

Minor Partition

MP 6-20

835 SW Hilary Street

Planning Commission –
Continued Public Hearing

PLANNING COMMISSION. 08.19.21



TONIGHT'S PROCESS

Partitions are considered a Type II application

- Planning Director's decision based on notification to surrounding property owners requesting comments (specific to the code criteria)
- Decisions based on clear and objective criteria – no discretion that is why it is typically an administrative decision.
- However, those who receive the notice can request a public hearing with the Planning Commission.
- Planning Department received a request for a public hearing.

Approval criteria for partition remain the same

- Clear and objective – does the application meet the requirements of Chapter 17.53?
- Decision document provides criteria/findings for decision

PLANNING COMMISSION. 08.19.21



TONIGHT'S PROCESS

June 17 Public Hearing

- Planning Commission heard public testimony.
- Applicant requested continuance of the public hearing to July 15, 2021 to provide additional information requested by oppositional testimony.

July 15, 2021 Public Hearing

- Data requested required a new topographical survey of the site, so applicant requested that the public hearing be continued until August 19, 2021 and that the deadline for decision-making be extended to October 31, 2021.

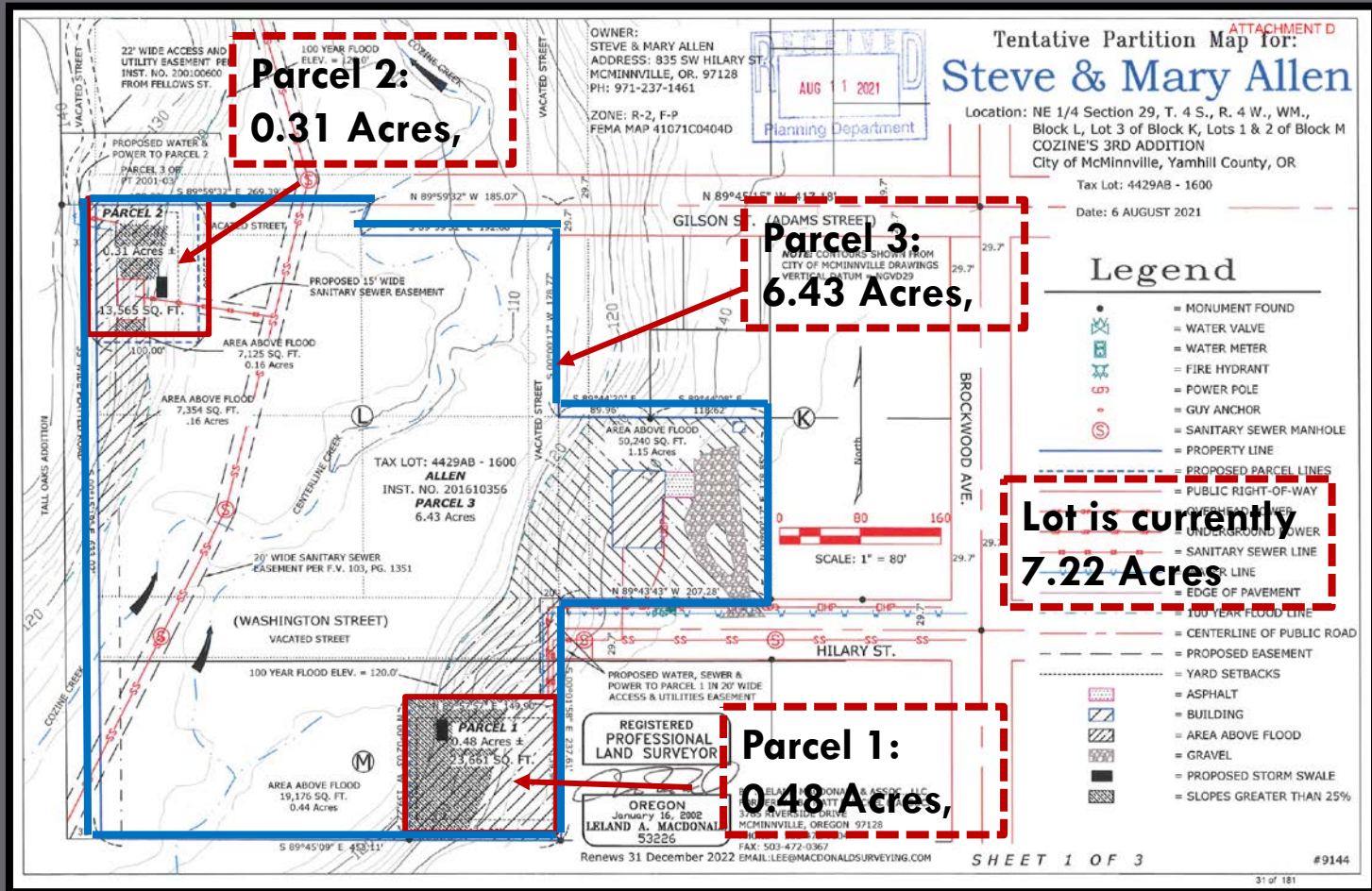
August 19, 2021 Public Hearing

- New title report, new survey maps and additional findings provided.
- Issue submitted by Walt Gowell on behalf of his client has been resolved.

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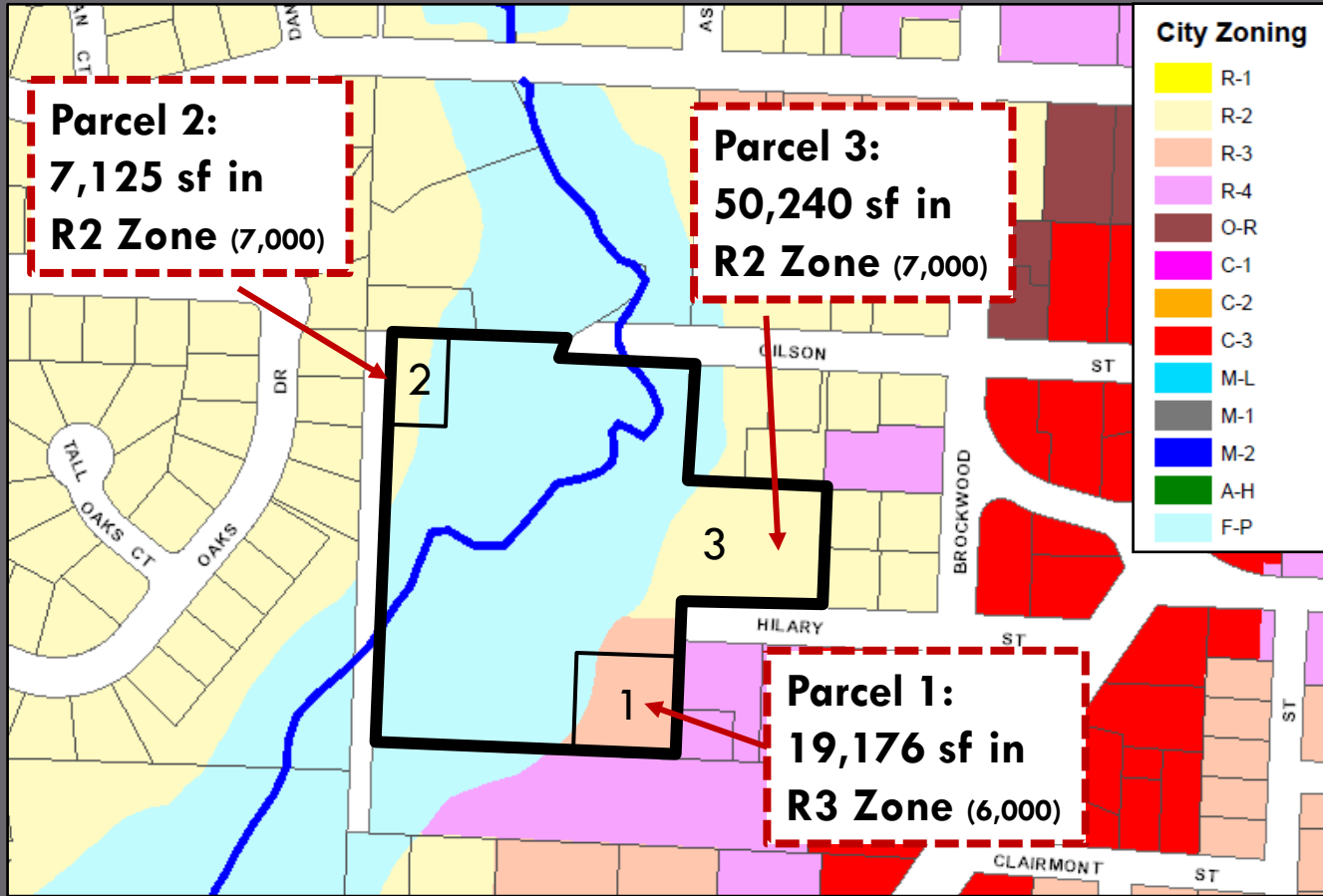
MINOR PARTITION REQUEST



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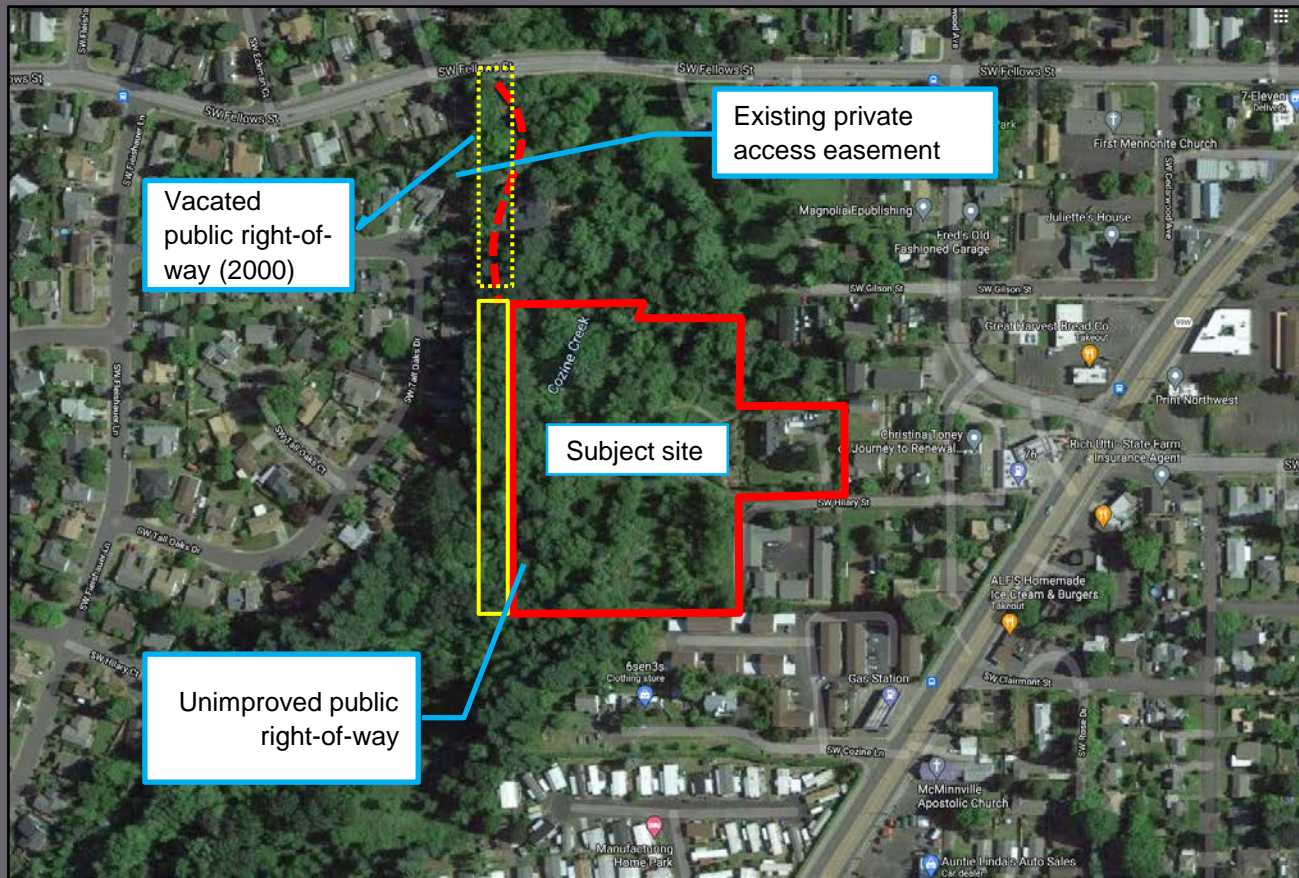
ZONING



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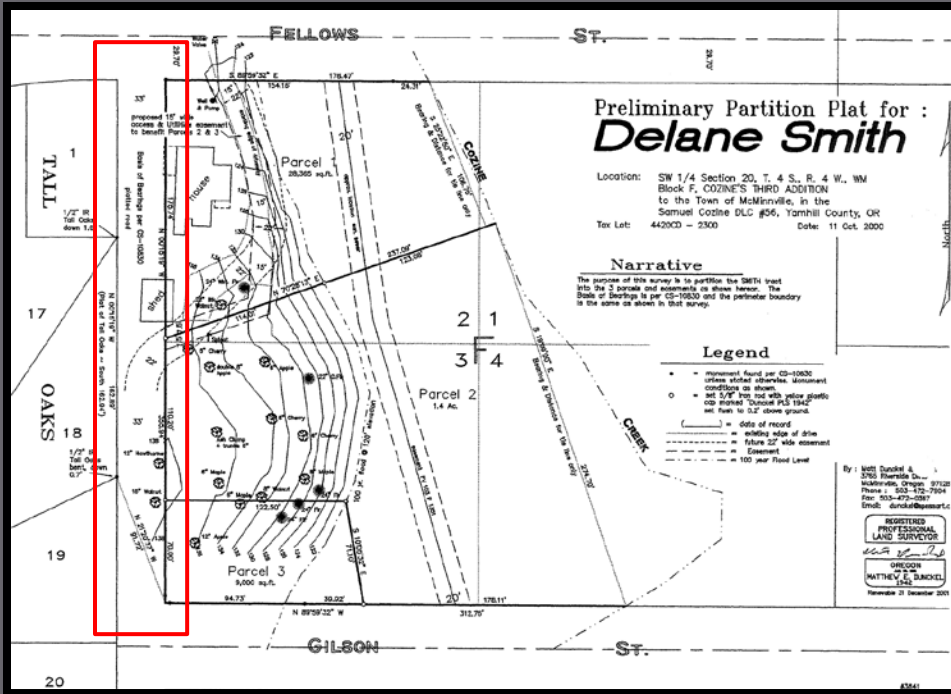
SITE LOCATION & CONTEXT



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PAST LAND-USE DECISIONS



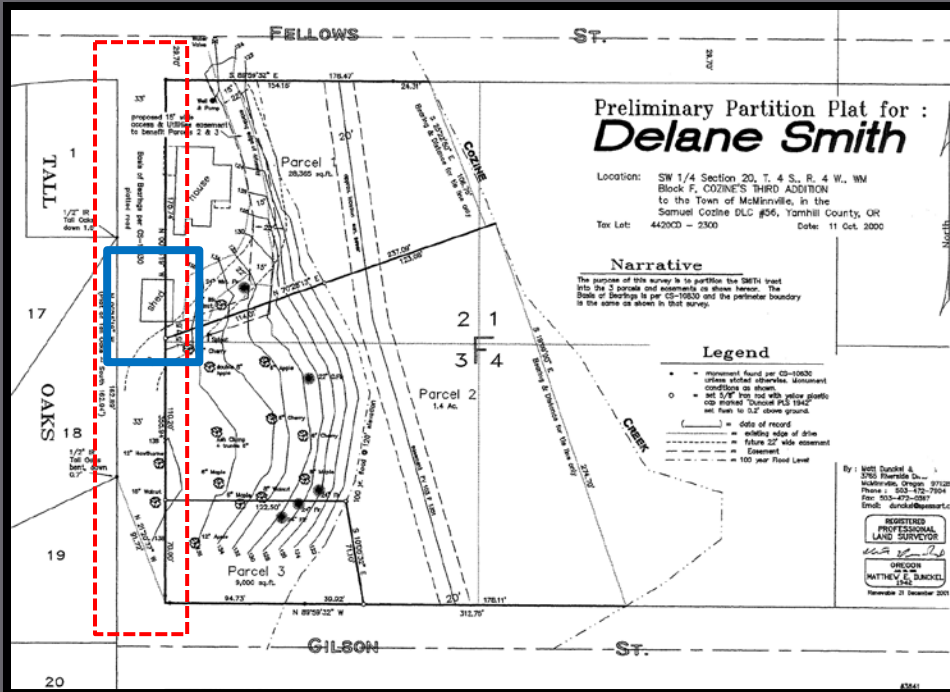
Minor Partition 7-00 was approved by the City dividing the Smith property into 3 parcels

A condition of approval required either a Road Vacation petition to vacate undeveloped right-of-way west of the Smith property or development of the right-of-way to City standards

PLANNING COMMISSION. 08.19.21



PAST LAND-USE DECISIONS



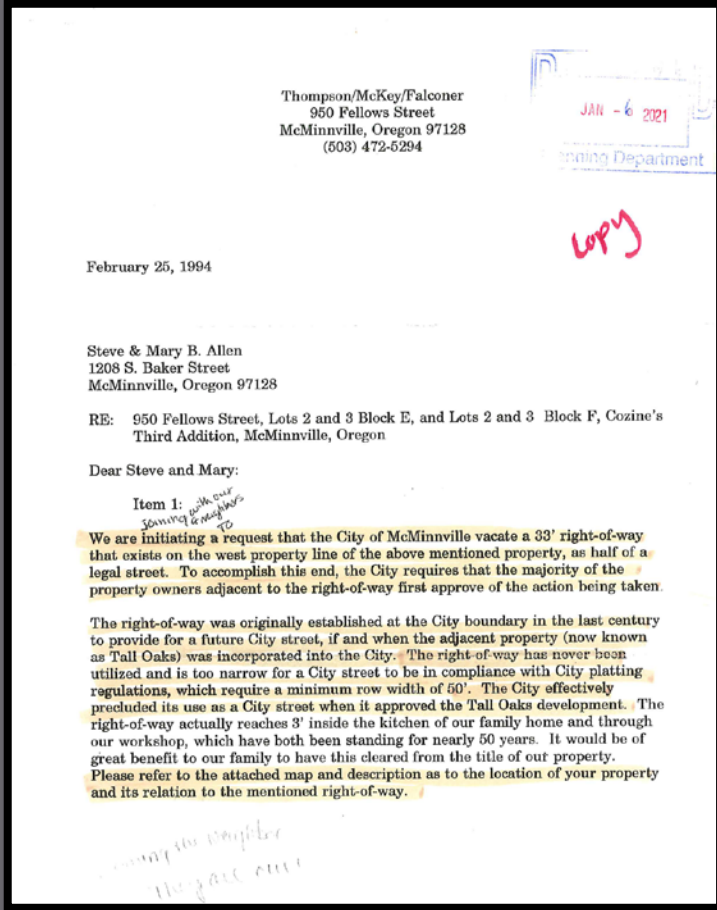
The Smiths wanted to vacate the public right-of-way to preserve their structure that was in the unimproved public right-of-way.

The Smiths asked the Allens to support their application for the public right-of-way vacation under the premise that their access rights would be preserved with an access easement.

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PAST LAND-USE DECISIONS



Letter to the Allens from the Smiths, dated February 25, 1994

“The right-of-way actually reaches 3’ inside the kitchen of our family home and through our workshop.”

“We realize that by agreeing to the right-of-way vacation, this would leave a portion of your property land-locked on the west side of the Cozine. It is our proposal to offer you an easement through our property to allow access to this portion of your land to allow you to have a “buildable” lot on this section.”

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PAST LAND-USE DECISIONS

Ordinance No. 4741 was adopted by City Council, approving RV 1-00 vacating undeveloped right-of-way west and south of the Smith property

- A condition of approval required “an access easement be 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 CITY OF McMinnville ORDAINS AS FOLLOWS:

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:

(a) That the City of McMinnville retains public utility easements over the vacated right-of-way for the maintenance of existing utilities and construction of new public utilities.

(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.

Passed by the Council this 12th day of December 2000 by the following votes:

Ayes: Aleman, Olson, Windle

Abstain: Payne

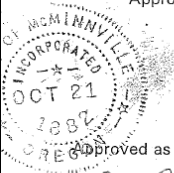
Nays: _____

Approved this 12th day of December 2000.

Richard D. Windle
COUNCIL PRESIDENT

[Signature]
CITY ATTORNEY

APPROVED AS TO FORM:

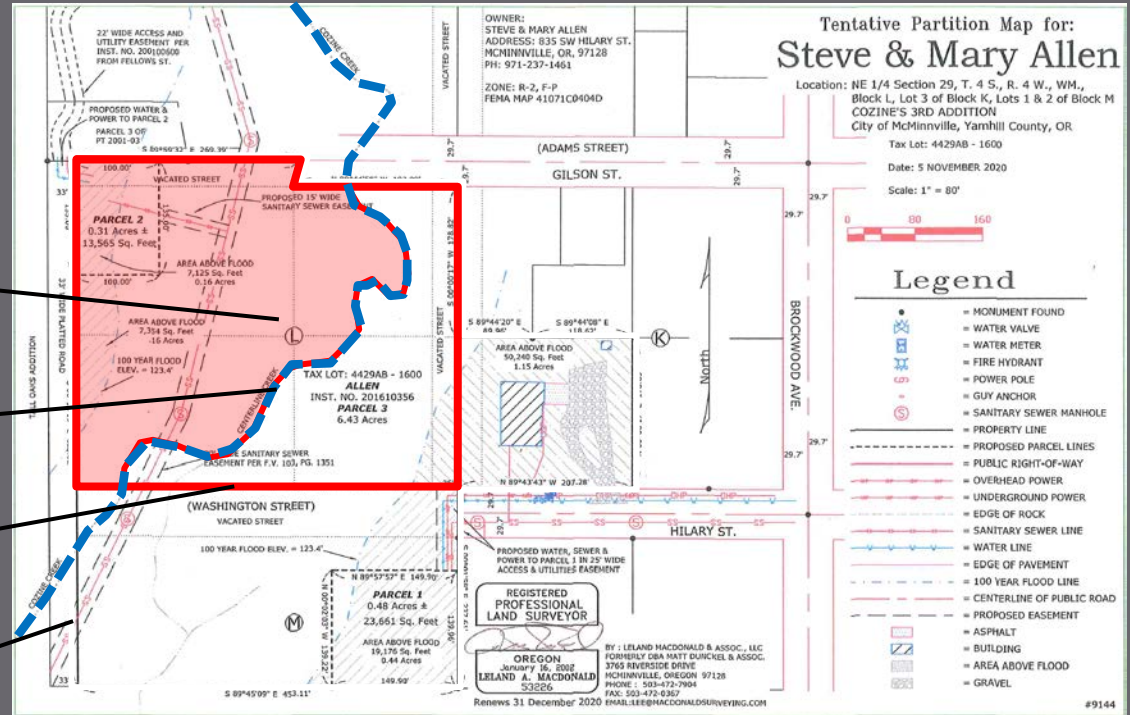
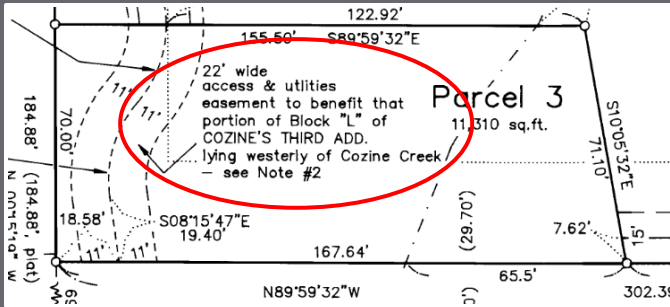


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PAST LAND-USE DECISIONS

Proposed Partition MP 6-20 utilizes easement for proposed "Parcel 2" within Block "L" and west of Cozine Creek



"That portion of Block "L" of Cozine's Third Addition lying westerly of Cozine Creek"

Cozine Creek

Block "L" of Cozine's Third Addition

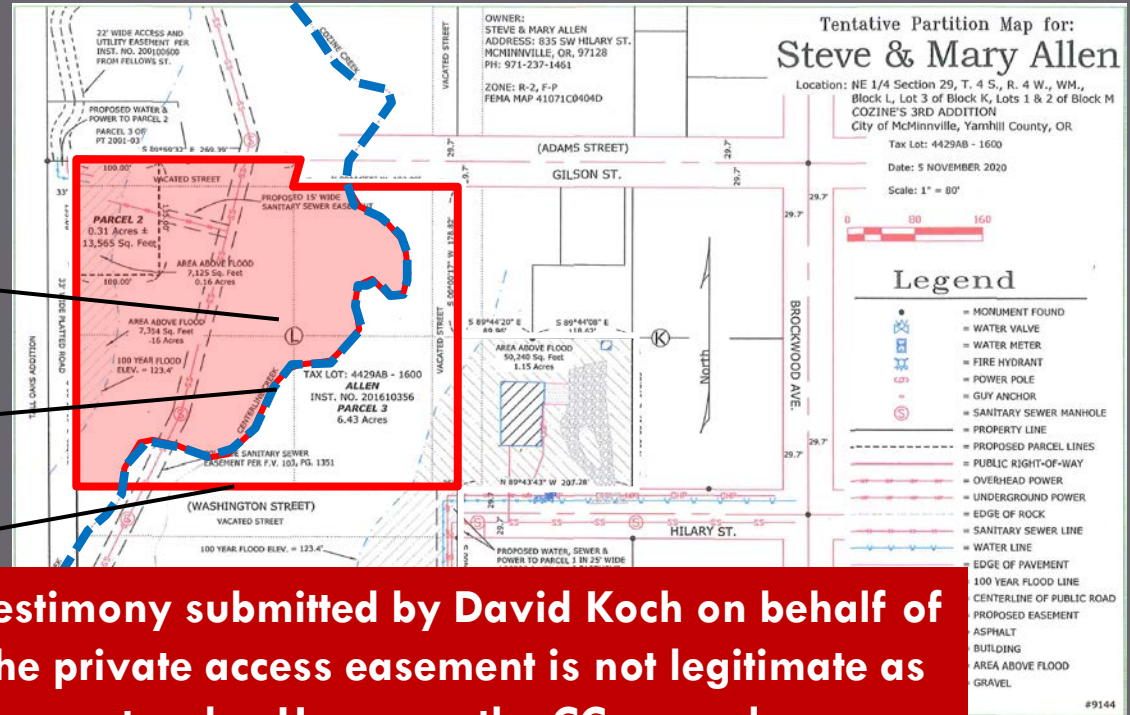
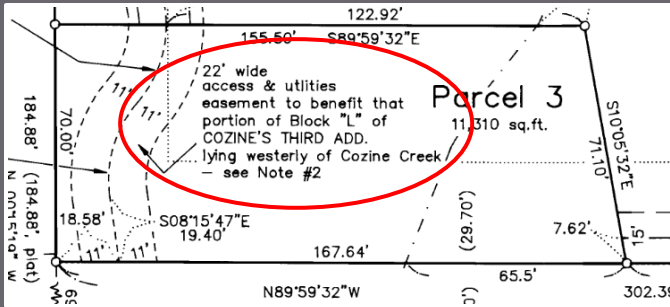
Allen property – 835 SW Hilary Street

PLANNING COMMISSION. 08.19.21



PAST LAND-USE DECISIONS

Proposed Partition MP 6-20 utilizes easement for proposed "Parcel 2" within Block "L" and west of Cozine Creek



"That portion of Block "L" of Cozine's Third Addition lying westerly of Cozine Creek"

Cozine Creek

Block "L" of Cozine's Third

Allen

There was oppositional testimony submitted by David Koch on behalf of his clients claiming that the private access easement is not legitimate as it does not conform with current code. However, the CC passed an Ordinance requiring the access rights be provided to the Allen property and MP 7-00 was approved with the proposed access rights. The time to appeal that land-use decision has long since passed.

PL

McMinnville

PAST LAND-USE DECISIONS

Notes

- 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.
- 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. 200100600

Partition Plat 2001-03 references recorded Instrument No. 200100600, the Driveway Construction and Maintenance Agreement as the governing document for the access and utilities easement

Owners Parcel A: Delane Smith and Sandra Smith
Owners Parcel B : Steve Allen and Mary Bernards Allen
DRIVEWAY CONSTRUCTION AND MAINTENANCE AGREEMENT

The following is to provide for the construction and maintenance of a driveway within a perpetual, non-exclusive easement for access and utilities that has been granted by the platting of said property to be recorded contemporaneously with this Agreement, and located on that property described in Exhibit "A."

The easement will provide access to one and possibly two parcels located on property located to the south of the property in Block L of the Cozine Addition as described in the attached "Exhibit B." Those parcels shall be responsible for the cost of widening the existing segments of the driveway as may be required by any statute, regulation, ordinance or condition placed upon it by the City of McMinnville in the granting of a land use decision or building permit. They shall also be responsible for the costs incurred in constructing the driveway extension across Parcels 1, 2 and 3 needed to reach the south boundary of Parcel 3, to the extent such extensions are not already in place.

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PAST LAND-USE DECISIONS

Notes

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There was oppositional testimony submitted by Walt Gowell on behalf of his clients wanting to ensure that the Driveway Construction and Maintenance Agreement is still valid. The City received an email from Walt Gowell on August 4, 2021, stating that they were comfortable with the proposed language in Condition of Approval #1.

PROCEDURE

ORS 227.175(4)(b)(A)

A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including clear and objective design standards contained in the city comprehensive plan or land use regulations.

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PARTITION REVIEW CRITERIA

Chapter 17.53 – Land Division Standards

- Partition
 - 17.53.060(B). The Director's decision shall be based upon a finding that the tentative plan substantially conforms to the requirements of this chapter.
 - 17.53.080 – Final Development Plan

PLANNING COMMISSION. 08.19.21



PARTITION REVIEW CRITERIA

Chapter 17.53 – Land Division Standards

- Section 17.53.105 - Lots
 - Size and shape
 - Access
- Section 17.53.153 – Improvement Requirements
 - Water
 - Electrical
 - Sewer
 - Drainage
 - Streets

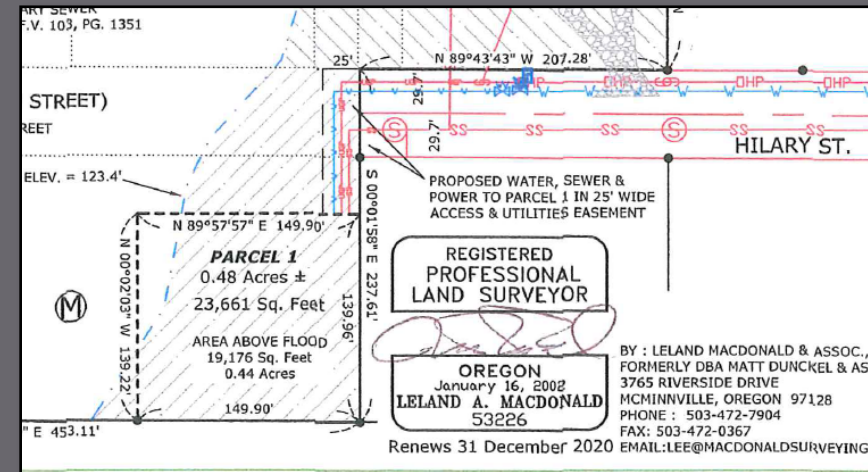
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REVIEW CRITERIA – PARCEL 1

Parcel 1: R-3FP (Two-Family Residential Floodplain)

- **Size**
 - 19,176sf outside of FP > R-3 minimum lot size (6,000sf)
 - Depth of lot < 2x average width
- **Access**
 - Access easement provided from Hilary Street
- **Improvements**
 - Utilities available from Hilary St.



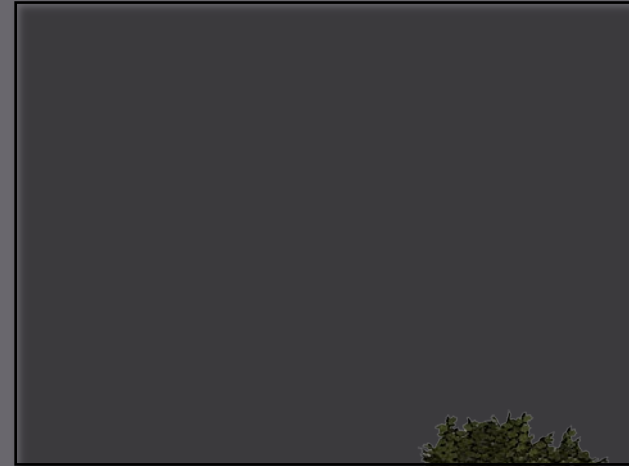
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REVIEW CRITERIA – PARCEL 2

Parcel 2: R-2FP (Single-Family Residential Floodplain)

- **Size**
 - 7,125sf outside of FP > R-2 minimum lot size (7,000sf)
 - Depth of lot < 2x average width
- **Access**
 - Access from Fellows St. via private easement and undeveloped right-of-way
- **Improvements**
 - Water, electric installed in easement from Fellows St.
 - Sewer available from adj. main
 - Minimal ROW improvements req'd



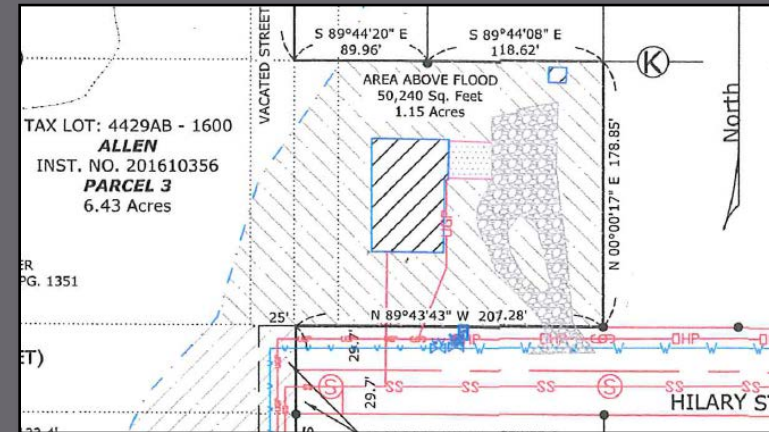
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REVIEW CRITERIA – PARCEL 3

Parcel 3: R-2/R-3FP (Single-Family Residential Floodplain)

- **Size**
 - 50,240sf outside of FP > R-2 minimum lot size (7,000sf)
 - Existing dwelling continues to meet setbacks of R-2 zone
- **Access**
 - Existing access from Hilary Street
- **Improvements**
 - Existing utilities from Hilary St.



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CONCLUSION

Proposed Parcels 1, 2, and 3 meet the clear and objective criteria for partitioning

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PUBLIC TESTIMONY

Both written and oral testimony has been provided identifying the following issues:

- Loss of trees from right-of-way and Parcel 2
- Increased traffic on existing private driveway
- Emergency vehicle access to Parcel 2
- Increase in safety issues on Fellows Street
- Impact of development on floodplain
- Decreased property values
- Incomplete submittal
- Outdated Title Report
- Need to Extract Park Land

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PUBLIC TESTIMONY

Concern about loss of trees from right-of-way and Parcel 2:

- Some trees likely to be removed to accommodate driveway in ROW and residential development on Parcel 2
- No zoning code that prevents development of Parcel 2 to preserve trees
- Tree removal requests are subject to Ch. 17.58-Trees
- Replacement trees can be conditioned by LRC

Recommended Condition of Approval #2:

- Require review of tree removal requests, limit approvals to poor condition or severe impact by development

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PUBLIC TESTIMONY

Concern about increased traffic on existing private driveway:

- Minimum standards for access easements:
15 feet wide, 10 paved surface width
- Existing access easement: 22 feet wide,
12-13 feet paved surface width
- Terms of private easement agreement: 15 foot driveway
width prior to occupancy of Parcel 2
- Access easement/driveway was previously approved by
City to serve future additional lots, and Engineering and Fire
Depts. had opportunity to comment on current application

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PUBLIC TESTIMONY

Concern about increased safety issues on Fellows Street:

- Access easement is in the same place as a previously planned public street that would serve residential development in this area to a density appropriate for R2 and R3 zoning.
- Subject site not developed to full density - Fellows Street and facilities designed to accommodate more than the site contributes.

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PUBLIC TESTIMONY

Concern about impact on floodplain/sensitive lands:

- The City does not allow development in the floodplain.
- McMinnville relies on state/federal agencies for regulatory authority of wetlands and other sensitive natural features

Recommended Condition of Approval #8 and #10:

- Comply with all state/federal environmental permitting agency requirements (DEQ, DSL, ACoE)

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PUBLIC TESTIMONY

Concern about decreased property values:

- Consideration of property value is not a regulatory criteria for land use-decisions
- Per ORS 227.175, only clear and objective criteria can be used for housing land-use decisions.
- Subject site is designated Residential on the City's Comprehensive Plan and is intended for development

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PUBLIC TESTIMONY

Incomplete Submittal:

- Title Report was updated
- Survey maps were updated to include:
 - Contour lines related to city datum and having minimum intervals of two (2) feet.
 - Location and direction of water courses
 - Location of natural features, such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
 - Slopes greater than 25%
- Future Development Plan provided

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PUBLIC TESTIMONY

Potential presence of moderate and high landslide soils on the subject site render the new parcels unbuildable:

- City of McMinnville does not yet have an adopted inventory of maps for landslide hazards nor does it have any policies or codes that state that soils with moderate or high landslide potential are not buildable.
- West Hills is developed on high landslide soils.

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YC Natural Hazards Mitigation Plan

“The City of McMinnville Addendum to the Yamhill County Multi-Jurisdictional Hazard Mitigation Plan”, Action Plan for Landslides, page MA-13.

Natural Hazard Action ID	Action Item	Coordinating Organization (Lead)	Partners	Potential Funding	Cost	Timing	Plan Goals Addressed							
							Goal1	Goal2	Goal3	Goal4	Goal5	Goal6	Goal7	Goal8
Landslide Actions														
Landslide #1	Utilize technology, geologic resources and other available data (such as DOGAMI LIDAR data) to identify and map potential areas for landslides - high, moderate and low.	Planning	DOGAMI, Engineering, MW&L	General fund, utility fees, grants	M	Short	✓	✓	✓			✓	✓	
Landslide #2	Develop a process to limit future development in high landslide potential areas - permitting, geotechnical review, soil stabilization techniques, etc.	Planning	Engineering, MW&L	General fund, utility fees, grants	M	Short		✓		✓	✓	✓	✓	
Landslide #3	Development in steeply-sloped areas (greater than 15%) should be subject to specific development requirements to control erosion.	Planning	Engineering, MW&L	General fund, utility fees, grants	L	Short		✓	✓	✓		✓	✓	
Landslide #4	Complete an inventory of locations where critical facilities, other buildings and infrastructure may be subject to landslides.	Planning	Engineering, MW&L	General fund, utility fees, grants	M	Short			✓	✓	✓	✓	✓	

PLANNING COMMISSION. 08.19.21



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Landslide #2	Develop a process to limit future development in high landslide potential areas - permitting, geotechnical review, soil stabilization techniques, etc.	Planning	Engineering, MW&L	General fund, utility fees, grants	M	Short		✓		✓	✓	✓	✓	
Landslide #3	Development in steeply-sloped areas (greater than 15%) should be subject to specific development	Planning	Engineering, MW&L	General fund, utility fees, grants	L	Short	✓	✓	✓		✓		✓	

Recommended Condition of Approval #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.

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PUBLIC TESTIMONY

Should have exacted park land for Cozine Creek Trail:



	Extend Westvale 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

Comp Plan Policy #164.00

Comp Plan Policy #165.00

Decision Document, page 22 – 23
(Page 107- 108 of Packet)

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COMMISSIONER QUESTIONS

Is the twelve months for recording a final plat a standard timeframe?

Yes, Section 17.53.060(D) allows for validity for a one-year period.

Are we approving a future parcel #4 with this decision?

No, Section 17.53.080 requires the submission of a future development plan when it is evident that the property can be subdivided further.

PLANNING COMMISSION. 08.19.21



COMMISSIONER QUESTIONS

Emergency vehicle provisions for private access easement for Parcel #2?

For the land-use decision for MP 7-00, the Fire Marshal required that an emergency vehicle turnaround be constructed.

For the development of residential homes on the Allen property accessed by the same private access easement, a letter from the Fire Marshal dated July 2019 requires that if the dwellings are sprinkled no other improvements will be required.

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COMMISSIONER QUESTIONS



MCMINNVILLE FIRE DEPARTMENT

175 NE FIRST STREET • MCMINNVILLE, OREGON 97128 • PHONE 503.435.5800 • FAX 503.435.5815

RECEIVED

DEC 28 2020

COMMUNITY DEVELOPMENT
CENTER

*Setbacks
Duplex
Vacation*

July 16, 2019

Steve Allen
McMinnville Oregon

Steve,

This letter is regarding our conversations about the additional development of residential lots or future dwellings for the proposed lots located off of Hillary with access off of Fellows (see attached map).

McMinnville Fire Department has no additional requirements for access for the proposed lots, in addition, the fire department will not require the installation of a fire hydrant for water supply if all residential dwellings are equipped with residential fire sprinklers installed per NFPA 13D standards.

Regards,

Debbie McDermott
Assistant Chief/ Fire Marshal
McMinnville Fire Department
175 NE 1st Street
McMinnville, OR 97128
503.435.5802
debbie.mcdermott@ci.mcminnville.or.us

A Condition of Approval has been drafted requiring that fire sprinklers be installed in all residential dwellings on Parcel #2.

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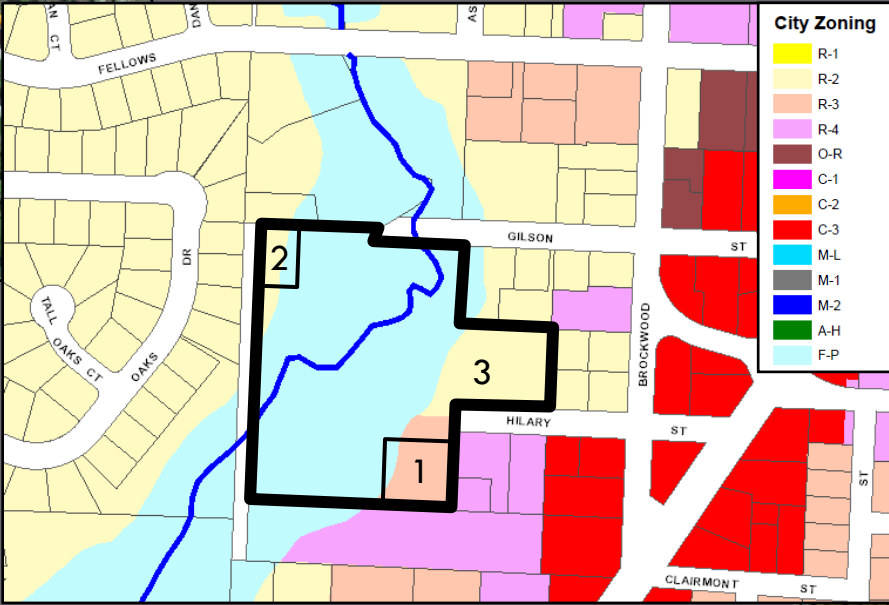
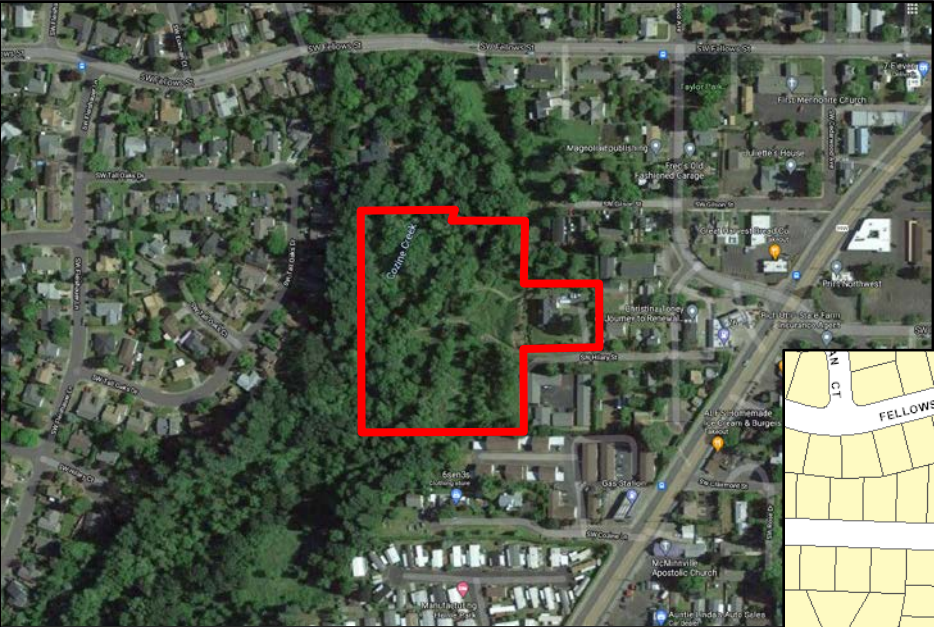
STAFF RECOMMENDATION

At this time, findings for clear & objective criteria support *Approval* of Minor Partition with Conditions outlined in Decision Document

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QUESTIONS?



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