



**City of McMinnville**  
**Planning Department**  
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## STAFF REPORT

**DATE:** June 17, 2021  
**TO:** Planning Commission Members  
**FROM:** Jamie Fleckenstein, Associate Planner  
**SUBJECT:** Variance application (VR 2-21) to allow more than 3 lots to be accessed by a private easement

### STRATEGIC PRIORITY & GOAL:



#### **GROWTH & DEVELOPMENT CHARACTER**

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

**OBJECTIVE/S:** Strategically plan for short and long-term growth and development that will create enduring value for the community

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### **Report in Brief:**

This proceeding is a quasi-judicial public hearing of the Planning Commission to consider an application for a variance to the number of lots allowed to be accessed via private easement, which the Zoning Ordinance limits to three (3), to support a future partition of the subject property allowing two existing commercial structures to be on their own lots. The subject site is located at 2185/2191 NW 2<sup>nd</sup> Street (Parcel 1 of Partition Plat 2005-06; Tax Lot 502, Section 19AC, T. 4 S., R. 4 W., W.M.) and shares an access easement with two other parcels.

The Planning Commission will make a final decision on the application. A final decision of the Planning Commission may be appealed to the City Council as provided in Section 17.72.180 of the Zoning Ordinance. The Planning Commission hearing is conducted in accordance with quasi-judicial hearing procedures, and the application is subject to the 120-day processing timeline.

### **Background:**

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

The Applicant's request is for a variance to allow an increase in the number of lots permitted to be accessed by private easement, thereby allowing a future partition of the subject site to allow the two (2) commercial medical office buildings to be on their own lots. This will allow the sale of the lot(s) and office building(s) to the long-term lease holder(s) currently using the office space(s).

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Attachments:  
Attachment A: VR 2-21 Decision Document

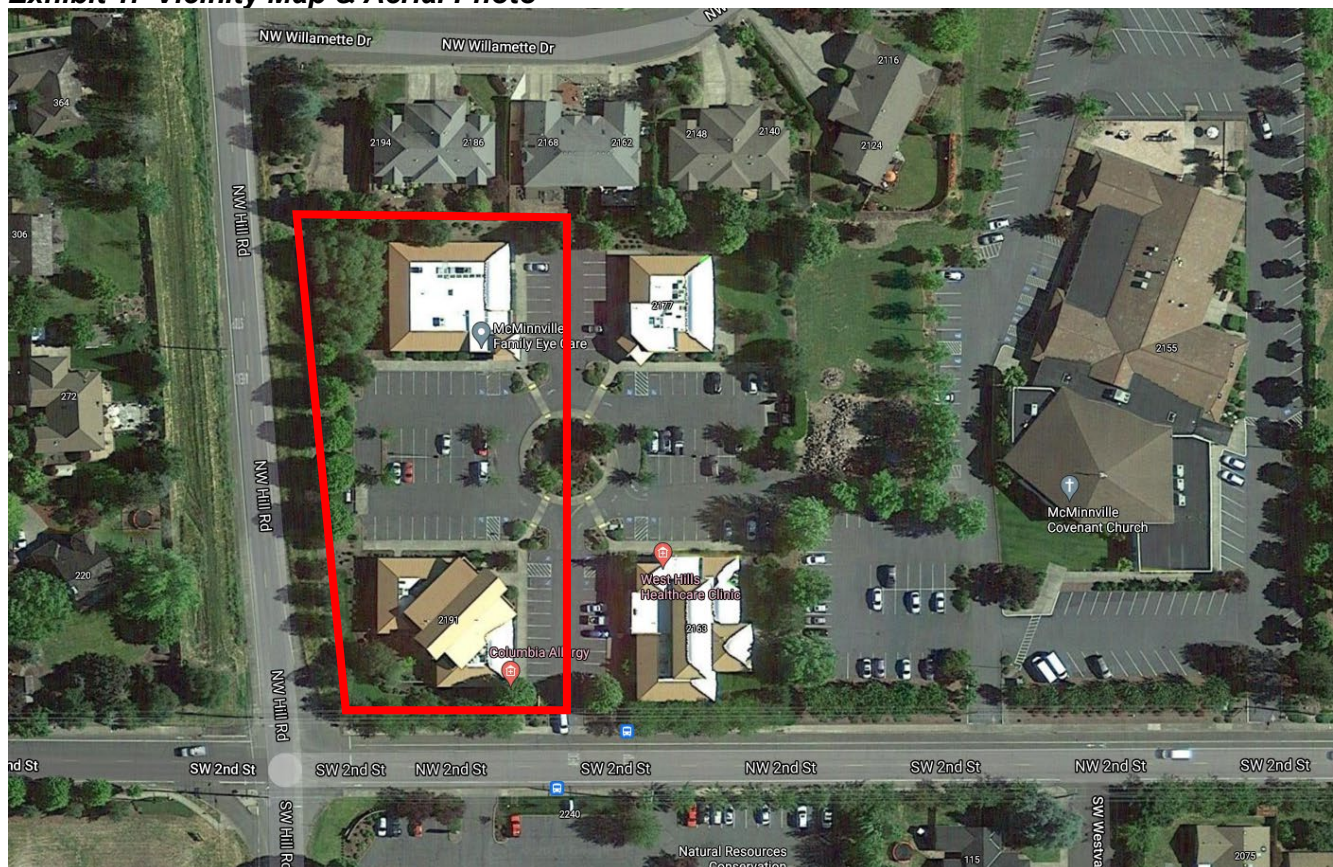
The subject property is a 1.46 acre lot located at 2185/2191 NW 2<sup>nd</sup> Street at the northwest corner of NW 2<sup>nd</sup> Street and NW Hill Road, and is more specifically described as Parcel 1 of Partition Plat 2005-06, and Tax Lot 502, Section 19AC, T. 4 S., R. 4 W., W.M. The property is zoned C-3 (General Commercial) and is developed with two medical office buildings. The property shares an access easement from NW 2<sup>nd</sup> Street with the two adjacent lots to the east, each zoned C-3 (General Commercial) and each is developed with a medical office building. Together, the three (3) lots with four (4) office buildings form the Yamhill Valley Wellness Plaza. The access easement provides shared access and parking for all three (3) lots and four (4) office buildings. No access to the subject site or into the plaza complex is provided from Hill Road. **See Exhibits 1 and 2.**

Section 17.53.100(C)(1) of the Zoning Ordinance limits the number of parcels that can be served by private access easement to three (3):

“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 [...]”

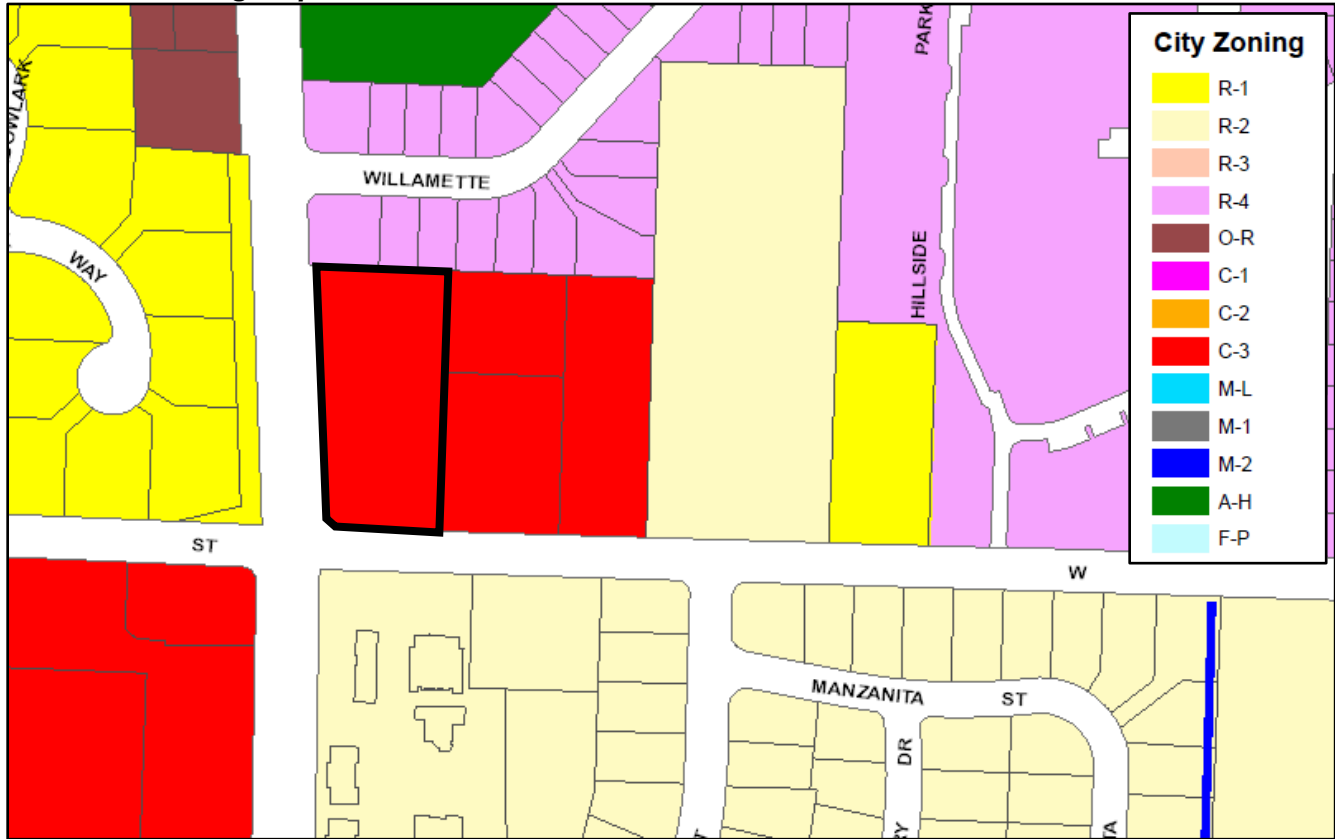
The access easement in question is an existing easement from NW 2<sup>nd</sup> Street that provides shared access and parking to Parcels 1, 2, and 3 of Partition Plat 2005-06. **See Exhibit 3.**

**Exhibit 1. Vicinity Map & Aerial Photo**

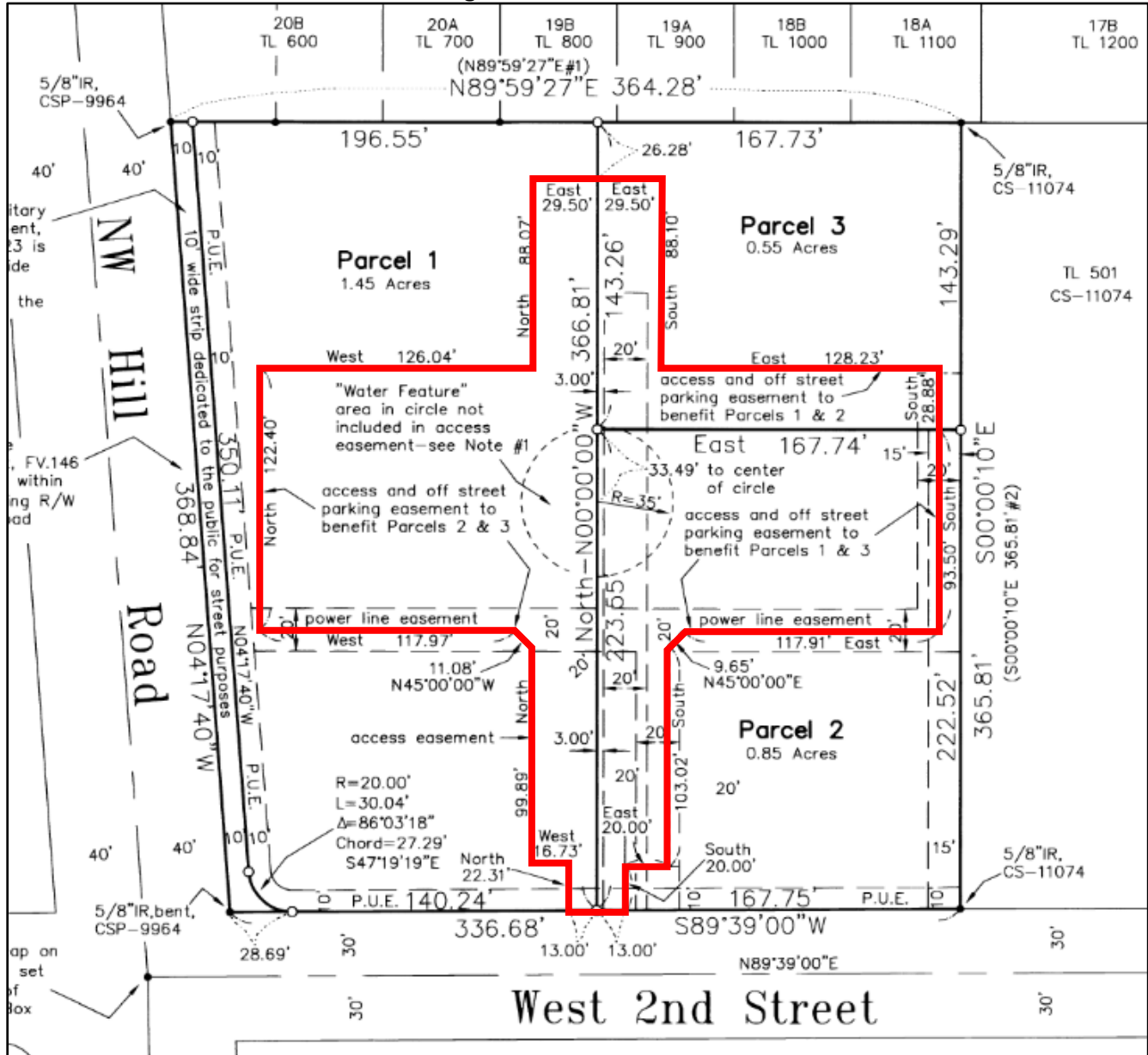


Attachments:  
Attachment A: VR 2-21 Decision Document

**Exhibit 2. Zoning Map**



**Exhibit 3. Partition Plat 2005-06 Parking and Access Easement**



**Neighborhood Meeting**

Before a variance application can be submitted, an applicant must hold a neighborhood meeting as specified in Chapter 17.72 of the Zoning Ordinance. The applicant conducted the required neighborhood meeting on April 6, 2021 in accordance with these requirements and submitted the necessary documentation of the neighborhood meeting with the application, including a list of attendees and meeting notes.

The neighborhood meeting notes indicate that, in addition to the applicant, two people attended the meeting. One attendee represented another development in the Yamhill Valley Wellness Plaza, and the other resides on Willamette Drive, north of the property. The meeting notes indicate both attendees were in favor of the variance request and were present to lend their support. The notes indicate no concerns were presented.

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## **Discussion:**

The applicable criteria for a variance to the number of lots permitted access via private easement are as follows:

- **Comprehensive Plan:** 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.
  
- **Zoning Ordinance (Title 17 of the McMinnville Code):**
  - MMC Section 17.53.100(C). Creation of Streets
  - MMC Section 17.74.100. Variance – Planning Commission Authority;
  - MMC Section 17.74.110. Conditions for Granting Variance;

The criteria for a variance are generally intended to provide for equity in the application of general standards to a property with unique circumstances, given consideration of other properties which are similarly situated. The variance criteria are also intended to ensure that in granting a variance, the approval doesn't confer special rights to a property; the variance is the minimum necessary to address the unique circumstance; and granting the variance isn't detrimental to the City's policies or the public interest. Conditions may be imposed to protect the best interests of the surrounding property or neighborhood.

The findings in the Decision Document provide more detailed discussion about the interpretation of the variance criteria. The applicant has not demonstrated that the subject site would qualify for a private access easement under the conditions of MMC Section 17.53.100(C), or that the conditions that would qualify the site for a private access easement are unique in relation to other properties in the surrounding area or zone. The applicant did provide findings to show the variance would not be detrimental to the City's policies or the surrounding area, and that the variance requested is the minimum necessary to address the circumstance.

In sum, the applicant has not shown that all the criteria necessary for a variance approval have been met, therefore, staff does not support approval of the application at this time. The Applicant has requested a continuance of the public hearing to be able to provide additional information. Staff does support continuation of the application and public hearing to allow the applicant the opportunity to provide revised application materials that better respond to the specific variance criteria.

### ***Public Comments***

Notice of the proposed application was mailed to property owners and published in the newspaper. As of the date of this Staff Report, no public comments were received.

### ***Agency Comments***

Notice of the proposed application was sent to affected agencies and departments. The McMinnville Engineering Department and McMinnville Water and Light responded that they had no comments.

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Attachment A: VR 2-21 Decision Document

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**Planning Commission Options (for Quasi-Judicial Hearing):**

- 1) **APPROVE** of the application as proposed by the applicant with the conditions recommended in the attached Decision Document, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the denial, specifying which criteria are not satisfied, or specifying how the applicant has failed to meet the burden of proof to demonstrate all criteria are satisfied, in the motion to deny.

**Staff Recommendation:**

Staff has reviewed the proposal for consistency with the applicable criteria. Absent any new evidence or findings to the contrary presented during the hearing, staff finds that the application submitted by the applicant and the record do not contain sufficient evidence to find the applicable criteria are satisfied at this time.

The Applicant has requested a continuance of the public hearing to have the opportunity to provide revised application materials. Staff **RECOMMENDS CONTINUANCE** of the VR 2-21 public hearing as requested.

**Suggested Motion:**

**I MOVE THAT THE PLANNING COMMISSION CONTINUE THE VARIANCE APPLICATION VR 2-21 TO THE PLANNING COMMISSION MEETING SCHEDULED FOR JULY 15, 2021 AT 6:30PM.**