

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

503-434-7311

www.mcminnvilleoregon.gov



DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A TENTATIVE PARTITION AT 835 SW HILARY STREET

- DOCKET:** MP 6-20 (Tentative Partition)
- REQUEST:** Approval to partition an approximately 7.22-acre parcel of land into three (3) parcels, approximately 6.43, 0.31, and 0.48 acres in size to allow for residential development. The proposed 0.31-acre parcel would be accessed by private easement from SW Fellows Street while the 6.43- and 0.48-acre parcels would be accessed from SW Hilary Street.
- LOCATION:** 835 SW Hilary Street (Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.)
- ZONING:** R-2, R-3, F-P (Single-Family Residential, Two-Family Residential, Flood Plain)
- APPLICANT:** Steve and Mary Allen (property owners)
- STAFF:** Jamie Fleckenstein, Associate Planner
- DATE DEEMED COMPLETE:** May 20, 2021
- DECISION MAKING BODY & ACTION:** The McMinnville Planning Commission makes the final decision, unless the Planning Commission's decision is appealed to the City Council.
- DECISION DATE & LOCATION:**
- June 17, 2021, Community Development Center, 231 NE 5th Street, McMinnville, Oregon, and Zoom Online Meeting ID 927 1251 1996.
 - July 15, 2021, Community Development Center, 231 NE 5th Street, McMinnville, Oregon, and Zoom Online Meeting ID
 - August 19, 2021, Community Development Center, 231 NE 5th Street, McMinnville, Oregon, and Zoom Online Meeting ID
- PROCEDURE:** An application for a Tentative Partition is processed in accordance with the procedures in Section 17.72.110 of the Zoning Ordinance. As allowed by Section 17.72.110(B) a public hearing was requested, requiring the application to be processed in accordance with the Applications-Public Hearings procedures specified in Section 17.72.120 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.

APPEAL: **The Planning Commission’s decision is final unless appealed to the City Council.** As specified in Section 17.72.180 of the Zoning Ordinance, the Planning Commission’s decision may be appealed to the City Council within fifteen (15) calendar days of the date the written notice of decision is mailed. The City’s final decision is subject to the 120 day processing timeline, including resolution of any local appeal, unless the applicant requests that the deadline be extended. The applicant provided an email dated July 7, 2021 requesting that the decision deadline be extended to October 31, 2021.

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

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are satisfied with conditions and **APPROVES** the Tentative Partition (MP 6-20), **subject to the conditions of approval provided in Section II of this document.**

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DECISION: APPROVAL WITH CONDITIONS
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Planning Commission: _____
 Roger Hall, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
 Heather Richards, Planning Director

Date: _____

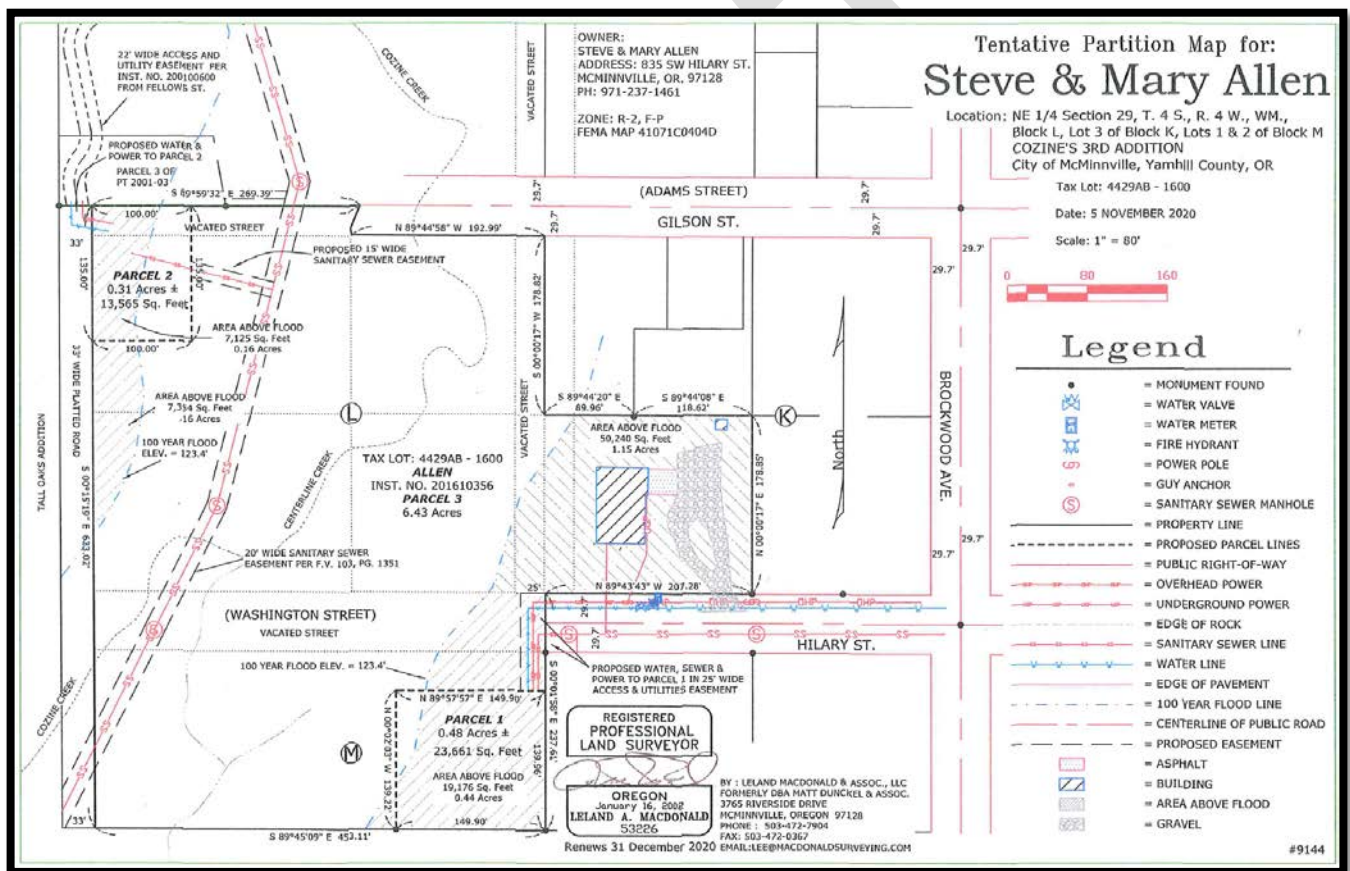
I. APPLICATION SUMMARY:

Subject Property & Request

The proposal is an application for a Tentative Partition (MP 6-20) to partition an approximately 7.22 acre parcel of land into three (3) parcels approximately 6.43 acres (Parcel 1), 0.31 acres (Parcel 2), and 0.48 acres (Parcel 3) in size to allow for future residential development of the parcels. Proposed Parcel 1 has 1.15 acres (50,240 sf) of land that is not in the floodplain. Proposed Parcel 2 has 0.44 acres (19,176 sf) of land that is not in the floodplain. Proposed Parcel 3 has 0.16 acres (7,125 sf) of land that is not in the floodplain. **See Applicant’s Proposed Partition Plan, Figure 1 below.**

The subject site is located at 835 SW Hilary Street, and is identified as Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.

Figure 1. Applicant’s Proposed Partition Plan



The subject property is located west of SW Baker Street (Highway 99W) and south of SW Fellows Street at the termination of SW Hilary Street. Cozine Creek and its associated flood plain and steep terrain bisect the site, running generally north to southwest. The subject property has portions that are zoned R-2 (Single-Family Residential), R-3 (Two-Family Residential), and F-P (Flood Plain). Portions of the site zoned R-2 (Single-Family Residential) include the northwest corner of the site, and the eastern portion of the site north of the Hilary Street terminus. The southeast corner of the site south of the Hilary Street terminus is zoned R-3 (Two-Family Residential). The remainder of the site is zoned F-P (Flood Plain). A single-family dwelling is existing on the land zoned R-2 (Single-Family Residential) north of

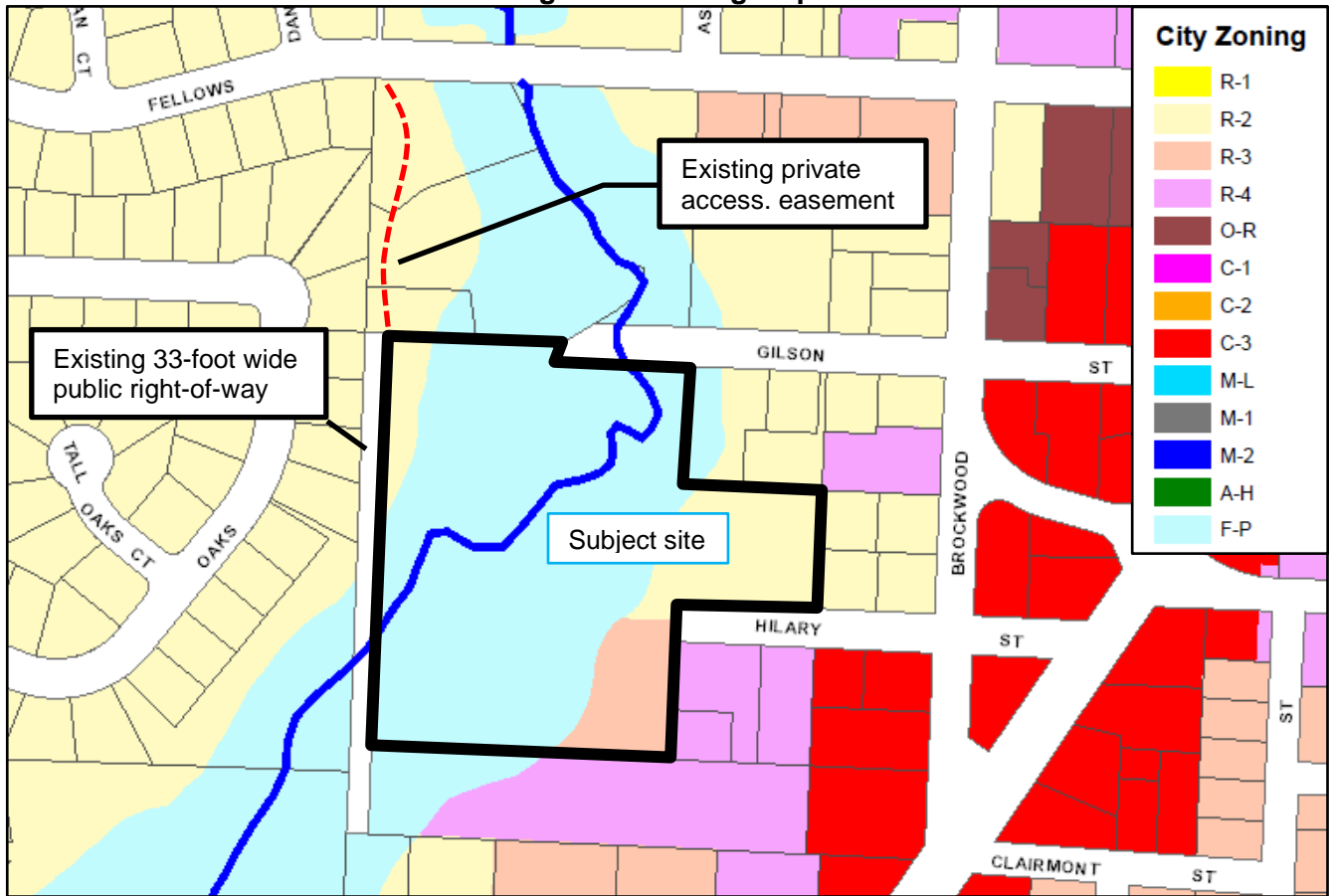
Hilary Street. The portion of the site east of Cozine Creek zoned R-2 and R-3 is accessed from Hilary Street. The portion of the site west of Cozine Creek zoned R-2 is accessed via private easement from Fellows Street.

Cozine Creek and its floodplain continue north and southwest of the site. Adjacent properties to the west of the subject site include the Tall Oaks subdivision that is zoned R-2 (Single-Family Residential). Properties to the north and east of the site are also zoned R-2. South of Hilary Street, adjacent property is zoned R-4 (Multiple-Family Residential), developed with multi-family apartment buildings. A 33-foot wide undeveloped right-of-way borders the western property line of the subject site, between the subject site and the Tall Oaks subdivision. **See Vicinity Map (Figure 2), and Zoning Map (Figure 3) below.**

Figure 2. Vicinity Map



Figure 3. Zoning Map



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.

The specific criteria for reviewing tentative partition plans is Section 17.53.060 the McMinnville Municipal Code per below. As a Type II land-use application, the criteria are clear and objective, and if the criteria are achieved than the application needs to be approved.

17.53.060 Submission of Tentative Partition Plan. An application to partition land shall be submitted in accordance with the application submittal procedures as stated in Sections 17.72.020 through 17.72.070 and shall be reviewed and approved under the following procedure:

- A. There shall be submitted to the Planning Department, a completed tentative partition application, applicable fees, and 15 (fifteen) copies of a tentative partition plan drawn to scale with sufficient information to show the following:
 1. The date, north point, scale, a copy of recorded deed, and any conveyed rights to define the location and boundaries of the parcels to be partitioned;

2. Name, address and phone number of the recorded owner(s), authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed by the applicant with the Corporation Commission;
 3. Approximate size of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the partitioning;
 4. For land adjacent to and within the parcel to be partitioned, show locations, names, and existing widths of all streets and easements of way; locations, width, and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways;
 5. Outline and location of existing buildings to remain in place;
 6. Parcel layout showing size and relationship to existing or proposed streets and utility easements;
 7. Location and dimension of any existing or planned curb-side planting strip which may border the subject site. (Amended 12/9/97 by Ordinance 4654B.)
 8. A Title Report or Partition Guarantee prepared within 60 (sixty) days of the application date.
 9. Contour lines related to City datum and having minimum intervals of two (2) feet.
 10. Location and direction of water courses, and the location of areas within the 100-year floodplain as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
 11. Location of any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
 12. Source, method and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all other utilities.
 13. Such additional information as required by the Planning Director.
- 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.
- C. The Planning Director may require such dedication of land and easements and may specify such conditions or modifications in the plan as are deemed necessary to carry out the McMinnville Comprehensive Plan. In no event, however, shall the Planning Director require greater dedications or conditions than could be required if the entire parcel were subdivided.
1. If the parcel of land to be partitioned, being large in size, shall be divided into more than three parcels within any one calendar year, full compliance with all requirements for a subdivision plat may be required if the Planning Director should determine, in his judgment, that the entire parcel is in the process of being subdivided.
 2. Where a parcel is proposed to be divided into units of one acre or more, the Planning Director shall require an arrangement of parcels and streets such as to permit future partitions or subdivision in conformity to the street requirements and other requirements contained in this ordinance. Refer to Section 17.53.080 for future development plan requirements.
 3. For notice of decision, effective date of decision and the appeal process, refer to Chapter 17.72 (Applications and Review Process).
 4. The effective date of the Planning Director's decision shall be 15 (fifteen) calendar days following the date the notice of decision is mailed unless an appeal is filed.
- 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.

Additionally, as required by the Land Division Standards, lots created by partition are required to conform to the zoning requirements of the area. The R-2 (Single-Family Residential) zone has a minimum lot size of 7,000 square feet, and the R-3 (Two-Family Residential) zone has a minimum lot size of 6,000 square feet.

Utilities are required to be provided to each proposed parcel, and the proposed partition indicates utilities are, or can be, provided to each parcel.

And proposed lots are also required to either abut public streets or to have private access easements that access public streets in order to provide vehicular access to the proposed parcels.

Both Proposed Parcels 1 and 2 are provided access through private access easements and public rights-of-way. Proposed Parcel 1 will have a private access easement from Hilary Street as part of the partition plat. And proposed Parcel 2 has existing private access rights to an private access easement from Fellows Street established by Instrument #200100600, granted by Partition Plat 2001-03. However, access to the parcel from the private access easement will need to be achieve through existing unimproved public right-of-way. Extension of an access drive through the unimproved right-of-way would likely require the removal of public trees when the right-of-way.

Summary of Issues:

Neighboring property owners and residents (primarily to the west of the subject site in the Tall Oaks subdivision) requested a public hearing with the McMinnville Planning Commission and have provided public testimony identifying the following issues:

Loss of Mature Trees

Most of the written public testimony received expressed concern about the potential loss of trees in the undeveloped right-of-way remnant and the subject site to accommodate access to Parcel 2 and the future residential development on Parcel 2 located in the northwest corner of the parcel to be partitioned. The right-of-way remnant and Parcel 2 are heavily wooded with many large, mature trees, some of which would likely require removal for the extension of the access easement driveway and to clear land for building construction. Chapter 17.58 (Trees) of the Zoning Ordinance provides regulation of tree removal from public right-of-way, which includes the remnant adjacent to Parcel 2. Below is Section 17.58.020 of the MMC describing the applicability of the code which includes all trees located within any public area or right-of-way, and all trees on developable land subject to partition review.

17.58.020 Applicability. The provisions of this ordinance shall apply to:

- A. Individual significant or historic trees as defined in this ordinance.
- B. All trees with trunks located completely or partially within any public area or right-of-way;
- C. All trees with trunks located completely within any private property which directly affect public infrastructure including but not limited to sewers, water mains, sidewalks, streets, public property, or clear vision distances at street intersections;
- D. All trees on developable land and subject to or undergoing development review such as site plan review, tentative subdivision review, or partition review; (Ord. 5027 §2, 2017; Ord. 4654B §1, 1997).

There are no McMinnville code provisions that would prevent development of Parcel 2 from occurring to preserve all of the mature trees. However, there are code provisions that require a thoughtful and diligent review of planning the development to preserve as many trees as possible. Below is Section 17.58.050 of the MMC describing the review criteria for granting tree removals

17.58.050 Review Criteria. A permit for major pruning or tree removal shall be granted if any of the following criteria apply:

- A. The tree is unsafe, dead, or diseased as determined by a Certified Arborist.
- B. The tree is in conflict with public improvements.
- C. The proposed removal or pruning is part of an approved development project, a public improvement project where no alternative is available, or is part of a street tree improvement program.
- D. Verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City.

As required by 17.58.040, requests for tree removal from public right-of-way or partitioned land would be reviewed by the Landscape Review Committee, an advisory committee to the Planning Director. It should also be noted that the Landscape Review Committee may condition a tree removal request upon replacement of the tree with another tree approved by the City, per Section 17.58.040(D).

Condition of Approval #2 is recommended to help mitigate the concern raised in public testimony and to adhere to the provisions of the municipal code:

Condition of Approval #2: That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

The intent of the condition is to require the review of tree removal requests for the right-of-way remnant and the future development sites to limit the removal of trees to those that are in poor or hazardous condition or that would be severely impacted by access and development of an approved, buildable lot. These limitations are in accordance with the criteria for approving tree removal described in Section 17.58.050-Review Criteria.

Increased Traffic on Existing Private Driveway

Another issue brought to attention through public testimony is a concern about increased traffic on the private driveway leading from Fellows Street to proposed Parcel 2. Section 17.53.100(C)(1) requires private access easements to have a minimum width of 15 feet, and a minimum paved surface of 10 feet wide. The existing easement is 22 feet wide and has a 12 to 13 foot wide driveway, both exceeding the required minimums. The private easement agreement between affected property owners governing construction and maintenance of the easement further requires the expansion of the driveway to 15 feet wide prior to development of the Applicant's property.

The layout and specification of the driveway was reviewed and approved by the City, including the Engineering and Fire Department, at the time the easement was required in 2000-2001 knowing that the easement was approved to serve the land west of the cozone on the applicant's property. The Engineering and Fire Departments were provided opportunity to comment again on the access requirements for Parcel 2 in this current application, and all comments have been incorporated into the Decision Document. Further review of new driveway extension layout and specification, if necessary, can occur at the time of building permit submittal.

Emergency Vehicle Access to Parcel 2

Concerns about emergency vehicle access to Parcel 2 has been expressed. The layout and specification of the existing driveway was reviewed and approved by the City, including the Engineering and Fire Department, at the time the easement was required in 2000-2001 knowing that the easement was approved to serve additional future lots. The Engineering and Fire Departments were provided opportunity to comment again on the access requirements for Parcel 2 in this current application, and all comments have been incorporated into the Decision Document. Further review of new driveway extension layout and specification, if necessary, can occur at the time of building permit submittal.

Increased Safety Issues on Fellows Street

A concern about increased safety issues on Fellows Street due to increased traffic from new residential development on Parcel 2 has been raised in public testimony. Fellows Street is classified as a Minor Collector in the McMinnville Transportation System Plan and has been designed to accommodate medium intensity adjacent land-uses. Single family residential development, as allowed in the R-2 zone of Parcel 2, would be considered a low intensity use. Further, the subject property was identified for development at the densities of the R-2 and R-3 zones, the residential zoning designation of the site. With only one existing dwelling on the large site, the property is not developed to the full density of the

zone(s). This means the surrounding street network and facilities are designed to accommodate more traffic and use than the site is currently contributing. Staff also notes that the layout and intersection of the existing private access driveway and Fellows Street was reviewed and approved by the City in 2000-2001, at the time it was required, when the private access drive was replacing a planned local street that would have served these properties.

Impact on the Floodplain and Sensitive Lands

Concern about the encroachment and impact of development on the adjacent Cozine Creek floodplain and riparian corridor has been raised. Land within the Special Flood Hazard Areas (100-year flood) as identified by “The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas” (effective March 2, 2010) and accompanying Flood Rate Insurance Maps (FIRM) are regulated by Chapter 17.48 (FP Flood Area Zone) of the Zoning Ordinance. Development within the Flood Area Zone is not permitted. Portions of Parcel 1 and Parcel 2 are within the Cozine Creek floodplain and are designated Flood Area Zone, and no residential development would be allowed within this zone. Further, the residential zones found in Parcels 1 and 2, R-2 (Single-Family Residential) and R-3 (Two-Family Residential) both incorporate setbacks for development that can further protect the floodplain from the impact of development by limiting the building envelope. The residentially zoned portions of the proposed lots outside of the floodplain exceed the minimum lot size for the zone(s), which is a regulatory criterion for land division.

Conditions of Approval #8 and #10 are recommended for the Applicant to demonstrate compliance with all necessary state and/or federal environmental permitting agency requirements, including the Department of Environmental Quality, Department of State Lands, and Army Corps of Engineers. The City of McMinnville does not maintain regulatory authority over wetlands, state bodies of water, or other significant natural features that may be present on the site at this time and relies on the state and federal agencies to regulate impact on such lands and/or features.

Condition of Approval #8: That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for Parcel 1.

Condition of Approval #10: That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for Parcel 2.

Decreased Property Values

Surrounding property owners have expressed concern that the combined effects of new residential development and the loss of trees will negatively impact their own property values. Consideration of property value is not a regulatory criterion for land-use decisions for property that is designated as Residential on the City’s Comprehensive Plan and intended for development.

II. CONDITIONS:

1. All conditions of land-use decisions Minor Partition MP 7-00 and Ordinance No. 4741 shall remain in effect.
2. That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.
3. If any development is proposed for a slope of 15% or greater, a geo technical report will be required to mitigate the potentiality of land slide hazards, and any resulting recommendation of that report will need to be incorporated into the construction project.

Parcel 1:

4. That the applicant shall record a private access easement for Parcel #1 as represented on the Tentative Partition Plan.
5. That the applicant shall submit for approval an engineered plan for the extension of the public sanitary sewer main on Hilary Street and sewer service for Parcel #1. The Public sewer extension and service for Parcel #1 shall be installed and accepted by the City prior to the signing of the partition plat.
6. That the applicant shall enter into a Construction Permit Agreement with the City and pay associated fees for the extension of the sanitary sewer main on Hilary Street. Contact Larry Sherwood (503) 434-7312 for details.
7. That the applicant shall provide a storm drainage plan for Parcel 1 including any easements necessary from the parcel to point of discharge.
8. That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 1.
9. That storm drainage facilities for Parcel 1 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Parcel 2:

10. That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for Parcel 2.

11. That sewer service for Parcel 2 shall be installed from the main to the proposed property line prior to the signing of the partition plat.
12. That private sanitary sewer easement for this service shall be dedicated as part of the partition plat.
13. That the applicant shall provide a storm drainage plan for Parcel 2 including any easements necessary from the parcel to point of discharge.
14. That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 2.
15. That storm drainage facilities for Parcel 2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Street Improvements:

16. Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.
17. Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 2.
18. Applicant shall consent and agree to a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the final partition plat.

Final Partition Plat and Approval:

19. That two (2) 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.
20. That 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.
21. That approval of this tentative plat will expire 12 (twelve) months after the effective date of decision. 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.

III. ATTACHMENTS:

1. MP 6-20 Application and Attachments (on file with the Planning Department)
2. Testimony Received (on file with the Planning Department)
 - a. Letter received May 5, 2021 from Earl & Sheryl Anderson
 - b. Letter received May 10, 2021 from Carole Hansen
 - c. Letter received May 14, 2021 from Walt Gowell on behalf of Steve & JacElaine Macy
 - d. Letter received May 17, 2021 from Brad & Shirley Robison
 - e. Letter received May 18, 2021 from Carole Hansen

- f. Letter received May 18, 2021 from James & Cheryl Lambright
 - g. Letter received May 18, 2021 from Linda Jordan
 - h. Letter received May 19, 2021 from Earl & Sheryl Anderson
 - i. Letter received May 19, 2021 from Robert Tracey
 - j. Letter received May 19, 2021 from Rigo & Susan Perez
 - k. Petition received May 19, 2021 from TONCCA (Tall Oaks Neighborhood Cozine Creek Advocates)
 - l. Letter received May 19, 2021 from Cheryl Lambright
 - m. Letter received June 17, 2021 from David Koch, Attorney at Law, LLC
 - n. Powerpoint received June 18, 2021 from Earl Anderson (copy of presentation at the June 17 public hearing)
 - o. Letter received June 18, 2021 from Walt Gowell, Haugeberg, Rueter, Gowell, Fredricks & Higgins, P.C.
 - p. Email received August 4, 2021, from Walt Gowell, Haugeberg, Rueter, Gowell, Fredrick & Higgins, P.C.
3. Staff Reports (on file with the Planning Department)
 - a. Staff Report to Planning Commission, June 17, 2021
 - b. Powerpoint provided at Planning Commission public hearing, June 17, 2021
 - c. Staff Report to Planning Commission, July 15, 2021
 - d. Staff Report to Planning Commission, August 19, 2021

IV. COMMENTS:

Agency Comments

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

- McMinnville Building Department

No building code concerns.

- McMinnville Engineering Department

Parcel #1:

- Applicant shall submit for approval an engineered plan for the extension of the public sanitary sewer main on Hilary Street and sewer service for Parcel #1. The Public sewer extension and service for Parcel #1 shall be installed and accepted by the City prior to the signing of the partition plat.
- Applicant shall enter into a Construction Permit Agreement with the City and pay associated fees for the extension of the sanitary sewer main on Hilary Street . Contact Larry Sherwood (503) 434-7312 for details.
- Applicant shall provide a storm drainage plan for the parcel including any easements necessary from the parcel to point of discharge.
- Applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for this parcel.
- The storm drainage facilities for Parcel #2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Parcel #2:

- Applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for this parcel.
- The sewer service for Parcel #2 shall be installed from the main to the proposed property line prior to the signing of the partition plat.
- A private sanitary sewer easement for this service shall be dedicated as part of the partition plat.
- Applicant shall provide a storm drainage plan for the parcel including any easements necessary from the parcel to point of discharge.
- Applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for this parcel.
- The storm drainage facilities for Parcel #2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Street Improvement Conditions:

- Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the partition, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 2
- Applicant shall consent and agree to a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the partition.
- Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the partition, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.

- McMinnville Water & Light

Power: Additional utility easement may be needed to extend power to Parcel 2.

Water: Water service PARCEL 2 is at the Fellows right-of-way on the west side of the driveway entrance. Applicant to pay for water meter installation and is responsible for all plumbing behind the water meter.

Water service to PARCEL 1 does not exist and will need to be installed in the Hilary right-of-way. All costs for McMinnville Water and Light to install the service and water meter is the applicants responsibility. Applicant is responsible for all plumbing behind the water meter.

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was provided in the News Register on Friday, June 11, 2021. As of the date of the issuance of this Decision Document to the Planning Commission on Thursday, June 10, 2021, the following public testimonies have been received by the Planning Department:

1. Letter received May 5, 2021 from Earl & Sheryl Anderson expressing opposition to Parcel #2 of MP 6-20, citing concerns about loss of trees due to infrastructure and future residential development, and concerns about decreased safety with increased motor vehicle use of private easement.

2. Letter received May 10, 2021 from Carole Hansen expressing opposition to Parcel #2 of MP 6-20 citing concerns about development behind her home, development too close to the floodplain, loss of trees, emergency vehicle access, and decreased property values.
3. Letter received May 14, 2021 from Walt Gowell on behalf of Steve & JacElaine Macy, proposing suggested conditions of approval to require enforcement of a 15-foot wide driveway, continued lawful access to Parcel 3 of Partition Plat 2001-03, clear assignment of easement improvement costs to the Applicant, and incorporation of the existing easement terms into the approved Partition Plat.
4. Letter received May 17, 2021 from Brad & Shirley Robison expressing concern about the loss of trees and diminished lifestyle, and expressing desire for mitigation for adjacent Tall Oaks properties.
5. Letter received May 18, 2021 from Carole Hansen expressing opposition to Parcel #2 of MP 6-20 citing concerns about development behind her home and loss of trees from the undeveloped right-of-way, and expressing desire for mitigation by allowing trees and vegetation within the right-of-way to remain in place.
6. Letter received May 18, 2021 from James & Cheryl Lambright expressing opposition to Parcel #2 of MP 6-20 citing concerns about loss of trees for residential development and decreased property values and livability of adjacent properties.
7. Letter received May 18, 2021 from Linda Jordan expressing opposition to MP 6-20 citing concerns about visual impact, congestion, and noise from residential development behind her home.
8. Letter received May 19, 2021 from Earl & Sheryl Anderson expressing opposition to Parcel #2 of MP 6-20, citing concerns about ambiguous language on the applicant's tentative partition plan and development of the unimproved right-of-way and resulting loss of trees.
9. Letter received May 19, 2021 from Robert Tracey expressing opposition to MP 6-20, citing concerns about decreased safety at Fellows Street with increased motor vehicle use of private easement, and loss of trees resulting in increased negative climate change impacts.
10. Letter received May 19, 2021 from Rigo & Susan Perez expressing opposition to MP 6-20, citing concerns about the loss of community and lifestyle, loss of privacy due to future residential development, rodents during construction period, decreased safety at Fellows Street with increased motor vehicle use of private easement, and decreased property values of adjacent properties.
11. Petition received May 19, 2021 from TONCCA (Tall Oaks Neighborhood Cozine Creek Advocates) expressing opposition to Parcel #2 of MP 6-20, citing concerns about development of undeveloped right-of-way, loss of a perceived protected natural area subject to conditional use approval criteria, diminished Cozine Creek greenway and neighborhood livability, decreased property values specifically related to Great Neighborhood Principle #1 - Natural Feature Preservation, proposed lot size of Parcel #2, loss of trees, encroachment of Parcel #2 on floodplain, safety and economic loss due to development in the floodplain, and the lack of inclusion of wooded areas on tentative partition plan for compliance with MMC 17.53.060(A)(7).
12. Letter received May 19, 2021 from Cheryl Lambright requesting a public hearing for MP 6-20.
13. Letter received June 17, 2021 from David Koch, Attorney at Law, LLC, representing Earl Anderson, 1100 SW Tall Oaks Drive, Carole Hansen, 1110 SW Tall Oaks Drive, and Cheryl

Lambright, 1120 SW Tall Oaks Drive, challenging the findings in the decision document for MMC 17.53.060, 17.53.080, 17.53.100 and Comp Plan policies #80.00, 99.00, and 132.62.20

14. Letter received June 18, 2021 from Walt Gowell, Haugeberg, Rueter, Gowell, Fredricks & Higgins, P.C. representing Steve and JacElaine Macy, expressing concerns that Condition of Approval #1 appeared to conflict with the City approved Easement Agreement referenced as Plat Note #2 on Partition Plan 2001-03.
15. Email received August 4, 2021 from Walt Gowell, Haugeberg, Rueter, Gowell, Fredricks & Higgins, P.C. representing Steve and JacElaine Macy stating that his client was comfortable with the language of Condition of Approval #1.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicants, Steve and Mary Allen, property owners, submitted the Tentative Partition application on November 23, 2020.
2. The application was deemed incomplete on December 23, 2020 to allow the applicant the opportunity to provide evidence of legal access to the western portion of the subject site or submit a variance application to approve legal access.
3. Variance application VR 1-21 was submitted concurrently with the Tentative Partition application and was subsequently withdrawn when evidence of legal access was determined.
4. The Tentative Partition application was deemed complete on April 20, 2021. Based on that date, the 120 day land-use decision time limit expires August 18, 2021.
5. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.110 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

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

6. Notice of the application was mailed to property owners within 100 feet of the subject property in accordance with Section 17.72.110 of the Zoning Ordinance.

Public testimonies received by the Planning Department with the public comment period are addressed in Section IV of the Decision Document.

7. During the public comment period, a public hearing for the Tentative Partition application was requested as allowed by Section 17.72.110(B).
8. Notice of the application and the June 17, 2021 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property on May 27, 2021 in accordance with Section 17.72.120 of the Zoning Ordinance, and to members of the public who previously submitted testimony during the public comment period.
9. Notice of the application and the June 17, 2021 Planning Commission public hearing was published in the News Register on Friday, June 11, 2021, in accordance with Section 17.72.120 of the Zoning Ordinance.

No additional public testimony was submitted to the Planning Department prior to the issuance of this document to the Planning Commission.

10. On June 17, 2021, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 835 SW Hilary Street (Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.)
2. **Size:** 7.22 acres
3. **Comprehensive Plan Map Designation:** Residential, Floodplain
4. **Zoning:** The subject property has multiple zones:
 - a. R-2 (Single-family Residential)
 - b. R-3 (Two-family Residential)
 - c. F-P (Flood Plain)
5. **Overlay Zones/Special Districts:** None.
6. **Current Use:** Single-family dwelling.
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None
8. **Other Features:**
 - a. **Slopes:** The developed eastern portion of the lot accessed from Hilary Street is mostly level, then the site slopes down to Cozine Creek which bisects the property, then slopes up to the western property line. The sloped flood plain and the western portion of the site is wooded.
 - b. **Easements:** The portion of the subject site within Block "L" of Cozine's 3rd Addition and west of Cozine Creek is accessed by private access easement (Instrument #200100600) from Fellows Street, granted by Partition Plat 2001-03. A public utility easement to the City of McMinnville is retained over the portion of Hilary Street right-of-way vacated by Ordinance No. 4914. A 20-foot wide sanitary sewer easement to the City of McMinnville is present within the floodplain area, generally parallel to Cozine Creek.
9. **Utilities:**
 - a. **Water:** The property is currently served by water mains in SW Hilary Street and SW Fellows Street. The treatment plant has sufficient treatment capacity.
 - b. **Sewer:** The property is served by sewer mains in SW Hilary Street and along Cozine Creek. The municipal water reclamation facility has sufficient capacity to accommodate expected waste flows resulting from the use.
 - c. **Stormwater:** Storm water service is not available in SW Hilary Street adjacent to the site. Storm drainage is directed to Cozine Creek.
 - d. **Other Services:** Other services are available to the property. Overhead utilities are present along the north side of Hilary Street adjacent to the property.
10. **Transportation:** SW Hilary Street is classified as a Local Street in the Transportation System Plan (TSP). The existing Hilary Street right-of-way adjacent to the site is approximately 60 feet wide. The paved street width varies, and no curbs, gutters, sidewalks, or planter strips are

present adjacent to the site. The portion of the subject site west of Cozine Creek is accessed via existing private easement from SW Fellows Street, which is classified as a Minor Collector in the TSP.

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 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 V 2: TO PROMOTE A RESIDENTIAL DEVELOPMENT PATTERN THAT IS LAND INTENSIVE AND ENERGY-EFFICIENT, THAT PROVIDES FOR AN URBAN LEVEL OF PUBLIC AND PRIVATE SERVICES, AND THAT ALLOWS UNIQUE AND INNOVATIVE DEVELOPMENT TECHNIQUES TO BE EMPLOYED IN RESIDENTIAL DESIGNS.

Policy 80.00 In proposed residential developments, distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales shall be preserved wherever feasible.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION OF APPROVAL #2. Per Sheet 3 of 3 of the Tentative Partition Map for Steve & Mary Allen, dated August 6, 2021 and received August 6, 2021, the subject site is heavily wooded with a riparian corridor running north to south through the site. Per the application submittal, no development is proposed in the riparian corridor or in a drainage swale or floodplain. The City of McMinnville does not currently have adopted inventories of significant natural features, including riparian corridors, tree groves, tree species or landmark trees. However, per Section 17.58 of the McMinnville Municipal Code, a condition of approval has been drafted to inventory and strive to preserve trees greater than nine inches DBH.

CONDITION FOR FINDING: That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Zoning Ordinance, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or

trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

Urban Policies:

Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:

1. *Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.*
2. *Storm sewer and drainage facilities (as required).*
3. *Streets within the development and providing access to the development, improved to city standards (as required).*
4. *Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light).*

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #4-15. Sheet 1 of 3 of the Tentative Partition Map for Steve & Mary Allen, dated August 6, 2021 and received on August 11, 2021 indicates proposed provision of water, electricity, and sanitary sewer to proposed Parcels 1 and 2. Conditions of approval are included to require storm drainage plans and installation of storm drainage facilities prior to approval of the final partition plat.


Both new parcels are accessed with private access easements which is allowed in the McMinnville Municipal Code under Section 17.53.100(C), "Creation of Streets", whereby,

Section 17.53.100(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.
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.

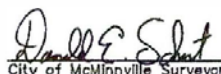
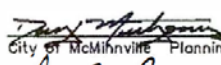

Parcel 2 is accessed via an existing private access easement, 22' wide that accesses Fellows Street and has approved access rights for Parcel 2 through an earlier partition (MP 03-01) and access easement approved by the City (Instrument No. 200100600) as part of Ordinance No. 4741. Please see below.

City of McMinnville Ordinance No. 4741, page 2, Adopted on December 12, 2000

<p>THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:</p> <p>1. That the portion of an unnamed street south of Fellows and north of Gilson Street, and a portion of Gilson Street located east of the unnamed street and west of Cozine Creek and more fully described in the attached Exhibit "A", be and the same is hereby fully, finally, completely, and forever vacated and the title to said property shall attach to the abutting lots and lands pursuant to ORS 271.140, subject to the following conditions:</p> <p>(a) That the City of McMinnville retains public utility easements over the proposed right-of-way for the maintenance of water utilities and construction of new public utilities.</p> <p>(b) That an access easement is granted to the southern property (Allen property) by the owners of the northern property (Smith property) in a location and of a specification to be approved by the Fire Marshall and City Engineer. The vacation shall not be final until the documents granting said easement are executed by the owner of the northern property, approved by the City, and filed as required by law.</p> <p>Passed by the City Council on this 12th day of December 2000.</p> <p>votes: Ayes: <u>Allen, Olson, Windle</u> Abstain: <u>Payne</u> Nays: _____ Approved this 12th day of December 2000.</p> <p><i>Richard D. Windle</i> COUNCIL PRESIDENT</p> <p>Approved as to form:  CITY ATTORNEY</p>	<p>(b) That an access easement is granted to the southern property (Allen property) by the owners of the northern property (Smith property) in a location and of a specification to be approved by the Fire Marshall and City Engineer. The vacation shall not be final until the documents granting said easement are executed by the owner of the northern property, approved by the City, and filed as required by law.</p>
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Partition Plat signature page for Partition Plat 2001-03, signed by the McMinnville Planning Director approving the access easement for the Allen property, signed on January 10, 2001.

Partition Plat 2001-03, Page 2 Enlargement with Doug Montgomery's approval signature (City of McMinnville Planning Director) and Note #2.

<u>APPROVALS :</u>	<u>Notes</u>
<p> <u>1/10/01</u> City of McMinnville Surveyor Date</p> <p> <u>1/10/01</u> City of McMinnville Planning Director Date</p> <p> <u>1/12/01</u> Van Hill County Surveyor Date</p>	<p>1) Prior to issuance of building permits for Parcels 2 or 3 of this partition, arrangements must be made with the City for construction of a turnaround for emergency vehicles if required by the McMinnville fire Marshall.</p> <p>2) The easements for access & utilities granted by the recording of this plat shall be perpetual, non-exclusive and subject to and governed by the provisions of that Driveway Construction and Maintenance Agreement recorded in Instrument No. <u>200100600</u></p>

Parcel 1 is accessed via a private access easement 25' wide that accesses Hilary Street per Section 17.53.100(C)(1) and (2).

CONDITIONS FOR FINDING: That the applicant shall record a private access easement for Parcel #1 as represented on the Tentative Partition Plan.

That the applicant shall submit for approval an engineered plan for the extension of the public sanitary sewer main on Hilary Street and sewer service for Parcel #1. The Public sewer extension and service for Parcel #1 shall be installed and accepted by the City prior to the signing of the partition plat.

That the applicant shall enter into a Construction Permit Agreement with the City and pay associated fees for the extension of the sanitary sewer main on Hilary Street. Contact Larry Sherwood (503) 434-7312 for details.

That the applicant shall provide a storm drainage plan for Parcel 1 including any easements necessary from the parcel to point of discharge.

That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 1.

That storm drainage facilities for Parcel 1 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for Parcel 2.

That sewer service for Parcel 2 shall be installed from the main to the proposed property line prior to the signing of the partition plat.

That private sanitary sewer easement for this service shall be dedicated as part of the partition plat.

That the applicant shall provide a storm drainage plan for Parcel 2 including any easements necessary from the parcel to point of discharge.

That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 2.

That storm drainage facilities for Parcel 2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.

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

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

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

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 132.62.05 TSP Policies – The City of McMinnville shall use the McMinnville TSP to:

- 1. Describe the classification or function of all streets within the McMinnville planning area. Policies found in the Plan shall be used to develop connective local street circulation patterns.*
- 2. Require new development to provide adequate accessibility, as defined by the McMinnville Zoning Ordinance, for all travel modes within a development and in coordination with existing and other proposed development. Street design standards in the McMinnville Zoning Ordinance are to be used to secure adequate public street and sidewalk facilities. [...]*

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 CONDITION OF APPROVAL #17. A condition of approval is included on the proposed land division to require a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the final partition plat.

CONDITION FOR FINDING: Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.

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 153.00 The City of McMinnville shall continue coordination between the planning and fire departments in evaluating major land use decisions.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The McMinnville Fire Department was provided the opportunity to review and comment on the application.

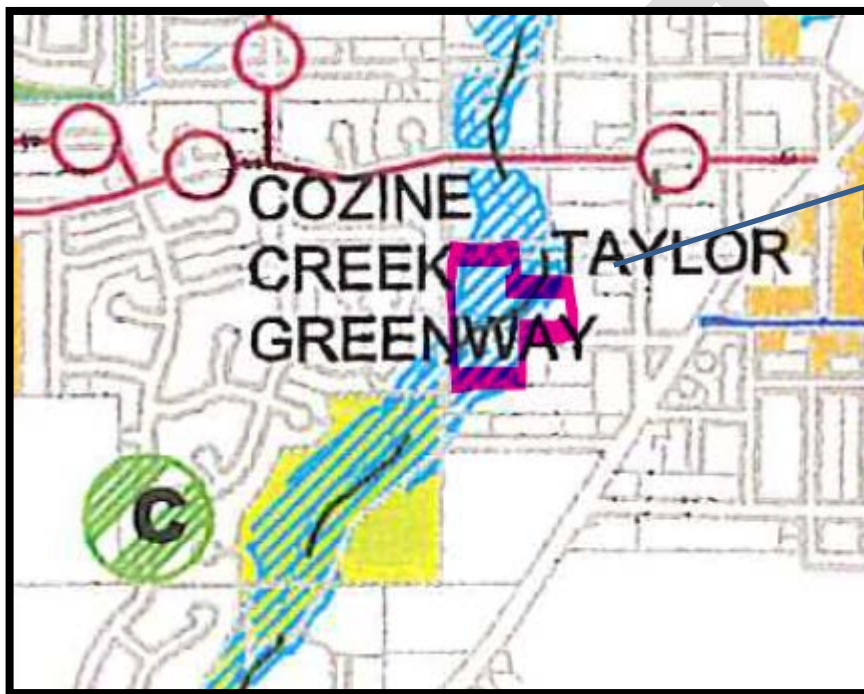
GOAL VII 3: TO PROVIDE PARKS AND RECREATION FACILITIES, OPEN SPACES, AND SCENIC AREAS FOR THE USE AND ENJOYMENT OF ALL CITIZENS OF THE COMMUNITY.

163.05 The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands. (Ord. 4840, January 11, 2006)

- 164.00 *The City of McMinnville shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks.*
- 165.00 *The City of McMinnville shall acquire park sites in advance of needs; however, purchase of lands should be closely examined in the light of current costs of land, park maintenance, personnel services, and the existing parks development priorities.*

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The subject site has approximately four acre of floodplain along the Cozine Creek.



Subject site with floodplain in blue highlight.

A greenway trail along the Cozine Creek is identified as a high priority in the City of McMinnville Parks and Recreation Plan.

Parks Master Plan –Table 12–Recreation Facility Master Plan – Southwest

13	Establish a linear park along creek	X		
	Greenspace/Greenways			
	Acquire additional property in the Cozine greenway	X		
	Develop trails in the Barber Property		X	
	Trails and Connectors			
	Develop trails in the Cozine Greenway	X		
	Redevelop Ash Meadows portion of Westvale Park	X		
	Extend Westvale Linear Park to Hill Rd			X

Since this is a land division land-use application, per Comprehensive Plan Policy 164.00, the City of McMinnville should be acquiring the floodplain on the subject site for a future Cozine Creek Greenway Trail. However, per Comprehensive Plan Policy 165.00, after evaluation and review, the City of McMinnville is electing not to acquire the floodplain acreage of the subject site due to budget constraints in the Parks and Recreation Department and the Parks Maintenance Department.

GOAL IX 2: TO ESTABLISH A LAND USE PLANNING FRAMEWORK FOR APPLICATION OF THE GOALS, POLICIES, AND PROPOSALS OF THE McMINNVILLE COMPREHENSIVE PLAN

GREAT NEIGHBORHOOD PRINCIPLES

Policy 187.10 The City of McMinnville shall establish Great Neighborhood Principles to guide the land use patterns, design, and development of the places that McMinnville citizens live, work, and play. The Great Neighborhood Principles will ensure that all developed places include characteristics and elements that create a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood with enduring value, whether that place is a completely new development or a redevelopment or infill project within an existing built area.

Policy 187.20 The Great Neighborhood Principles shall encompass a wide range of characteristics and elements, but those characteristics and elements will not function independently. The Great Neighborhood Principles shall be applied together as an integrated and assembled approach to neighborhood design and development to create a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood, and to create a neighborhood that supports today's technology and infrastructure, and can accommodate future technology and infrastructure.

Policy 187.30 The Great Neighborhood Principles shall be applied in all areas of the city to ensure equitable access to a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood for all McMinnville citizens.

Policy 187.40 The Great Neighborhood Principles shall guide long range planning efforts including, but not limited to, master plans, small area plans, and annexation requests. The Great Neighborhood Principles shall also guide applicable current land use and development applications.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The application is a current land-use application for a Minor Partition of the subject site, and Great Neighborhood Principles policies are applicable.

Policy 187.50 The McMinnville Great Neighborhood Principles are provided below. Each Great Neighborhood Principle is identified by number below (numbers 1 – 13), and is followed by more specific direction on how to achieve each individual principle.

1. *Natural Feature Preservation. Great Neighborhoods are sensitive to the natural conditions and features of the land.*
 - a. *Neighborhoods shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas, and landmark trees.*

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION OF APPROVAL #2. The application is a current land-use application, and Great Neighborhood Principles policies are applicable. Staff notes that the City currently has no adopted inventories of significant natural features, including riparian corridors, wooded areas, or landmark trees at this time. The Cozine Creek and floodplain corridor that bisects the subject site is heavily wooded. The wooded area extends beyond the floodplain onto the buildable portion of the site west of Cozine Creek, and further into the unimproved right-of-way that borders the western property line of the site. Many large, mature trees are present on proposed Parcels 1 and 2 and the adjacent undeveloped right-of-way west of Parcel 2, providing value to the Cozine Creek floodplain and riparian corridor, the subject site, and the surrounding neighborhood. Tree removal appears to be necessary to accommodate future residential development and associated public improvements and utility provision. Therefore, a condition of approval is included to require prior review and authorization from the Landscape Review Committee to remove any tree larger than nine (9) inches DBH (Diameter at Breast Height) to limit the unnecessary removal of trees within proximity to a sensitive natural area in the floodplain and riparian corridor.

CONDITION FOR FINDING: That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Zoning Ordinance, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

11. Housing for Diverse Incomes and Generations. Great Neighborhoods provide housing opportunities for people and families with a wide range of incomes, and for people and families in all stages of life.

a. A range of housing forms and types shall be provided and integrated into neighborhoods to provide for housing choice at different income levels and for different generations.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed partition would create buildable lots within an existing neighborhood that can be used for infill development. This type of development can help provide a variety of housing choice at different income levels for different generations that would be integrated into an established neighborhood.

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 Municipal Code

The following Sections of the McMinnville Municipal Code provide criteria applicable to the request:

Chapter 17.15 R-2 Single Family Residential Zone

17.15.030 Lot Size. In an R-2 zone, the lot size shall not be less than seven thousand square feet except as provided in Section 17.15.010(C) of this ordinance.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. Proposed parcels #2 and #3 each contain land zoned R-2 (Single Family Residential). The tentative partition plan indicates the area of land in Parcel #2 above the Flood Plain which is zoned R-2 is 7,125 square feet which exceeds the minimum lot size for the zone. The tentative partition plan indicates the area of land in Parcel #3 above the Flood Plain which is zoned R-2 is 50,240 square feet which exceeds the minimum lot size for the zone.

17.15.040 Yard requirements. In an R-2 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than twenty feet;
- B. A rear yard shall not be less than twenty feet;
- C. A side yard shall not be less than seven and one-half feet, except an exterior side yard on the street side of a corner lot shall be not less than twenty feet.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. An existing single-family dwelling is present on proposed Parcel #3. The minimum distance from the dwelling to a property line is approximately 52 feet. Because this minimum distance exceeds the maximum yard requirement in the R-2 zone (20 feet), the single-family dwelling on proposed Parcel #3 will continue to meet the yard requirements of the zone. Structural improvements on proposed Parcels #1 and #2 will be reviewed for conformity with this code criteria when building permits are submitted.

Chapter 17.18 R-3 Two-Family Residential Zone

17.15.030 Lot Size. In an R-3 zone, the lot size shall not be less than six thousand square feet except as provided in Section 17.18.010(C) of this ordinance.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. Proposed Parcel #1 contains land zoned R-3 (Two-Family Residential). The tentative partition plan indicates the area of land in Parcel #1 above the Flood Plain which is zoned R-3 is 19,176 square feet which exceeds the minimum lot size for the zone.

Land Division Standards - Partition

17.53.010 Purpose. The purpose of this chapter is to establish standards and procedures for the partitioning and subdividing of land, and adjustment of property lines in the City. These regulations are necessary 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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The purpose statement of a code chapter provides the overarching goals of the code, but does not provide clear and objective criteria for decision making. The applicant’s original submittal on November 23, 2020 and subsequent supplementary information that has been provided demonstrates general conformity with the overarching goals of the purpose statement of the Land Division Chapter (Section 53) of Title 17 of the McMinnville Municipal Code in the following ways.

Section 17.53.Purpose Statement	Notes
Assure adequate width and arrangement of streets.	The partition plan that has been submitted is reliant on private access easements for access to the proposed parcels. The private access easements are 22’ and 25’ respectively, both of which are adequate width for the proposed development of the parcels.
Provide for the protection, conservation and proper use of the land.	The subject site is zone residential (R2 and R3) for residential development and FP (floodplain). The R2 and R3 land is intended to be developed for residential development and the proposed partition aligns with that intention. The FP zone is intended to not be developed to protect the floodplain, which the proposed partition aligns with as well.
Secure safety from fire, flood, slides, pollution, drainage and other dangers.	The proposed partition allows for appropriate fire response vehicles in the case of fire, does not propose development in the floodplain, provide4s the appropriate drainage, and has identified the slopes greater than 25% which are typically associated with landslide hazards. If development occurs on the identified steep slopes a geo-tech survey will be required prior to any construction.
Protect in other ways the public health, safety and welfare	Proposed partition achieves this overarching goal by not proposing development in the floodplain.
Promote the goals and policies of the McMinnville Comprehensive Plan.	Findings above demonstrate promotion of the McMinnville Comprehensive Plan goals and policies.

Specific compliance with the chapter’s criteria is provided in the following findings.

17.53.060 Submission of Tentative Partition Plan. An application to partition land shall be submitted in accordance with the application submittal procedures as stated in Sections 17.72.020 through 17.72.070 and shall be reviewed and approved under the following procedure:

17.53.060(A): There shall be submitted to the Planning Department, a completed tentative partition application, applicable fees, and 15 (fifteen) copies of a tentative partition plan drawn to scale with sufficient information to show the following:

1. The date, north point, scale, a copy of recorded deed, and any conveyed rights to define the location and boundaries of the parcels to be partitioned;
2. Name, address and phone number of the recorded owner(s), authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed by the applicant with the Corporation Commission;
3. Approximate size of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the partitioning;
4. For land adjacent to and within the parcel to be partitioned, show locations, names, and existing widths of all streets and easements of way; locations, width, and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways;
5. Outline and location of existing buildings to remain in place;
6. Parcel layout showing size and relationship to existing or proposed streets and utility easements;
7. Location and dimension of any existing or planned curb-side planting strip which may border the subject site. (Amended 12/9/97 by Ordinance 4654B.)
8. A Title Report or Partition Guarantee prepared within 60 (sixty) days of the application date.
9. Contour lines related to City datum and having minimum intervals of two (2) feet.
10. Location and direction of water courses, and the location of areas within the 100-year floodplain as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
11. Location of any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
12. Source, method and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all other utilities.
13. Such additional information as required by the Planning Director.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The applicant submitted an application and tentative partition plan on November 23, 2020, and the application was deemed incomplete pending a variance application or other verification of legal access via private easement to the portion of the site west of Cozine Creek. Following verification of evidence documenting the provision of legal access via private easement to the portion of the site west of Cozine Creek, the application was deemed complete on April 20, 2021.

Based on oppositional testimony at the June 17, 2021, the applicant revised and updated their application submittal. Section 17.53.60(A) is satisfied in the following way:

Section 17.53.60(A) Code Provision	Notes
The date, north point, scale, a copy of recorded deed, and any conveyed rights to define the location and boundaries of the parcels to be partitioned;	Provided in original application submittal (Recorded Deed, 11/3/2020) and updated maps dated August 6 and received on August 6 and August 11, 2021.
Name, address and phone number of the recorded owner(s), authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed by the applicant with the Corporation Commission;	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
Approximate size of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the partitioning;	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
For land adjacent to and within the parcel to be partitioned, show locations, names, and existing widths of all streets and easements of way; locations, width, and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways;	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
Outline and location of existing buildings to remain in place;	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
Parcel layout showing size and relationship to existing or proposed streets and utility easements;	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
Location and dimension of any existing or planned curb-side planting strip which may border the subject site. (Amended 12/9/97 by Ordinance 4654B.)	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
A Title Report or Partition Guarantee prepared within 60 (sixty) days of the application date.	Provided in original application submittal dated September 21, 2020. Updated Title Report provided dated June 29, 2021..
Contour lines related to City datum and having minimum intervals of two (2) feet.	Provided on updated maps dated August 6 and received on August 6 and August 11.
Location and direction of water courses, and the location of areas within the 100-year floodplain as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
Location of any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.	Provided on updated maps dated August 6 and received on August 6 and August 11. There are no rock outcroppings or natural hazards identified. Slopes greater than 25% are identified. Notice from Division of State Lands indicates the potential presence of wetlands on the property. Condition of Approval #6 and Condition of Approval #8 require compliance with Division of State Lands to contact them prior to development for potential wetland delineation. Entire undeveloped site would be considered wooded. Applicant provided an aerial survey map to illustrate with update map submittal dated August 6 and received August 11, 2021.
Source, method and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all other utilities.	Provided in original application submittal and updated maps dated August 6 and received on August 6 and August 11, 2021.
Such additional information as required by the Planning Director.	No additional information requested.

Staff notes that the City of McMinnville currently does not have adopted inventories of natural features such as wetlands, tree groves, or natural hazards, and is reliant upon state agencies for protection and mitigation of these resources.

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: SATISFIED. The application for a Tentative Partition of the subject site was deemed complete on April 20, 2021. Notification was mailed to property owners within 100 feet of the subject site on May 5, 2021. A request for public hearing was received by the Planning Department within the 14-day comment period, requiring a public hearing following the procedure outlined in Section 17.72.120 of the Zoning Ordinance. Findings have been provided for applicable Comprehensive Plan policies and goals, and criteria and standards of the McMinnville Municipal Code and other applicable ordinances.

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

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

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Dedication of additional land and/or easements are not required to carry out the McMinnville Comprehensive Plan. The subject site has not been partitioned into more than three (3) parcels within any one (1) calendar year, nor is the subject site proposed to be divided into units of one acre or more. Sheet 2 of 3 of the updated map submittal dated August 6 and received August 6, 2021, shows additional parcels that could be created in Parcel 3 which is larger than one acre, and how they would be served.

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 CONDITION OF APPROVAL #19. A condition of approval has been included to confirm that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision.

CONDITION FOR FINDING: That approval of this tentative plat will expire 12 (twelve) months after the effective date of decision. 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.

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. The future development plan shall be submitted at the same time that the tentative plan for either subdivision or partition is submitted and shall contain the following information:

- A. Any potential future lots (lot size shall be depicted).
- B. Existing and proposed utilities including water, sewer and storm drains.
- C. Streets and access points for potential future lots.

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 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. Sheet 2 of 3, Tentative Partition Plan Shadow Plat for Steve & Mary Allen, dated August 6, 2021, and received August 6, 2021, provides the map, access and utility plan for two future potential lots on the subject site. \

Land Division Standards – Approval of Streets and Ways

17.53.100 Creation of Streets.

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.
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 OF APPROVAL #16, 17. Proposed Parcel 1 is to be accessed via private easement as indicated on the tentative partition plan. The proposed private access easement to Parcel 1 is 25 feet wide.

Proposed Parcel 2 is provided legal access via existing private easement, as indicated on approved Partition Plat 2001-03, and through an undeveloped public right-of-way. Although proposed Parcel 2 is the fourth lot accessed via the private easement, the City has acknowledged and approved this deviation from 17.53.100(C)(1) through prior land-use decision MP 7-00 and Ordinance No. 4741, and by approving Partition Plat 2001-03. The existing access easement is 22 feet wide, and the existing driveway leading to Parcel 2 is approximately 12 to 13 feet wide, both exceeding the minimum width. The applicant is party to an existing private easement agreement noted on Partition Plat 2001-03 that provides the terms for construction and maintenance of the shared access driveway.

CONDITIONS FOR FINDING: Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.

Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 2.

17.53.101 Streets.

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

COMPLETE STREET DESIGN STANDARDS									
			Arterial		Collector		Neighborhood Connector	Local Residential	Alley
			Major	Minor	Major	Minor			
Streetscape	Street Profile	Auto/Truck Amenities (lane widths) ¹	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 ²	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 ³	na	na	na	30 or 40 ft. 30 or 40 ft.	28 ft.	28 ft.	Not Apply
	Pedestrian Zone (with ADA)	Pedestrian Amenities ⁴							
		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
	Traffic Management	Maximum Average Daily Traffic	32,000	20,000	16,000	10,000	1,200 – 3,000	1,200	500
		Traffic Calming	Not Typical	Not Typical	Not Typical	Permissible/ Not Typical	Permissible/ Not Typical	Typical	Not Typical
Managed Speed ⁵		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:

- 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, lanes widths shall be 12 feet.
- 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.
- Street design for each development shall provide for emergency and fire vehicle access.
- 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.
- 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.
- None with on-street parking

Street Design Standard Notes:

- Exclusive of side slope easement which may be required in addition for cuts and fills in rough terrain.
- 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.
- 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.
- 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.
- Sidewalks and planting strips shall not be required along eyebrows.
- 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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION OF APPROVAL #18. A Condition of approval is included on the proposed land division to require the applicant to file waiver of right of remonstrance against future street improvements of Hilary Street in the right-of-way adjacent to the subject site.

CONDITION FOR FINDING: Applicant shall consent and agree to a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the final partition plat.

17.53.105(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.

- 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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The lots resulting from the proposed partition are of a size, width, shape, and orientation appropriate for the location of the subdivision and for the use contemplated (residential). All proposed lot sizes conform to the zoning requirements of the area. See findings for Sections 17.15.030 and 17.18.030 above. The depth of each of the proposed parcels does not exceed two times the width.

17.53.105(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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. Proposed Parcel 1 would abut a proposed access easement that is 25 feet wide. The 25-foot wide access easement abuts the entire approximately 60 foot width of the terminus of the Hilary Street right-of-way. Proposed Parcel 2 would abut a 33-foot wide undeveloped right-of-way west of the subject site for a width of 135 feet. A 22-foot wide access easement abuts both the 33-foot wide unimproved right-of-way and Fellows Street right-of-way as a means of providing access to developable lots after the public right-of-way vacation approved per instrument number 200100600 in 2001. Fellows Street is classified as a Minor Collector and direct access is allowed. Proposed Parcel 3, the remainder of the parent parcel, will continue to abut the Hilary Street right-of-way for a 207.28-foot width.

17.53.105(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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed partition does not create any through lots, therefore this criterion is met.

17.53.105(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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed property lines that would divide the three proposed parcels run at approximate right angles to the street rights-of-way, or the access easement leading to the streets, upon which the parcels face. Therefore, this criterion is met.

17.53.060(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. The proposed partition does not create any flag lots, therefore this criterion is met.

Chapter 17.58 Trees

17.58.020 Applicability. The provisions of this ordinance shall apply to:

- A. Individual significant or historic trees as defined in this ordinance.
- B. All trees with trunks located completely or partially within any public area or right-of-way;

- C. All trees with trunks located completely within any private property which directly affect public infrastructure including but not limited to sewers, water mains, sidewalks, streets, public property, or clear vision distances at street intersections.
- D. All trees on developable land and subject to or undergoing development review such as site plan review, tentative subdivision review, or partition review; [...]

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The subject site is undergoing partition review to create new parcels with developable land. Access to proposed Parcel 2 will be through a portion of undeveloped public right-of-way adjacent to Parcel 2. The subject site is heavily wooded outside of the portion of proposed Parcel 3 that is developed with an existing single-family dwelling. Tree removal will likely be necessary to accommodate future residential development and associated public improvements on proposed Parcels 1, 2, and within the undeveloped public right-of-way west of Parcel 2. Therefore, (B) and (D) are met, and the provisions of the Trees Chapter of the Zoning Ordinance shall apply to trees within the subject site and the undeveloped public right-of-way west of proposed Parcel 2.

17.58.040 Tree Removal/Replacement

A. The removal or major pruning of a tree, if applicable under Section 17.58.020, shall require City approval, unless specifically designated as exempt by this ordinance. Persons wishing to remove or prune such trees shall file an application for a permit with the McMinnville Planning Department. [...] Requests for tree removal or pruning of trees outside of the Downtown Tree Zone shall be forwarded to the McMinnville Landscape Review Committee [...] The Landscape Review Committee may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. [...]

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION OF APPROVAL #2. Any tree removal on the subject site or within the adjacent undeveloped right-of way is applicable under 17.58.020 and would require City approval. A condition of approval is included to require the applicant to submit an application for proposed tree removal for approval pursuant to Chapter 17.58.

CONDITION FOR FINDING: That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Zoning Ordinance, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

JF