EOA, pg. 62)
  - The 2013 EOA lays the groundwork for subsequent and more detailed analysis of **“retail leakage”** when it notes:
    - *“Retail sales leakage occurring due to lack of major comparison retail. As described by the 2007 MEDP Strategic Plan, there is considerable retail sales leakage of an estimated \$192 million annually throughout Yamhill County – as residents travel to other counties for a significant 23% of their shopping needs. Full recapture of this sales leakage together with anticipated population growth that was anticipated through 2011 was estimated to support as much as 800,000 square feet of added commercial retail space in Yamhill County. Recapture is dependent on the ability to identify sites and attract retailers that could serve much of the county’s population from locations readily accessible to major travel corridors.”* (2013 EOA, Pg 32)
    - *“...the ability to provide a full range of commercial services in McMinnville may reduce the need for out-shopping from this trade area – with area customers at present often traveling further to more distant destinations as in the Portland Tri-County or Salem area.”* 2013 EOA, pg. 71.
  - Retail leakage, and related suitability considerations are described in detail in the 3MLAP and 2020 EOA. These studies provide evidence in support of the Property’s suitability for commercial development, particularly retail leakage:
    - *“Retail prospects are relatively strong for certain retail sectors, despite relatively weak market conditions (including rent, vacancy, absorption, etc.). The Three Mile Lane study area likely checks off many site selection criteria and market characteristics typically desired by prospective retailers. While there are few retailers currently in the area, desired physical characteristics, such as visibility, vacant developable land, and ease of access are all present. Further, McMinnville’s central location between the Oregon Coast, the Portland Metro, and Salem provides access to a wide variety of markets. Significant household growth and the burgeoning tourism industry will continue to improve retail prospects.”* 3MLAP, pg. 2.



*“The Three Mile Lane project area is relatively well-positioned for retail development due to high visibility, ease of access, high traffic counts along Highway 18, and there are few alternative urban areas between McMinnville and the coast, providing opportunities to capture spending from those visiting the Oregon coast.*

*“Additionally, as one of the few locations in the market area with large, contiguous, vacant tracts of land within city limits, Three Mile Lane should be able to capture a significant portion of market area demand over the next 10 years.” 3MLAP, pg. 51-52.*

- *“compatibility with neighboring uses” (2013 EOA, pg. 57)*
  - *The only existing neighboring uses south of Highway 18 are the Jackson Family Winery and the US Army National Guard Armory and Recruiting Office, which are located on M-2 and M-1 land east of the Property, farming activity on the M-L zoned land to the west, and farming activity on the land zoned M-2 to the south. Given the width of Highway 18, land north of the highway is not “neighboring” the Property. Nevertheless, the uses north and north east of the Property include a senior housing development and single family development (R1 and R-4 zoning) and to the northwest is the Evergreen Aviation & Space Museum (C-3PD zoning).*
  - *The 2013 EOA supports the conclusion that industrial and commercial zoning are compatible with one another, and suggest that a new hybrid industrial-commercial zoning designation could be appropriate for areas transitioning from industrial to commercial. 2013 EOA, pg. 57.*
  - *For the development of larger scale retail like the Project is expected to include, the Property’s location is superior to other potential properties because of the minimal impact on surrounding neighborhoods. The only potential offsite impact is traffic. As detailed in the TIA, rezoning the Property would allow for the scale of retail development associated with capturing retail leakage with minor upgrades to surrounding streets and a new intersection. There would minimal impacts to the overall urban fabric of the more established and densely developed areas of McMinnville. In comparison, any proposed development at the intersection of SH-18 and SH-99W (Linfield Property) would raise serious traffic infrastructure problems if it is to be developed with intense retail uses. This would include reconstruction of the Old Sheridan Road intersection and a reconfiguration and widening of the interchange between the two state highways. In that immediate vicinity, SH 99W is an interior arterial in McMinnville, and the regional traffic generated by major retail at this location would be disruptive to the internal city traffic patterns and the McMinnville “feel.”*





- *The 2020 EOA notes that the deficit of needed site sizes for commercial land is for sites between 0.5 and 5 acres, as well as between 10 and 20 acres. 2020 EOA, pg. 102 and Exhibit 57. The Property's two parcels are approximately 25.3 acres and 5.25 acres.*

*Because Kimco's application will convert over two acres of industrial land to a non-industrial use, the application must comply with one of the alternatives in OAR 660-009-0010(4), which provides:*

**Section 4 - OAR 660-009-0010(4):** For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division

- **Applicant Response:** *The 2013 EOA determined that the City has a deficit of 35.8 acres of commercial land and a surplus of 235.9 acres of industrial land and concludes that excess industrial land should be converted to commercial land to address the unfulfilled need. 2013 EOA, pg 56, Table 26. These findings detail how the proposal to convert 33.5 acres of industrial land to commercial land is consistent with the 2013 EOA and comprehensive plan. When the application is approved, the City will be closer to accommodating the commercial land need, and the supply of industrial land will remain adequate because it will continue to be in excess of (but closer to) the adopted industrial land need. Additionally, Figure 27 of the 2013 EOA indicates that there are 5 industrial parcels that are 20+ acres in size, so the City will continue to have an adequate supply of larger industrial parcels.*

## **B. Goal 12: Transportation**

Goal 12 is intended to "provide and encourage a safe, convenient and economic transportation system." See [www.oregon.gov/LCD/docs/goals/goal12.pdf](http://www.oregon.gov/LCD/docs/goals/goal12.pdf)). Goal 12 is implemented by the administrative rules in OAR chapter 660, division 12, which is known as the "Transportation Planning Rule" or "TPR."

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3062>

- **Applicant Response:** *Kittelson & Associates Transportation Impact Analysis (TIA) includes detailed findings in response to the TPR, which are incorporated herein.*

### 3. McMinnville Comprehensive Plan (Volume 2: Goals and Policies)

#### Chapter IV: Economy of McMinnville

**Goal IV 1:** To encourage the continued growth and diversification of McMinnville's economy in order to enhance the general well-being of the community and provide employment opportunities for its citizens.

**Goal IV 2:** To encourage the continued growth of McMinnville as the commercial center of Yamhill County in order to provide employment opportunities, goods, and services for the city and county residents.

**Policy 21.00:** Commercial uses and services which are not presently available to McMinnville residents will be encouraged to locate in the City. Such uses shall locate according to the goals and policies in the comprehensive plan.

- **Applicant Response:** *The 2013 EOA's conclusion about retail leakage, which is supported by the 2020 EOA and 3MLAP, is quoted above. The application summary findings in the "Property Description" and Project Background" sections and these findings describe the Property's suitability for capturing retail leakage and accommodate population-growth related retail demand. The proposed rezone will allow (upon subsequent land use reviews) which are not presently available or are underserved, to locate on the Property.*

**Policy 21.01:** The City shall periodically update its economic opportunities analysis to ensure that it has within its urban growth boundary (UGB) a 20-year supply of lands designated for commercial and industrial uses. The City shall provide an adequate number of suitable, serviceable sites in appropriate locations within its UGB. If it should find that it does not have an adequate supply of lands designated for commercial or industrial use it shall take corrective actions which may include, but are not limited to, re-designation of lands for such purposes, or amending the UGB to include lands appropriate for industrial or commercial use.

- **Applicant Response:** *In support of the requested land use change designation, the adopted 2013 EOA stated:*

*"As with the prior 2001/03 EOA projections, an anticipated surplus is indicated for industrial lands versus a shortfall associated with commercial lands:*

- *Commercial land demand is expected to exceed supply – resulting in a forecast shortfall of an estimated 36 acres through 2033.*

- *Industrial land demand is anticipated to come in well under the BLI supply – resulting in a surplus forecast at close to 236 acres over the 20-year planning horizon.*

*In summary, this (2013) EOA update indicates that industrial land needs can be more than amply met over the next 20 years while commercial land supply will fall short of meeting anticipated demand.” (2013 EOA, Pg 56)*

*The proposal to rezone 33.5 excess industrial acres to commercial is consistent with Policy 21.01 and the 2013 EOA. The Property is suitable for commercial zoning, as described in the “Suitability of the Property for Conversion from Industrial to Commercial” section of the application findings and detailed throughout these findings, the Property includes site characteristics which are conducive to capturing retail leakage and accommodating population growth-related retail, such as visibility from and access to Highway 18 and proximity to retail leakage markets.*

**Policy 21.03: The City shall support existing businesses and industries and the establishment of locally owned, managed, or controlled small businesses.**

- **Applicant Response:** *The 2013 EOA indicates that there will be an annual leakage of \$192 million in consumer spending in Yamhill County to areas outside its boundaries (Pg 32) along with a shortfall of 36 commercially designated acres through 2033 (Pg 56). Furthermore, the 2013 EOA states local businesses suffer from “Limited duration of tourism visitation & low expenditure capture. While the McMinnville area and Yamhill County can now boast some of the state’s top tourism attractions, visitor spending does not appear to match visitation. This is because visitors tend not to stay overnight (but are often day visitors) and do not appear to be making substantial expenditures while in the area. A key challenge for the future is to provide more and better value-added opportunities for visitors to spend more time and money while visiting the McMinnville area.” (2013 EOA Pg 32-33)*

*The Property is suitable for capturing retail leakage documented in the 2013 EOA and further supported by the 2020 EOA and 3MLAP, as quoted above. Because the leakage sales are not being met in the market, existing businesses do not rely upon those sales, which means that satisfying the leakage will not impact existing business. Instead, existing businesses could be supported by retail development of the Property because consumers will stay within and be drawn to the market area.*

**Policy 21.05: Commercial uses and services which are not presently available to McMinnville residents will be encouraged to locate in the city. Such uses shall locate according to the goals and policies in the comprehensive plan**

- **Applicant Response:** *See response to Policy 21.00.*

**Goal IV 3:** To ensure commercial development that maximizes efficiency of land use through utilization of existing commercially designated lands, through appropriately locating future commercial lands, and discouraging strip development.

- **Applicant Response:** *The 2013 EOA concluded that utilizing existing commercially designated lands are not sufficient to accommodate the demonstrated commercial land need, and that re-designating excess industrial land is the solution.*

*No specific development is proposed with this application. Once a formal project application is submitted to the City, the requested Planned Development overlay designation means that the development will be subject to the Planned Development Ordinance. The project application will be open to public comment, be reviewed by the Planning Commission, and approved at the discretion of the City Council. The project layout and design elements shall be assessed at that time.*

**General Policies:**

**Policy 22.00:** The maximum and most efficient use of existing commercially designated lands will be encouraged as will the revitalization and reuse of existing commercial properties.

- **Applicant Response:** *The types of retail that is leaking from the City requires parcels that range from 5 to 20+ acres. The City's inventory of vacant and partially vacant commercially designated properties in that size range are very limited: the 2013 EOA, Figure 27 indicates there is one vacant commercially designated parcels that is 11 acres, and 2 over 20 acres, one of which is the Evergreen Aviation & Space Museum, which is encumbered with a tourism-related PUD; 2020 EOA, Exhibit 39 shows that there are zero vacant or partially vacant C-3 lot. This lack of inventory led the s, and a single 12.1 acre partially vacant C-3 lot the 2013 EOA concluded that utilizing existing commercially designated lands was not sufficient to accommodate the demonstrated commercial land need, and that re-designating excess industrial land is the solution. Therefore, the ability of existing commercial lands to be revitalized and reused will not be impacted by this amendment, because the needed retail uses that will be facilitated by this amendment cannot be accommodated on existing commercially zoned parcels.*

**Policy 24.00:** The cluster development of commercial uses shall be encouraged rather than auto-oriented strip development.

- **Applicant Response:** *No specific development is proposed with this application. Once a formal project application is submitted to the City, pursuant to the requested Planned Development overlay, it will be subject to the Planned Development Ordinance which will discourage auto-oriented strip development. The project application will be open to public*

*comment, be reviewed by the Planning Commission, and approved at the discretion of the City Council. The project layout and design elements shall be assessed at that time.*

**Locational Policies:**

**Policy 24.50: The location, type, and amount of commercial activity within the urban growth boundary shall be based on community needs as identified in the Economic Opportunities Analysis.**

**Applicant Response:** *The 2013 EOA identified a deficit of at least 36 acres of commercial land, which should be accommodated by redesignating excess industrial land. The 2013 EOA Conversion Suitability Factors (detailed above), as well as the 3MLAP and 2020 EOA, support the conclusion that the Property is suitable to accommodate retail leakage and growth-related retail uses. Among the Property's key site characteristics are site size, proximity to retail leakage markets, and visibility and access to Highway 18.*

**Policy 25.00 Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.**

**Applicant Response:** *The only existing adjacent uses south of Highway 18 are the Jackson Family Winery and the US Army National Guard Armory and Recruiting Office, which are located on M-2 and M-1 land east of the Property, farming activity on the M-L zoned land to the west, and farming activity on the land zoned M-2 to the south. Given the width of Highway 18, land north of the highway is not "adjacent" to the Property. Nevertheless, the uses north and north east of the Property include a senior housing development and single family development (R1 and R-4 zoning) and to the northwest is the Evergreen Aviation & Space Museum (C-3PD zoning).*

*The Property is within the City's Three Mile Lane Plan area updating 1981 Three Mile Lane Overlay District (amended in 1994) and the 1996 Highway 18 Corridor Refinement Plan. The area contains approximately 1,340 acres of land with a variety of existing land uses and several large vacant parcels. Though the timeline for the adoption of this plan is unknown, the current draft "includes a significant retail center south of Three Mile Lane at Cumulus Avenue. This could take the form of a large-format retail anchor that would take advantage of traffic on OR SH 18 with additional smaller retail uses. While serving as a regional retail attractor, it would also function as an important local amenity, providing convenient access to shopping and services for adjacent office and residential development." (3MLAP Memorandum 6, pg 10-13)*

*For the development of larger scale retail like the Project is expected to include, the Property's location is superior to other potential properties because of the minimal impact on surrounding neighborhoods. The only potential offsite impact is traffic. As detailed in the TIA, rezoning the Property would allow for the scale of retail development associated with*

*capturing retail leakage with minor upgrades to surrounding streets and a new intersection. There would minimal impacts to the overall urban fabric of the more established and densely developed areas of McMinnville. In comparison, any proposed development at the intersection of SH-18 and SH-99W (Linfield Property) would raise serious traffic infrastructure problems if it is to be developed with intense retail uses. This would include reconstruction of the Old Sheridan Road intersection and a reconfiguration and widening of the interchange between the two state highways. In that immediate vicinity, SH 99W is an interior arterial in McMinnville, and the regional traffic generated by major retail at this location would be disruptive to the internal city traffic patterns and the McMinnville “feel.”*

*Specifically for the Property, Kittelson & Associates, Inc. prepared a transportation impact analysis (TIA) and Transportation Planning Rule (TPR) analysis for the proposed project. (Attachment XX) The OR 18 corridor has the capacity to accommodate trips to the proposed site without widening to six (6) lanes. The traffic impact analysis (TIA) supports this finding and recommends some access modifications to existing roadways intersecting OR 18 to improve the safety and flow of traffic in the vicinity of the site with the proposed rezoning and subsequent commercial development. These modifications are consistent with the future improvements identified in the adopted 1996 McMinnville (OR-18) Corridor Refinement Plan.*

*No specific development is proposed with this application. Once a formal project application is submitted to the City, pursuant to the requested Planned Development overlay, it will be subject to the Planned Development Ordinance and Zoning Ordinance. The project application will be reviewed in a public process, which will address and minimize potential conflicts, if any, through revisions or conditions of approval, and any deficiencies in city services can be addressed through conditions of approval.*

**Policy 26.00:** **The size of, scale of, and market for commercial uses shall guide their locations. Large-scale, regional shopping facilities, and heavy traffic-generating uses shall be located on arterials or in the central business district, and shall be located where sufficient land for internal traffic circulation systems is available (if warranted) and where adequate parking and service areas can be constructed.**

- **Applicant Response:** *As detailed in response to Policy 25.00 the Property is an appropriate location for commercial development. No specific development is proposed with this application. However, the type of retail that could be developed on the property that is intended to capture retail leakage would likely be considered large-scale or a regional shopping facility by Policy 26.00. The Property is a suitable location for these commercial uses based upon Policy 25.00's and 26.00's considerations. The Property is located on OR 18, which McMinnville's TSP classifies as a Major Arterial and a State Highway. The 33.5 acre Property is adequately sized to accommodate internal traffic circulation and parking. For example, the site plan at Exhibit XX includes an internal road system.*

## **Design Policies**

**Policy 29.00:** New direct access to arterials by large-scale commercial developments shall be granted only after consideration is given to the land uses and traffic patterns in the area of development as well as at the specific site. Internal circulation roads, acceleration/deceleration lanes, common access collection points, signalization, and other traffic improvements shall be required wherever necessary, through the use of planned development overlays.

**Policy 30.00:** Access locations for commercial developments shall be placed so that excessive traffic will not be routed through residential neighborhoods and the traffic-carrying capacity of all adjacent streets will not be exceeded.

**Policy 31.00:** Commercial developments shall be designed in a manner which minimizes bicycle/pedestrian conflicts and provides pedestrian connections to adjacent residential development through pathways, grid street systems, or other appropriate mechanisms. (Ord.4796, October 14, 2003)

**Policy 32.00:** Where necessary, landscaping and/or other visual and sound barriers shall be required to screen commercial activities from residential areas.

**Policy 33.00:** Encourage efficient use of land for parking; small parking lots and/or parking lots that are broken up with landscaping and pervious surfaces for water quality filtration areas. Large parking lots shall be minimized where possible. All parking lots shall be interspersed with landscaping islands to provide a visual break and to provide energy savings by lowering the air temperature outside commercial structures on hot days, thereby lessening the need for inside cooling. (Ord.4796, October 14, 2003)

- **Applicant Response:** *No specific development is proposed with this application. Once a formal project application is submitted to the City, pursuant to the requested Planned Development overlay, it will be subject to the Planned Development Ordinance and Zoning Ordinance. The project application will be reviewed in a public process, which will address*



*the Project's access, bicycle/pedestrian connections, landscaping/screening, parking, layout and design elements shall be assessed at that time.*

**Goal IV 4: To promote the downtown as a cultural, administrative, service, and retail center of McMinnville.**

#### **Downtown Development Policies**

**Policy 36.00: The City of McMinnville shall encourage a land use pattern that:**

- 1. Integrates residential, commercial, and governmental activities in and around the core of the city;**
- 2. Provides expansion room for commercial establishments and allows dense residential development;**
- 3. Provides efficient use of land for adequate parking areas;**
- 4. Encourages vertical mixed commercial and residential uses; and,**
- 5. Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)**

- **Applicant Response:** *This application for designating additional land as "Commercial" in Comprehensive Plan under a C-3 zoning district would potentially permit additional retail development within the City that cannot be accommodated in the format of downtown merchant spaces. One fundamental goal of this land use change application is to maintain consumer spending within the City limits and will contribute to the overall vibrancy and well being of residents. Rather than cannibalizing retail dollars from the downtown district, alleviating the shortage of commercial acreage that is attributable to retail leakage could draw shoppers to McMinnville for a spectrum of needs that currently cannot be found within the City limits.*

**Policy 41.00: The City of McMinnville shall encourage the expansion of retail and other commercial enterprises east of the railroad tracks and north and south of Third Street consistent with the adopted "Downtown Improvement Plan."**

- **Applicant Response:** *The area included in the Downtown Improvement Plan adopted in 2000 focused on a targeted collection of parcels on the eastside of McMinnville's commercial business district. Despite this land being designated "Commercial" land use and within the C-3 zoning district, the 2013 EOA indicates there remains a shortage of available commercial acreage within the City limits. The proposed amendment is targeted at satisfying the existing land need, which includes retail leakage. The amendment has no impact on the development potential of the area east of the railroad tracks and north and south of Third Street.*

**Policy 46.00: The City shall work to implement the recommendations of the adopted “McMinnville Downtown Improvement Plan.”**

- **Applicant Response:** *The area included in the Downtown Improvement Plan adopted in 2000 focused on a targeted collection of parcels on the eastside of McMinnville’s commercial business district. Despite this land being designated “Commercial” land use and within the C-3 zoning district, the 2013 EOA indicates there remains a shortage of available commercial acreage within the City limits. The proposed amendment is targeted at satisfying the existing land need, which includes retail leakage. The amendment has no impact on the development potential of the McMinnville Downtown Improvement area.*

**Proposals**

**Policy 6.00:** A planned development overlay should be placed on the large cluster commercial development areas and the entrances to the City to allow for review of site design, on-site and off-site circulation, parking, and landscaping. The areas to be overlaid by this designation shall be noted on the zoning map and/or comprehensive plan map.

- **Applicant Response:** *The application requests a Planned Development overlay, consistent with Policy 6.00. No specific development is proposed with this application. Once a formal project application is submitted to the City, pursuant to the requested Planned Development overlay, it will be subject to the Planned Development Ordinance and Zoning Ordinance. The project application will be reviewed in a public process, which will address the Project’s site design, on-site and off-site circulation, parking, and landscaping, shall be assessed at that time.*

**Policy 8.00:** The City of McMinnville should encourage the development of a commercial planned development center in the southwestern portion of the city large enough in scale to serve the needs of the area’s population. The center should be in proximity of the intersection of Old Sheridan Road, U.S. Highway 99W, and Oregon Highway 18.

- **Applicant Response:** *This area is already zoned C-3, which allows large scale commercial development, and is currently undeveloped. The 2013 EOA included this area as a part of the City’s inventory of available commercial land and concluded that there is nevertheless a 35.8 acre deficit. The proposed amendment is targeted at satisfying the existing land need, which includes retail leakage. The amendment has no impact on the development potential of the southwestern portion of the city.*

## Industrial Development

**Goal IV 5:** To continue the growth and diversification of McMinnville’s industrial base through the provision of an adequate amount of properly designated lands.

- **Applicant Response:** *In support of the requested land use change designation, the adopted 2013 EOA stated:*

*“As with the prior 2001/03 EOA projections, an anticipated surplus is indicated for industrial lands versus a shortfall associated with commercial lands:*

- *Commercial land demand is expected to exceed supply – resulting in a forecast shortfall of an estimated 36 acres through 2033.*
- *Industrial land demand is anticipated to come in well under the BLI supply – resulting in a surplus forecast at close to 236 acres over the 20-year planning horizon.*

*In summary, this (2013) EOA update indicates that industrial land needs can be more than amply met over the next 20 years while commercial land supply will fall short of meeting anticipated demand.” (2013 EOA, Pg 56). Figure 27 of the 2013 EOA indicates that there are 5 industrial parcels that are 20+ acres in size, so the City will continue to have an adequate supply of larger industrial parcels if the Property is converted from Industrial to Commercial.*

**Goal IV 6:** To ensure industrial development that maximizes efficiency of land uses, that is appropriately located in relation to surrounding land uses, and that meets necessary environmental standards.

## Locational Policies

**Policy 49.00:** The City of McMinnville shall use its zoning and other regulatory methods to prevent encroachment into industrial areas by incompatible land uses.

- **Applicant Response:** *The 2013 EOA concluded that there is an excess amount of industrial land. Converting some of that surplus land to commercial will have no impact on the uses permitted in the remaining industrial land. Further, 3MLP that is currently moving through the community and legislative review process recommends a mix of commercial and industrial uses within this area, specifically focusing commercial districts along the OR-18 frontage.*

**Policy 49.01:** The City shall designate an adequate supply of suitable sites to meet identified needs for a variety of different parcel sizes at locations which have direct access to an arterial or collector street without having to pass through residential neighborhoods.

**Policy 49.02:** The location, type, and amount of industrial activity within the Urban Growth Boundary shall be based on community needs as identified in the Economic Opportunities Analysis.

**Policy 50.00:** The City of McMinnville shall encourage industrial uses to locate adjacent to the airport and south of Three Mile Lane, adjacent to the existing Riverside Drive industrial area, and in existing industrial areas through proper designation of lands on the comprehensive plan and zoning maps. Comprehensive plan and/or zoning map changes to industrial designations in other areas may be granted if all the applicable goals and policies of the plan can be met.

- **Applicant Response:** Policies 49.01, 49.02 and 50.00 are directed at the suitability of sites for industrial development. The 2013 EOA has “recommended to better match the commercial inventory to current and anticipated needs include re-designating a portion of the excess industrial inventory to commercial use including focus on needs for commercial sites across a range of size classes, increasing emphasis on redevelopment and density of development, and greater flexibility of use for mixed commercial/industrial areas. Also needed may be parcelization of some larger 20+ acre industrial sites for which there is no readily apparent demand to meet demonstrated needs for smaller industrial sites, especially in the 1-9- acre size ranges.” (2013 EOA, Pg 67).

The 2013 EOA Conversion Suitability Factors (detailed above) confirm that the Property has site characteristics that are more appropriate for commercial development than industrial development. Redesignating the Property from Industrial to Commercial will not impact the adequacy of the supply of suitable industrial sites; the City will continue to have a surplus of over 200 acres of industrial land, including four parcels that are 20+ acres. 2013 EOA, Figure 27.

The Property is within the City’s Three Mile Lane Plan area updating 1981 Three Mile Lane Overlay District (amended in 1994) and the 1996 Highway 18 Corridor Refinement Plan. The area contains approximately 1,340 acres of land with a variety of existing land uses and several large vacant parcels. Though the timeline for the adoption of this plan is unknown, the current draft “includes a significant retail center south of Three Mile Lane at Cumulus Avenue. This could take the form of a large-format retail anchor that would take advantage of traffic on OR SH 18 with additional smaller retail uses. While serving as a regional retail attractor, it would also function as an important local amenity, providing convenient access to shopping and services for adjacent office and residential development.” (3MLAP Memorandum 6, pg 10-13)

**Policy 51.00:** The City of McMinnville shall encourage the location of airport-related industrial uses only on the industrial land which is adjacent to the

**airport. Those lands so reserved shall be designated in the planned development overlay covering this area.**

- **Applicant Response:** *The Property is near the airport, but does not abut it, and is separated from the airport by a public park (Galen McBee Airport Park), the South Yamhill River, a military base and the Jackson Family Winery. The portion of the Property closest to the airport is the southerly 52.5 acres that will retain an Industrial land use designation.*

**Policy 52.00:** **The City of McMinnville shall create a new "limited light industrial" zone which shall be placed on the industrial areas on the south side of Three Mile Lane in those areas where residential development is expected on the north side of the road. The new zone will allow only those types of industrial uses that will not conflict with the residential uses.**

- **Applicant Response:** *Policy 52.00 is directed at the City pursuing a legislatively created new zoning designation. Policy 52.00 reflects the City's desire to minimize conflicts with residential uses north of Three Mile Lane. As detailed elsewhere in these findings, the uses allowed by the proposed C-3PD designation are more compatible with residential uses than those uses permitted allowed by the current M-3 zoning, which is consistent with Policy 52.00. Further, the City is in the process of re-evaluating the Three Mile Lane Area through the 3MLAP. That city-led long range planning process is the forum for addressing Policy 52.00.*

## **Chapter VI: Transportation System**

### **Air**

#### **Policies:**

**Policy 115.00:** **The City of McMinnville shall encourage the development of compatible land uses in the vicinity of the airport as identified in current and future airport and comprehensive plans**

- **Applicant Response:** *The Property is within .5 miles of the McMinnville Municipal Airport. While the Airport Layout Plan completed in 2004 discourages the expansion of residential use near the airport and encourages agricultural and manufacturing areas, it does not explicitly address commercial use (McMinnville Municipal Airport Layout Plan Study – December 2004, 1-9). The request to add a commercial element through the land use designation and zoning change would not run incongruent to the future sustainability and potential expansion of the airport.*

### **Streets**

## Policies:

**Policy 119.00** The City of McMinnville shall encourage utilization of existing transportation corridors, wherever possible, before committing new lands.

- **Applicant Response:** *The OR 18 corridor has the capacity to accommodate trips to the proposed site without widening to six (6) lanes. The traffic impact analysis (TIA) supports this finding and recommends some access modifications to existing roadways intersecting OR 18 to improve the safety and flow of traffic in the vicinity of the site with the proposed rezoning and subsequent commercial development. These modifications are consistent with the future improvements identified in the adopted 1996 McMinnville (OR-18) Corridor Refinement Plan.*

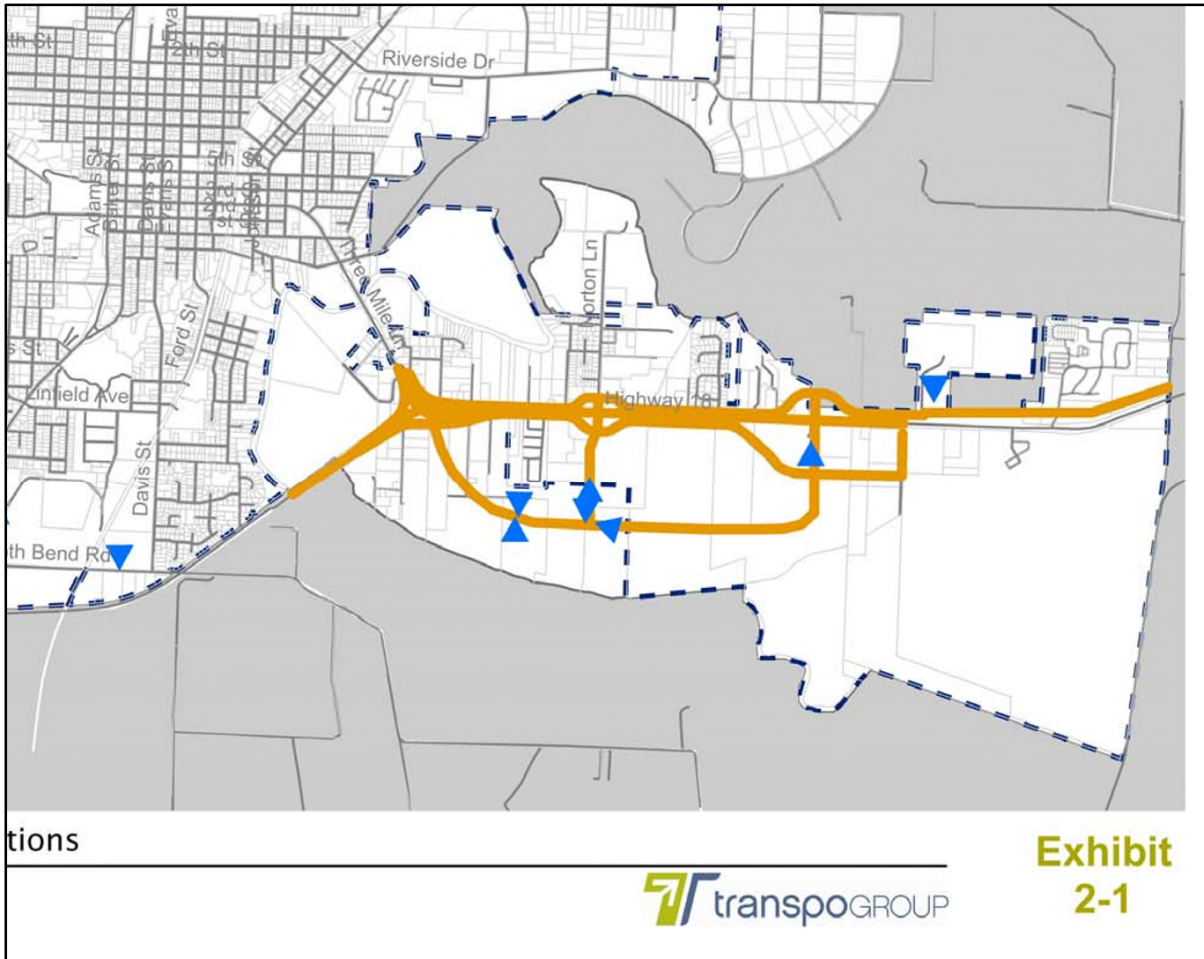
**Policy 123.00:** The City of McMinnville shall cooperate with other governmental agencies and private interest to insure the proper development and maintenance of the road network within the urban growth boundary.

- **Applicant Response:** *Kittelson & Associates, Inc. prepared a transportation impact analysis (TIA) and Transportation Planning Rule (TPR) analysis for the proposed project. The scope, methodology, findings and recommendations have been coordinated with the City of McMinnville and the Oregon Department of Transportation (ODOT). In addition, at the time development is proposed on the Property in the future, the City of McMinnville will notice the ODOT, surrounding project owners, and the city at-large, issue a staff report and conduct planning commission and city council hearings to assess that proper development and maintenance of the road network is ensured.*

## Connectivity and Circulation

**Policy 132.26.05:** New street connections, complete with appropriately planned pedestrian and bicycle features, shall be incorporated in all new developments consistent with the Local Street Connectivity map.

- **Applicant Response:** *The Local Street Connectivity (Exhibit 2-1 of the TSP) map identifies future east/west frontage road and back road connections south of OR 18, as shown in the figure below. The subsequent development of the Property under the proposed zoning will require the development of collector streets consistent with the transportation system plan and McMinnville (OR-18) Corridor Refinement Plan which require sidewalks and bicycle lane. The proposed development plan will need to show these connections as well as how pedestrians and bicyclists access the buildings on-site.*



### Supportive of General Land Use Plan Designations and Development Patterns

**Policy 132.27.00:** The provision of transportation facilities and services shall reflect and support the land use designations and development patterns identified in the McMinnville Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand—both short-term and long-term planned uses.

- Applicant Response:** *The TIA provided a short-term (2022) and long-term (2037) operational analysis of the roadway network surrounding the site, finding that the proposed rezone can be approved assuming implementation of the recommended mitigation measures. With the proposed improvements, the proposed rezone results in no significant impacts under Oregon Administrative Rule (OAR) 660-012-0060. Additionally, the proposed transportation facility modifications are consistent with the future improvements identified in the adopted 1996 McMinnville (OR-18) Corridor Refinement Plan. Development will include construction of the collector streets identified in the TSP Exhibit 2-1 (frontage and back roads). As part of the design of these roadways, sidewalks and bicycle lanes will be provided.*

## Growth Management

**Policy 132.40.00:** Mobility standards will be used to evaluate the transportation impacts of long-term growth. The City should adopt the intersection mobility standards as noted in Chapter 2 of the Transportation System Plan.

- **Applicant Response:** *The TIA study intersections within the City's jurisdiction and ODOT's jurisdiction and applied each jurisdiction's applicable mobility standard as a basis for recommending mitigation measures. See, for example, TIA Table 2 and 18.*

## McMinnville TSP Implementation

**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.

- **Applicant Response:** *The proposed rezone and subsequent development of the subject property is consistent with the goals, objectives, policies, implementation strategies, principles, maps, and recommended projects within the McMinnville TSP as shown below:*

*Goal: To encourage development of a transportation system that provides for the coordinated movement of people and freight in a safe and efficient manner.*

*The proposed rezone and subsequent commercial development work in the direction of achieving this goal by providing intersection improvements to increase the safety and traffic flow of the surrounding roadway network for all users. The proposed modifications are consistent with the implementation strategies (McMinnville (OR-18) Corridor Refinement Plan) as shown in Exhibit 4-6 (Projects and Programs) in the TSP, as well as the Street System, Pedestrian, Bicycle, Public Transportation, Freight, Rail, Air and Pipeline Plan maps set forth in the TSP.*

*Policies:*

### *1. Transportation System Plan*

*The proposed site plan will be developed consistent with the Street System, Pedestrian, Bicycle, Public Transportation, Freight, Rail, Air and Pipeline Plans set forth in the TSP. The proposed rezoning and subsequent commercial development will fund transportation improvements which will work toward implementing the TSP.*

### *2. Complete Streets*



*The traffic signals and intersection improvements identified in the TIA will be designed and constructed in compliance with the Americans with Disabilities (ADA) guidelines. Site development will aim to create a pedestrian and bicycle friendly environment.*

### *3. Multi-Modal Transportation System*

*The site plan review process will ensure that the proposed site is consistent with the Local Street Connectivity map and provides connections for pedestrians and bicycles.*

### *4. Connectivity and Circulation*

*The Local Street Connectivity map identifies a future east/west connection south of OR 18. The site plan will be developed consistent with this plan and providing this connection. Pedestrian and bicycle facilities will be provided as appropriate for each roadway classification. Site development will preserve right-of-way for design of a future interchange at OR 18 and Cumulus Avenue.*

### *5. Supportive of General Land Use Plan Designations and Development Patterns*

*The TIA provided a short-term (2022) and long-term (2037) operational analysis of the roadway network surrounding the site, finding that the proposed rezone can be approved assuming implementation of the recommended mitigation measures. With the proposed improvements, the proposed rezone results in no significant impacts under Oregon Administrative Rule (OAR) 660-012-0060. Additionally, the proposed modifications are consistent with the future improvements identified in the adopted 1996 McMinnville (OR-18) Corridor Refinement Plan.*

### *6. Regional Mobility*

*The location of the proposed site along OR 18 provides ease of access to regional centers such as downtown McMinnville, Lafayette, and Newberg. It is also anticipated that some people will stop at the site on their way to or from the coast. In addition, the proposed uses may reduce regional transportation demand by capturing existing trips that travel to the greater Portland and Salem area for these uses today.*

### *7. Growth Management*

*The proposed rezone meets the needs of the surrounding community. A recent market study indicated an over-abundance of industrial land and high demand for commercial uses in the area. Additionally, the improvements recommended in the TIA bring local intersections (some of which do not meet level of service standards under existing conditions) up to standard. The proposed uses may also reduce regional transportation demand by capturing existing trips that travel to the greater Portland and Salem area for these uses today.*

### *8. Transportation System and Energy Efficiency*

*The location of the proposed site along OR 18 provides opportunity for transportation system and energy efficiency with easy access to residents and employees of downtown McMinnville on their way to or from work, in some cases eliminating the need for out-of-direction travel. In addition, the proposed uses may also reduce regional transportation demand by capturing existing trips that travel to the greater Portland and Salem area for these uses today*

#### *9. Transportation Safety*

*The traffic impact analysis (TIA) recommends modifications to improve the safety of the OR 18 corridor and other intersections within the study area.*

#### *10. Public Safety*

*The site plan review process will ensure that emergency vehicle access is provided on the proposed site. In addition, the safety improvements identified in the TIA should result in crash reductions as a number of intersections within the study area.*

#### *11. Accessibility for Persons with Disabilities*

*On-site connections, as well as traffic signal and intersection improvements identified in the TIA, will be designed and constructed in compliance with the Americans with Disabilities (ADA) guidelines.*

#### *12. Economic Development*

*The proposed rezone meets the needs of the surrounding community. A recent market study indicated an over-abundance of industrial land and high demand for commercial uses in the area.*

#### *13. Livability*

*The site plan review process will incorporate multi-modal facilities to increase the livability of the greater McMinnville area.*

#### *14. Health and Welfare*

*The proposed site will be accessible via many modes of transportation, including transit and active transportation (by bicycle and by foot).*

#### *15. Transportation Sustainability*

*The location of the proposed site along OR 18 provides easy access to residents and employees of downtown McMinnville on their way to or from work, in some cases eliminating the need for out-of-direction travel. It is also anticipated that some people will stop at the site on their way to or from the coast. In addition, the proposed uses may also*

reduce regional transportation demand by capturing existing trips that travel to the greater Portland and Salem area for these uses today. The traffic impact analysis (TIA) recommends some modifications to existing roadways intersecting OR 18 to improve the safety and flow of traffic in the vicinity of the site.

#### 16. Aesthetics and Streetscaping

The site plan review process will incorporate aesthetics and streetscaping to enhance visitor experience and livability of the greater McMinnville area.

#### 17. Intergovernmental Coordination and Consistency

Kittelson & Associates, Inc., prepared a transportation impact analysis (TIA) and Transportation Planning Rule (TPR) analysis for the proposed project. The methodology, findings and recommendations have been coordinated with the City of McMinnville and ODOT Region 2.

### Chapter VII: Community Facilities and Services

**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.*

- **Applicant Response:** *This Goal is targeted primarily at rural land that is included in the UGB and is transitioning to urbanizable and urban land, and directs the City to plan utilities for that transition. The Property is in the UGB, so this Goal is not applicable. Nevertheless, when development is proposed and evaluated through a public process in the future, the adequacy of public and private facilities for the development will be determined.*

#### Sanitary Sewer System

##### Policies:

**Policy 138.00:** **The City of McMinnville shall develop, or require development of, sewer system facilities capable of servicing the maximum levels of development envisioned in the McMinnville Comprehensive Plan**

- **Applicant Response:** *This Goal is targeted primarily at the City's facility planning. There are no known sanitary sewer deficiencies in the vicinity of the Property. No development is proposed as a part of this application. When development is proposed and evaluated through a public process in the future, the adequacy of sewer system facilities will be confirmed, and if necessary, conditions of approval will be imposed to address any deficiencies.*

## Storm Drainage

### Policies:

**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.

- **Applicant Response:** *No specific development is proposed with this application. Once a formal project application is submitted to the City, pursuant to the requested Planned Development overlay, it will be subject to the Planned Development Ordinance and Zoning Ordinance. The project application will be reviewed in a public process, which will address the Project's storm drainage shall be assessed at that time.*

## Water and Sewer—Land Development Criteria

### Policies

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

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

- **Applicant Response:** *There are no known water or sewage deficiencies in the vicinity of the Property. No development is proposed as a part of this application. When development is proposed and evaluated through a public process in the future, the adequacy of water and sewer system facilities will be confirmed, and if necessary, conditions of approval will be imposed to address any deficiencies.*

## **Police and Fire Protection**

### **Policies**

**Policy 155.00:** **The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.**

- **Applicant Response:** *There are no known police or fire facility or service deficiencies in the vicinity of the Property. No development is proposed as a part of this application. When development is proposed and evaluated through a public process in the future, the adequacy of these facilities and services will be confirmed, and if necessary, conditions of approval will be imposed to address any deficiencies.*

## **Chapter VIII Energy**

### **Energy Conservation**

**Goal VIII 2: To conserve all forms of energy through utilization of land use planning tools.**

- **Applicant Response:** *One of the fundamental policies backing the rationale for this land use change request is the consumer spending leakage highlighted in the 2013 EOA. By allowing more potential retail development within the City, residents will no longer be required to drive longer distances to destinations such as Salem or southwest Portland for their needs, which conserves energy.*

### **Policies**

**Policy 178.00:** **The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.**

- **Applicant Response:** *Statewide Planning Goal 14 and its implementing statutes and rules require a jurisdiction to first determine whether an identified land need can be accommodated within the UGB prior to expanding the UGB to accommodate the need. The 2013 EOA demonstrates a need for retail and an excess of industrial land, and the proposed comp plan designation and zoning map amendments satisfy a portion of this need. Accommodating the identified land need within the UGB is consistent with Goal 14 and encourages a compact urban development pattern.*

## Chapter IX: Urbanization

**Goal IX 1:** To provide adequate lands to service the needs of the projected population to the year 2023, and to ensure the conversion of these lands in an orderly, timely manner to urban uses.

- **Applicant Response:** *The 2013 EOA quantifies the industrial and commercial land needs for the projected population and concludes that there is a need for retail and an excess of industrial land. The proposed Comprehensive Plan land use designation and zoning map amendments accommodate a portion of the commercial land need. Converting excess industrial land to needed commercial land is consistent with Statewide Planning Goal 14 and its implementing statutes and rules, which require a jurisdiction to first determine whether an identified land need can be accommodated within the UGB prior to expanding the UGB to accommodate the need.*

## Land Use Development Tools

### Policies

**Policy 186.00:** The City of McMinnville shall place planned development overlays on areas of special significance identified in Volume I of the McMinnville Comprehensive Plan. Those overlays shall set forth the specific conditions for development of the affected properties. Areas of significance identified in the plan shall include but not be limited to:

**1. Three Mile Lane (north and south).**

- **Applicant Response:** *The application requests a Planned Development overlay, consistent with Policy 186.00.1. No specific development is proposed with this application. Once a formal project application is submitted to the City, pursuant to the requested Planned Development overlay, it will be subject to the Planned Development Ordinance and Zoning Ordinance. Those ordinances require specific conditions for development of the Property, and will be reviewed in a public process.*

## Chapter X: Citizen Involvement and Plan Amendment

**Goal X 2:** To periodically review and amend the McMinnville Comprehensive Plan to reflect changes in community circumstances, in citizen desires, and in the statewide goals.

- **Applicant Response:** *This Goal obligates the City to periodically review its Comprehensive Plan, so is not applicable to this application. Nevertheless, the application is consistent with this Goal because the proposal to revise the comprehensive land use plan designation for the site is responsive to the oversupply of industrial and demand for retail as addressed in the 2013 EOA. While consistent with the Three Mile Line Area Plan currently moving through the*

*legislative process, the timing on adoption of this larger policy document is unknown. The current application seeks to address the current deficit in available commercial land in a more directed and expedient manner.*

#### **4. McMinnville Zoning Ordinance**

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

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

- A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.**
  - **Applicant Response:** *The analysis provided in Section 3 of this attachment demonstrates the application's compliance with the City's Comprehensive Plan and other adopted policies.*
  
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;**
  - **Applicant Response:** *Criterion B is supported by the 2013 EOA, which found that the City could benefit from a regional retail center, that recapture of retail sales leakage could be achieved by concentrating retail along major highways, and that excess industrial land should be re-designated to commercial use when opportunities arise. While consistent with the Three Mile Line Area Plan currently moving through the legislative process, the timing on adoption of this larger policy document is unknown. The current application seeks to address the current deficit in available commercial land in a more directed and expedient manner.*
  
- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.**
  - **Applicant Response:** *There are no known utility or service deficiencies. No specific development is proposed with this application. Once a formal project application is submitted to the City, pursuant to the requested Planned Development overlay, it will be subject to the Planned Development Ordinance and Zoning Ordinance. The project application will be reviewed in a public process, which will demonstrate the improvements required for City utilities and services to efficiently serve the site.*

## 17.51 Planned Development Overlay:

### 17.51.010 Purpose

\* \* \*

**B. The Council, the Commission, or the property owner of a particular parcel may apply for a planned development designation to overlay an existing zone without submitting any development plans; however, no development of any kind may occur until a final plan has been submitted and approved. (The Planning Director shall note such properties and direct that no building permit be issued in respect thereto.)**

**1. A planned development overlay may be approved under these circumstances for a property which has unique characteristics (e.g., geological, ecological, location, or the nature of the surrounding property) and the development of which may have an impact upon the surrounding area or the city as a whole. A planned development overlay initiated by the Council or the Planning Commission shall address itself to the purposes set forth herein.**

- **Applicant Response:** *Comprehensive Plan Policy 6.00 recommends placing a Planned Development overlay on large cluster commercial development areas, and other policies encourage heightened review of proposed development to ensure compatibility with nearby uses. These policies provide a basis for imposing a planned development overlay on the Property, which has the unique characteristics of accommodating needed retail uses to accommodate retail leakage and growth related demand.*

**C. The Council and Planning Commission, with the assistance of the Planning Director, shall ensure that no planned development overlay granted under Section A or B above which is merely a guise to circumvent the intent of the zoning ordinance shall be approved. A denial of such a zone request based upon this principle shall be enunciated in the findings of fact adopted by the Planning Commission;**

- **Applicant Response:** *No specific development is proposed at this time, so the requested Planned Development overlay is not an effort to circumvent the intent of the zoning ordinance. Instead, as noted above, the imposition of the Planned Development overlay is consistent with applicable Comprehensive Plan Policies.*

**D. A planned development overlay shall be heard and approved under the public hearing procedures set forth in Chapter 17.72 (Applications and Review Process) of this ordinance. (A planned development overlay and change of the underlying zone may be processed simultaneously.)**

- **Applicant Response:** *The Planned Development overlay request is being considered concurrent with the Comprehensive Plan designation and Zoning Map designating*



*amendment requests, in compliance with the application and review processes in Chapter 17.72.*

**E. A planned development overlay proposed by the Council, the Planning Commission, or the property owner under subsection B above shall be subject to all of the hearing requirements again at such time as the final plans under Section 17.51.030 are submitted, unless those requirements have been specifically changed in the planned development approval;**

- **Applicant Response:** *The property owner will comply with these requirements at the time final plans for development of the Property are submitted.*