

509-21-000126-Plng



City Of
McMinnville
Planning Department
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Office Use Only:	
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Zoning Variance Application

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other _____

Applicant Name Nora Collins/N Collins Properties LLC Phone 503-730-4642

Contact Name Nora Collins Phone _____
(If different than above)

Address 243 East Scott Drive

City, State, Zip Stelton, WA 98584

Contact Email nora.collins@gmail.com

Property Owner Information

Property Owner Name N Collins properties LLC Phone 503-730-4642
(If different than above)

Contact Name Nora Collins Phone _____

Address 243 East Scott Dr.

City, State, Zip Stelton WA 98584

Contact Email nora.collins@gmail.com

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 2185/2191 N.W. 2nd St. McMinnville, OR 97128

Assessor Map No. R4 419 - AC-00503 Total Site Area 1.46

Subdivision _____ Block _____ Lot 63

Comprehensive Plan Designation Can Zoning Designation C3

Parcel 1 of Partition Plat 2005-2006, tax lot 502, Section 19 AC R 45, T4W.WM.

The type of variance requested is for one access for four tax lots.

1. Describe the nature of the request in detail:

The subject property is located at 2185/2191 NW 2nd Street, and is more specifically described as Parcel 1 of Partition Plat 2005-06, and as Tax Lot 502, Section 19AC, R. 4 S., T. 4 W., W.M. (the "Property"). The Property is shown on the site plan attached as Exhibit A.

Applicant requests a variance from Section 17.53.100(C)(1) of the McMinnville Municipal Code, which has been interpreted by the City to limit the number of parcels that may be served by a private easement to three (3). The ordinance currently reads:

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 . . . [emphasis added by Applicant]

The Property is currently served by a private easement that serves two other parcels. The Property currently has two lawful commercial buildings on it, each housing different businesses. Applicant has made application to partition the Property into two parcels, placing each commercial building on a separate lot, with each new lot serviced by the existing private easement for a total of four (4).

This variance is appropriate under applicable criteria because the development and configuration of Applicant's property pre-dates the City's current ordinance and is causing Applicant undue hardship. Applicant's buildings were lawfully constructed in 2005, and each building is lawfully accessed by the private easement. At the time the buildings were constructed, Section 17.53.100(C)(1) of the McMinnville Municipal Code did not restrict use of an easement to only 3 parcels. At that time, Section 24(C)(1) of Ordinance 4471¹ was controlling and read as follows:

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 (e.g., 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 feet in width and shall have a hard surfaced drive of 10 feet width minimum . . . [emphasis added by Applicant]

When Applicant lawfully constructed the two commercial buildings on the Property, the language "(e.g. a total of not more than three (3) parcels including the original may then exist)" was separated as a parenthetical and hypothetical phrase; it was not a mandatory restriction on the use of private easements. The relevant language was taken out of the parenthetical and listed in its current form in 2009 with the adoption of Ordinance 4905. The old Ordinance 4471, which was controlling when Applicant constructed the commercial buildings, supported Applicant's use of the existing easement to access both parcels resulting from the partition proposed above, making a variance appropriate in this case.

¹ A copy of Ordinance 4471 is attached as Exhibit B.

2. What exceptional or extraordinary circumstances apply to the property which do not apply generally to other property in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this ordinance, topography, or other circumstance over which the applicant has no control?

As detailed above, the ordinance from which Applicant seeks a variance did not exist in its current form when Applicant constructed two commercial buildings on the Property. The Property was of such a size to permit the construction of two commercial buildings and Applicant lawfully constructed those buildings with all requisite authority. At the time Applicant constructed the two commercial buildings, the relevant zoning language would not have restricted use of the private easement to three parcels and supported use of the existing easement to serve both parcels resulting from the partition proposed by Applicant. Applicant had no control of the passage of Ordinance 4905, which changed the applicable zoning language to applicant's detriment.

3. What property right would be preserved by granting the variance?

Granting the variance would preserve the right of Applicant to seek a partition that would allow Applicant to own and convey the two separate commercial buildings separately, as was permitted when Applicant constructed them. The imposition of the three-parcel restriction with the passage of Ordinance 4905 took away Applicant's right.

4. What unnecessary hardship would be avoided by granting the variance?

Granting the variance will avoid the hardship of Applicant being forced to leave two lawful commercial buildings on one lawful parcel and will allow Applicant to seek a partition of the Property, as was Applicant's right before imposition of the ordinance from which a variance is sought.

5. Why won't this request be detrimental to the surrounding area?

Granting this variance request will not be detrimental to the surrounding area because it won't change the existing use of the Property. As detailed above, the Property and its two commercial buildings are already accessed by the private easement, so granting the variance will not increase the use of the easement or the Property. Granting the request will simply allow Applicant to seek to partition the Property for the purpose of placing each commercial building on a separate lot.

Allowing a variance to Section 17.53.100(C)(1) would promote the Property's commercial zoning and commercial comprehensive plan by removing an unnecessary access restriction that is preventing the Applicant from placing two lawfully existing commercial buildings on separate lots. This prohibition has the actual effect of restricting otherwise lawful commercial uses because the existing commercial buildings are required to remain on one lot.

6. Please explain how this would be the minimum variance necessary to alleviate the hardship?

This variance is the minimum variance necessary to alleviate Applicant's hardship because no other variance would alleviate the hardship. Other points of access to the subject property, namely from Hill Road, are not feasible and could create hazards to the existing flow of pedestrian traffic on the newly constructed sidewalks. Granting this variance would also allow access to remain in its current configuration without requiring additional access points that could increase/change traffic patterns in the surrounding area, particularly the intersection of Hill Road and 2nd Street.

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.

Maria Collins
Applicants signature

April 14, 2021
Date

Maria Collins
Property Owner's Signature

April 14, 2021
Date

ORDINANCE NO. 4471

An Ordinance amending Ordinance 3702 by supplanting the terms and provisions of said ordinance as adopted in 1981 by Ordinance 4129, by supplanting all subsequent amendments thereto, and declaring an emergency.

The City of McMinnville in 1981 adopted Ordinance 3702 which has been referred to as the land division ordinance. From time to time thereafter, various amendments to this ordinance have been enacted. This ordinance supplants the terms contained in the original land division ordinance and in all of the amendments thereto. It is the desire of the Planning Commission, staff, and the City Council that the number "3702" be continued in existence for reference purposes. However, this 1990 land division ordinance amends and brings up-to-date all of the terms, conditions, and standards pertaining to the creation of subdivisions and is in accordance with Oregon Revised Statutes, McMinnville ordinances, and the goals and policies established in the McMinnville Comprehensive Plan; now therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the City Council adopts the terms and conditions of the land division ordinance which is attached hereto and incorporated herein by this reference as the 1990 version of the City's land division regulations.

Section 2. That the terms and provisions of the land division ordinance as enacted in Ordinance 3702 and subsequently amended are hereby supplanted by the terms contained in the documents attached hereto and incorporated herein by this reference.

Section 3. Because the City's land division ordinance is currently in conflict with ORS Chapter 92 and adoption of this ordinance will resolve those conflicts, an emergency is hereby declared to exist and this ordinance shall be in full force and effect upon its passage by the Council.

Passed by the Council this 22nd day of May, 1990 by the following votes:

Ayes: Hansen, Johnstone, Wilson, Whitehead

Nays: _____

Approved this 22nd day of May, 1990.

Edward J. Formley
MAYOR

Attest:

Coole W. Stevens
RECORDER

McMINNVILLE, OREGON
ORDINANCE NO. 3702

LAND DIVISION

An Ordinance providing land division standards and procedures, providing penalties for the violation thereof, and declaring an emergency.

Section 1. Purpose. The purpose of this ordinance is to establish standards and procedures for the partitioning and subdividing of land in the City. These regulations are necessary to provide uniform procedures and standards for the subdivision and partitioning of land, 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, for securing safety from fire, flood, slides, pollution, drainage or other dangers, for providing adequate light and air, recreation, education, adequate transportation, to promote energy conservation through solar access, to protect in other ways the public health, safety, and welfare, and to promote the goals and policies of the McMinnville Comprehensive Plan.

Section 2. Definitions. As used in this ordinance, unless it is apparent from the context that different meanings are intended, the words and phrases below shall have the following meanings:

- (a) "Abut" To border on a given line, e.g., a given street right-of-way;
- (b) "Building line" A line on a plat indicating the limit beyond which buildings or other structures may not be erected;
- (c) "City" The City of McMinnville, Oregon;
- (d) "McMinnville Comprehensive Plan" A plan developed by the City to implement the statewide planning goals of the Land Conservation and Development Commission, including amendments which may be made from time to time;
- (e) "Dwelling unit" Dwelling unit means one or more rooms designed for occupancy for one family;
- (f) "Easement" A grant of the right to use a strip of land for specific purposes, e.g., utility easement;
- (g) "Family" Family means an individual or two or more persons related by blood, marriage, adoption, or legal guardianship, living together as one housekeeping unit, and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five (5) unrelated persons, excluding servants, living together as one housekeeping unit;
- (h) "Lot" Lot means a unit of land that is created by a subdivision of land;

- (1) "Corner lot" A lot in which at least two (2) adjacent sides abut streets other than alleys;
 - (2) "Through lot" A lot having frontage on two parallel or approximately parallel streets other than alleys. Refer to Section 32, subsection (C), below;
 - (3) "Flag lot" A lot, the main body of which is some distance from the street, which is connected to the street and takes access from the street via a narrow (usually 25 feet in width) strip of land. Also known as panhandle lots.
- (i) "Major partition" Major Partition means a partition which includes the creation of a road or street;
 - (j) "Minor partition" Minor partition means a partition that does not include the creation of a road or street;
 - (k) "Parcel" Parcel means a unit of land that is created by a partitioning of land;
 - (l) "Partition" Partition means either an act of partitioning land or an area or tract of land partitioned as defined in this section;
 - (m) "Partition land" means to divide land into two or three parcels of land within a calendar year, but does not include:
 - (1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; or
 - (2) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance; or
 - (3) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213(2)(q) to (s) and 215.283(2)(p) to (r).
 - (n) "Partition plat" includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a major or minor partition;
 - (o) "Pedestrian way" A right-of-way for pedestrians and/or bicyclists traffic;

- (p) "Person" An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof;
- (q) "Planning Commission" The Planning Commission of the City;
- (r) "Plat" includes a final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision plat, replat or partition plat;
- (s) "Replat" includes a final map of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the descriptions, location, specifications, dedications and provisions and information concerning a recorded subdivision;
- (t) "Right-of-way" The area between boundary lines of a street or other easement;
- (u) "Road or street" Road or street means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes, and further, that the width of a street or road shall be as set forth in Section 24, subsection (c) or (d), and Section 30, subsection (b) of this ordinance; or as approved by the Planning Commission and the City Council under the provisions of a planned development.
 - (1) "Alley" A narrow street through a block primarily for access by service vehicles to the back or side of properties fronting on another street;
 - (2) "Arterial" A major arterial - Regional routes linking major population centers. They are designed mainly for through-traffic but also normally perform a secondary land service function. A minor arterial - Streets that serve to connect different sections of the City. They are designed for through-traffic and land service functions;
 - (3) "Collectors" Major or minor streets that serve as the main routes within neighborhoods. They are designed to connect local streets and abutting properties or arterials;
 - (4) "Cul-de-sac (dead-end street)" A short street with one end open to traffic and the other terminated by a vehicle turn-around;

- (5) "Half street" A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision;
- (6) "Frontage road" A service road parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic;
- (7) "Local streets" (Includes cul-de-sacs and all other streets.) Streets that serve primarily to provide direct access to adjacent properties. Through traffic is discouraged.
- (v) "Sidewalk" A pedestrian walkway with permanent surfacing;
- (w) "Subdivide land" Subdivide land means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year;
- (x) "Subdivision" Subdivision means either an act of subdividing land or an area or tract of land subdivided as defined in this section;
- (y) "Subdivision plat" includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

Section 3. Scope of Regulations. Subdivision plats and streets or ways created for the purpose of partitioning land shall be approved and accepted by the Planning Commission or Planning Director, as appropriate, in accordance with these regulations. A person desiring to subdivide land, to make a major or minor partition of land, or to sell any portion not the whole of a parcel of land shall submit tentative plans and final documents for approval as provided in this ordinance and state law. The applicant shall meet all of the requirements set forth in ORS, Chapters 92 and 227.

Section 4. Fees.

- (a) For all applications concerning a major partition a minor partition, or subdivision, a fee as established by the official City fee schedule shall be charged for a review and investigation of the proposed plat.
- (b) A fee as established by official City fee schedule and in no case less than allowed by ORS 92.100(2) shall be charged for the review of a final plat by the city surveyor as required by this ordinance. In the event a final plat must be reviewed again because of error in the original documents as submitted by the applicant, the city surveyor shall charge an additional fee as established in the fee schedule.

Section 5. Planned Development. The subdivision of land in accordance with the planned development section of the City of McMinnville Ordinance No. 3380 may result in the terms and requirements of this ordinance being waived, altered, or otherwise changed as determined by action of the Planning Commission and approval by the Common Council.

Tentative Subdivision Plan

Section 6. Submission of Tentative Subdivision Plan. A subdivider shall prepare a tentative plan together with improvement plans and other supplementary material required to indicate his general program and objectives, and shall submit twenty-two (22) copies of the tentative plan and supplementary data to the Planning Director's office at least forty (40) days prior to the Planning Commission meeting at which consideration of the plan is desired (see Section 15). The tentative plan need not be a finished drawing, but shall show pertinent information to scale in order that the Planning Commission may properly review the proposed development.

Section 7. Scale. The tentative plan shall be drawn on a sheet eighteen (18) by twenty-four (24) inches in size at a scale of one inch equals 100 feet, or a reasonable engineer's scale for the sheet size.

Section 8. General Information. The following general information shall be shown on the tentative plan:

- (a) Proposed name of subdivision. No plan of a subdivision shall be approved which bears a name which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the contiguous subdivision plat of the same name last filed;
- (b) Date, north point, and scale of drawing;
- (c) Appropriate identification clearly stating the plan is a tentative plan;
- (d) Location of the subdivision sufficient to define the location and boundaries of the proposed tract;
- (e) Names and addresses of the owner(s), subdivider, engineer, and surveyor;
- (f) In the event the subdivider plans to utilize the provisions of ORS 92.060 as pertains to "Post Monumentation" he shall notify the city surveyor and Planning Commission and report said fact on the tentative plan;

- (g) A subdivision guarantee report issued by a title insurance company in the name of the owner(s) of the land, showing all parties whose consent is necessary and their interest in the premises and all encumbrances, covenants and other restrictions pertaining to the subject property.

Section 9. Existing Conditions. The following existing conditions shall be shown on the tentative plan:

- (a) The location, widths, and names of both opened and unopened streets within or adjacent to the tract, together with easements and other important features, such as section lines, city boundary lines, and monuments;
- (b) The direction of slope by means of arrows or other suitable symbol;
- (c) The location of at least one temporary bench mark, on established city datum, within 200 feet of the plat boundaries;
- (d) The location and direction of water courses, and the location of areas subject to flooding on a probability frequency of ten (10) percent or greater;
- (e) Natural features such as rock outcroppings, marshes, wooded areas, and isolated preservable trees. Areas noted in the Comprehensive Plan, Volume I Background Element, Chapter VII, Parks and Recreation and Open Space Sections, as potential open space lands should be identified;
- (f) Existing uses of the property, including location of existing structures to remain on the property after platting.

Section 10. Proposed Plan of Subdivision. The following information shall be included on the tentative plan:

- (a) The location, width, names, approximate grades, and radii of curves of streets. The relationship of streets to any existing streets and to any projected streets as shown on the McMinnville Comprehensive Plan Map 1980, as amended, or as identified in the McMinnville Comprehensive Plan text, or as may be suggested by the Planning Commission in order to assure adequate traffic circulation;
- (b) The location, width, and purpose of easements;
- (c) The location and approximate dimensions of lots and the proposed lot and block numbers;
- (d) Sites, if any, allocated for purposes other than single-family dwellings, such as multiple-family dwelling, parkland, open space, common areas, etc.

Section 11. Partial Development. If the tentative subdivision plan pertains to only part of the tract owned or controlled by the subdivider, the Planning Commission may require a sketch of a tentative layout for streets in the unsubdivided portion. Refer to Section 24 below.

Section 12. Explanatory Information with Tentative Subdivision Plan. The following information shall be required by the Planning Commission or staff, and if it cannot be shown practicably on the tentative plan, it shall be submitted in separate statements accompanying the tentative plan.

- (a) A vicinity plan, showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision, and showing how proposed streets and utilities may be extended to connect to existing streets and utilities.
- (b) Proposed deed restrictions, if any, in outline form.
- (c) The location of existing sewers, water mains, culverts, drain pipes, and electric lines and elevations of sewers at points of probable connections within the subdivision and in the adjoining streets and property.
- (d) Special studies of areas which appear to be hazardous due to local conditions such as inundation or slippage.
- (e) Contour lines related to an established bench mark on city datum, and having minimum intervals as follows:
 - (1) For slopes of less than five (5) percent: show the direction of slope by means of arrows or other suitable symbol together with not less than four (4) spot elevations per acre, evenly distributed;
 - (2) For slopes of five (5) percent to fifteen (15) percent: Five (5) feet;
 - (3) For slopes of fifteen (15) percent to twenty (20) percent: ten (10) feet;
 - (4) For slopes of over twenty (20) percent: twenty (20) feet.

Section 13. Supplemental Plans with Tentative Subdivision Plans. Any of the following plans may be required by the Planning Commission or staff to supplement the plan of subdivision.

- (a) Approximate center line and right-of-way profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of the streets and the nature and extent of street construction. Where any cut or fill will exceed three (3) feet in depth, cross section of the road shall also be submitted.

- (b) Proposals for storm water drainage and flood control, including profiles of proposed drainage ways.
- (c) If lot areas are to be graded, a plan showing the nature of cuts and fills exceeding five (5) feet, and information on the character of the soil.

Section 14. Preliminary Review of Tentative Subdivision Plan. Upon receipt, the city surveyor shall distribute copies to appropriate officials and agencies designated by the city. In addition, coordination of the tentative plan should be made with affected counties, state, federal agencies, and all affected special districts. These officials and agencies shall be given a reasonable time to review the plan and to suggest any revisions that appear to be indicated in the public interest. The Planning Commission shall conduct a public hearing on the proposed subdivision and give notice as required in Section 15.

Section 15. Preliminary Approval of Tentative Subdivision Plan.

- (a) It shall be the responsibility of the Engineering Department and Planning Department to review a tentative plan to insure that it substantially conforms to the requirements of this ordinance prior to the submittal of the plan to the Commission. The Planning Director may refuse to submit a tentative plan to the Commission if it is found that it does not substantially conform to the ordinance requirements. All decisions of the Planning Director may be appealed to the Planning Commission.
- (b) Upon finding that a tentative plan substantially conforms to the requirements of this ordinance, the Planning Director shall submit the plan along with the reports of appropriate officials and agencies to the Commission for review at their earliest practicable meeting.
- (c) The Planning Commission shall hold at least one public hearing on an application for tentative plan approval.
 - (1) Notice of the public hearing shall be published in a newspaper of general circulation in the City not less than 5 days nor more than 15 days prior to the date of hearing.
 - (2) Written notice of the public hearing shall be mailed to all owners of property within 300 feet of the exterior boundary of the property for which the approval has been requested. Notice shall be mailed not fewer than 20 nor more than 30 days prior to the date of the hearing.
 - (3) Public hearings shall be conducted as per the requirements of McMinnville Ordinance No. 3682, as amended.

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- (4) Any public hearing may be continued to a specific date by oral pronouncement prior to the close of such hearing and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.
 - (5) A decision of the Commission shall become final 15 days after the date it is made provided that an appeal is not filed. For appeals procedures, see Section 44.
 - (d) Approval of the tentative plan shall indicate approval for preparation of the of the final plat if there is no substantial change in the plan of the subdivision and if the subdivider complies with the requirements of this ordinance.
 - (e) The action of the Planning Commission shall be noted on two copies of the tentative plan, including reference to any attached documents describing conditions. One copy shall be returned to the applicant, and the other shall be retained by the City of McMinnville.

Final Subdivision Plat

Section 16. Submission of Final Plat. Within twelve (12) months after approval of the tentative plan, the subdivider shall prepare a final plat in conformance with the tentative plan as approved. The subdivider shall submit the original drawing and two exact copies and any supplementary information to the city surveyor. If the subdivider wishes to proceed with the subdivision after the expiration of the twelve (12) months' period following approval of the tentative plan by the Planning Commission, he must resubmit his tentative plan to the Planning Commission and make any revisions considered necessary to meet changed conditions.

Section 17. Information on Final Plat. In addition to that specified by ORS 92.050 and ORS 209.250, the following information shall be shown on the final plat and/or complied with:

- (a) The date, scale, north point, legend, controlling topography such as bluffs, creeks, and other bodies of water, and existing cultural features such as highways and railroads;
- (b) Legal description of the tract boundaries;
- (c) Name of the owner, subdivider, and surveyor;
- (d) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
 - (1) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;

- (2) Adjoining lot corners of adjoining subdivisions;
 - (3) O.R.S. 93.360, Oregon Coordinate System;
 - (4) Error of closure throughout the subdivision shall not exceed one foot in 10,000 feet;
 - (5) Measurement error shall not exceed 0.10 of a foot between monuments, or 1/5,000 of distance shown on the subdivision plat, whichever is greater.
 - (6) Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this ordinance.
- (e) The exact location, deflection angle, and width of streets and easements intercepting the boundary of the tract. The width of the portion of streets being dedicated and the width of existing right-of-way. For streets on curvature, curve data shall be based on the street center line. In addition to showing bearings in degrees, minutes, and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision either on the face of the map or in a separate table:
1. Arc length;
 2. Chord length;
 3. Chord bearing;
 4. Radius; and
 5. Central angle.
- (f) Tract, block, and lot boundary lines and street right-of-way and center lines, with dimensions, bearing and deflection angles, radii, arcs, points of curvature, and tangent bearings. Floodplain and normal high water lines for any creek, or other body of water. Tract boundaries and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used;
- (g) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication;
- (h) Lot numbers beginning with the number "1" and numbered consecutively in each block. Paired lots shall be identified as such, e.g., 1A and 1B;

- (i) Area of each lot shall be shown on the face of the plat, with acreage calculated to 1/100 acre or square footage to nearest square foot, when area is less than one acre.
- (j) Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision;
- (k) Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale;
- (l) The following certificates which may be combined where appropriate;
 - (1) A certificate signed and acknowledged by all parties having any recorded title or interest in the land, consenting to the preparation and recording of the plat;
 - (2) A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for public use except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants, and servants;
 - (3) A certificate with the seal of the surveyor responsible for the survey and final map;
 - (4) Other certifications, deed restrictions or covenants as now or hereafter may be required by law.
- (m) A statement of water right, if appropriate, and, if a water right is appurtenant, a copy of the acknowledgement from the Water Resources Department must be attached before the County recording officer may accept the plat of the subdivision for recording (ORS 92.120).

Section 18. Supplementary Information with Final Subdivision Plat. The following data shall accompany the final plat:

- (a) An amended subdivision guarantee report issued by a title insurance company in the name of the owner(s) of the land, showing all parties whose consent is necessary and their interest in the premises;
- (b) Sheets and drawings showing the following:

- (1) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any, prior to adjustment;
 - (2) The computation of all distances, angles, and courses shown on the final map;
 - (3) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, state highway stationing, and Oregon Coordinate System;
- (c) A copy of any deed restrictions applicable to the subdivision;
 - (d) A copy of any dedication requiring separate documents;
 - (e) Written proof that all taxes and assessments which have become a lien on the tract are paid;
 - (f) A certificate by the City Engineer that the subdivider has complied with the requirements of Sections 20 and 21.

Section 19. Technical Review.

- (a) Upon receipt of the final plat and accompanying data, the City Surveyor shall review the final plat and documents to determine that the plat conforms with the approved tentative plan, and that there has been compliance with provisions of the law and of this ordinance.
- (b) The City Surveyor shall examine the plat for compliance with requirements for accuracy and completeness and shall collect such fees as are provided by this ordinance. He shall make checks in the field to verify that the plat is sufficiently correct on the ground, and he may enter the property for this purpose. If he determines that there has not been full conformity, he shall advise the subdivider of the changes or additions that must be made, and afford the subdivider an opportunity to make such changes or additions.
- (c) If the City Surveyor determines that full conformity has been made, he shall so certify.

Section 20. Agreement for Improvements. Before Planning Commission approval is certified on the final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision; or execute and file with the City an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed. The agreement shall provide that if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense thereof

from the subdivider. The agreement may provide for the construction of the improvements in units and for an extension of time under specified conditions.

Section 21. Bond.

- (a) The subdivider will be required to file with the agreement for improvement as required in Section 20 above, to assure his full and faithful performance thereof, one of the following:
- (1) A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney;
 - (2) File with the City a copy of instructions to a qualified escrow agent, providing that said agent shall withhold any amounts due or to become due to the subdivider in amount sufficient to cover the cost of all public improvements to be completed or installed by the subdivider, in a form approved by the City Attorney;
 - (3) Cash.
 - (4) Letter of credit or loan commitment in a form approved by the City Attorney.
- (b) Such assurance of full and faithful performance shall be for a sum determined by the City Engineer as sufficient to cover the cost of the improvements and repairs, including related city expenses.
- (c) If the subdivider fails to carry out provisions of the agreement and the City has unreimbursed costs or expense resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for the difference.

Section 22. Approval of Final Subdivision Plat. If the City Surveyor determines that the final plat conforms fully with all applicable regulations and standards, the City Surveyor shall so advise the chairman of the Planning Commission. If the final plat is not in full conformance, it shall be submitted to the Planning Commission. If the final plat is referred to the chairman of the Planning Commission, the chairman may elect either to sign the plat or submit it to the Planning Commission for further review. When submitted to the Planning Commission for review, approval of the final plat shall be by a majority of those present. If the plat is signed without further review by the Planning Commission, the action shall be reported to the Planning Commission at the next regular meeting. In the absence of the chairman, his duties and powers with respect to action on final plats shall be vested in the vice-chairman.

Section 23. Filing of Final Subdivision Plat. The subdivider shall, without delay, submit the final plat for signatures of other public officials required by law, e.g., County Commissioners, County Assessor, County Clerk, and Tax Collector. Approval of the final plat shall be null and void if the plat is not recorded within thirty (30) days after the date of the last required signature has been obtained.

Approval of Streets and Ways

Section 24. Creation of Streets.

- (a) The creation of streets shall be in conformance with requirements for subdivision except, however, the Planning Commission shall recommend the creation of a street to be established by deed if any of the following conditions exist:
- (1) The establishment of the street is initiated by the City Council and is declared essential for the purpose of general traffic circulation, and the partitioning of land is an incidental effect rather than the primary objective of the street;
 - (2) The tract in which the street is to be dedicated is an isolated ownership of one acre or less;
 - (3) The tract in which the street is to be dedicated is an isolated ownership of such size and condition as to make it impractical to develop more than three (3) lots;
- (b) In those cases where approval of a street is to be established by deed, a copy of the proposed deed shall be submitted to the City Engineer at least fifteen (15) days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Sections 25 to 30 of these regulations, shall be recommended for approval with such conditions as are necessary to preserve these standards;
- (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 (e.g., 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 feet in width and shall have a hard surfaced drive of 10 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 minor partition if the alternative is the creation of a flag lot.
- (d) A private way/drive which is created to allow the subdivision of land shall be in the form of common ownership, provide on-street parking or parking bays to replace that displaced by limited parking area, be approved by the Planning Commission in the form of a planned development, and meet the following conditions:
- (1) If it is the only reasonable method by which the rear portion of the existing parcel can be provided with access, or because of unusual topography, vegetative cover (preservable trees), lot size, or shape, it is the most feasible way to develop the parcel,
 - (2) The Planning Commission shall require the subdivider to provide the improvements to standards as set forth in Section 30(p) and maintenance of said private way/drive; and to establish binding conditions upon each parcel taking access over said private way/drive, not limited to only the required maintenance but to include adherence to the limited parking restrictions imposed by the individual planned development ordinance; and to provide necessary easements for the installation, operation, and maintenance of public utilities.
 - (3) Provisions must be made to assure that the private streets will be properly maintained over time and that new purchasers of homes or lots within the subdivision are notified, prior to purchase, that the street is private, and that maintenance fees may be charged. Such provisions must meet with the approval of the Planning Commission.
 - (4) Street sign posts on private streets must contain a sign stating that the street is private. The design and location of such signs must be approved by the City Engineer.

Tentative Minor Partition Plan

Section 25. Submission of Tentative Minor Partition Plan. Land partitioning other than major partition or subdivision shall be approved under the following procedure:

- (a) There shall be submitted to the Planning Director a tentative plan with sufficient information to show the following:
 - (1) The date, north point, scale, and a copy of recorded deed and any conveyed rights to define the location and boundaries of the parcel to be partitioned;
 - (2) Name and address of the recorded owner(s);
 - (3) Approximate acreage 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 minor 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) Lot layout showing size and relationship to existing or proposed streets and utility easements;
 - (7) Such additional information as required by the Planning Director.

- (b) The plans shall be submitted to the Planning Director for review and determination that the proposal will be compatible with the comprehensive development plan. 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 two 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.

Section 26. Preliminary Approval of Tentative Minor Partition Plan.

- (a) It shall be the responsibility of the Engineering Department and Planning Department to review a tentative plan to insure that it substantially conforms to the requirements of this ordinance. The Planning Director may reject a tentative plan if it is found that it does not substantially conform to the ordinance requirements. All decisions of the Planning Director may be appealed to the Planning Commission.
- (b) Approval of the tentative plan shall indicate approval for preparation of the of the final plat if there is no substantial change in the plan of minor partition and if the subdivider complies with the requirements of this ordinance.
- (c) The action of the Planning Director shall be noted on two copies of the tentative plan, including reference to any attached documents describing conditions. One copy shall be returned to the applicant, and the other shall be retained by the City of McMinnville.

Final Minor Partition Plat

Section 27. Submission of Final Minor Partition Plat. Within twelve (12) months after approval of the tentative plan, the subdivider shall prepare a final plat in conformance with the tentative plan as approved. The subdivider shall submit the original drawing and two exact copies thereof, and any supplementary information to the city surveyor. If the subdivider wishes to proceed with the minor partition after the expiration of the twelve (12) months' period following approval of the tentative plan by the Planning Director, he must resubmit his tentative plan to the Planning Director and make any revisions considered necessary to meet changed conditions.

Section 28. Filing of Final Minor Partition Plat. The subdivider shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within thirty (30) days after the date of the last required signature has been obtained.

Major Partitions

Section 29. Major Partitioning Procedure for Approval. Major partitioning shall be approved under the procedures outlined in this ordinance for subdivision approval. These include:

- (a) Submission of Tentative Major Partition Plans. See Section 6.
- (b) Scale. See Section 7.
- (c) General Information. See Section 8.
- (d) Existing Conditions. See Section 9.

- (e) Proposed Plan of Major Partition. See Section 10.
- (f) Partial Development. See Section 11.
- (g) Explanatory Information with Major Partition Plan. See Section 12.
- (h) Supplemental Plans with Major Partition Plans. See Section 13.
- (i) Preliminary Review of Tentative Major Partition Plans. See Section 14.
- (j) Preliminary Approval of Tentative Major Partition Plans. See Section 15.
- (k) Submission of Major Partition Final Plat. See Section 16.
- (l) Information on Final Plat. See Section 17.
- (m) Supplementary Information with Final Major Partition Plat. See Section 18.
- (n) Technical Review. See Section 19.
- (o) Agreement for Improvements. See Section 20.
- (p) Bond. See Section 21.
- (q) Approval of Final Major Partition Plat. See Section 22.
- (r) Filing of Final Major Partition Plat. See Section 23.

Section 30. 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) Minimum right-of-way and roadway widths. The width of rights-of-way and roadways shall be adequate to fulfill city specifications as provided in Section 38 of this ordinance, and, unless otherwise indicated on a comprehensive plan or otherwise varied through the planned development process, shall not be less than the minimum widths in feet shown in the following table:

<u>Type of Street</u>	<u>Minimum Right of Way^a</u>	<u>Minimum Roadway</u>
Major arterials	100	Varies ^b
Minor arterials	60	Varies ^b
Collector street and continuous residential and industrial/commercial	60	36 ^c
Discontinuous local streets not extending over 1,800' in length	50	34 ^c
Eyebrows shall have a maximum length of 125', serving no more than 3 dwelling units	50	36
Radius for turn-around at end of residential cul-de-sac	50	40 ^d
Radius for end of eyebrow	25	18
Alley	20	20

- a. Exclusive of side slope easement which may be required in addition for cuts and fills in rough terrain.
- b. Width standards will be defined in improvement specifications adopted by the city.
- c. The minimum roadway width may be varied by the action of the Council taking into consideration the unique characteristics of the land, to include geography, topography, and its relation to land developments already present in the area.
- d. The turnaround radius of commercial/industrial streets will be dependent upon the types of vehicle traffic to be served.

Where existing conditions, such as the topography or the size or shape of land parcels, make it otherwise impractical to provide buildable lots, the Planning Commission may accept a narrower right-of-way, ordinarily not less than fifty (50) feet. If necessary, special slope easements may be required;

- (c) Reserve strips. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the Planning Commission under conditions approved by them;
- (d) Alignment. As far as practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet;
- (e) Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision; and the resulting dead-end streets may be approved without a turn-around. Reserve strips and street plugs may be required to preserve the objectives of street extensions;
- (f) Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than sixty (60) degrees unless there is a special intersection design. The intersection of an arterial or collector street with another street shall have at least 100 feet of tangent, measured from right-of-way adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty (50) feet of tangent measured from property line adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than eighty (80) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of twenty (20) feet and maintain a uniform width between the roadway and the right-of-way line;
- (g) Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision;

- (h) Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets;
- (i) Cul-de-sacs. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve no more than eighteen (18) dwelling units. A cul-de-sac shall terminate with a turn-around;
- (j) Street names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the city; street names shall be subject to the approval of the Planning Commission;
- (k) Grades and curves. Grades shall not exceed six (6) percent on arterials, ten (10) percent on collector streets, or twelve (12) percent on any other street. Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other street, and shall be to an even ten (10) feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept steeper grades and sharper curves;
- (l) Streets adjacent to a railroad right-of-way. Wherever the subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel with and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation, and to provide sufficient depth to allow screen planting along the railroad right-of-way;
- (m) Frontage roads/streets. Where a subdivision or partition abuts or contains an existing or proposed arterial street, the Planning Commission may require frontage streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property lines, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic;
- (n) Alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-

street parking and loading facilities are approved by the Planning Commission;

- (o) Eyebrows. Where conditions do not warrant the use of cul-de-sacs and the land available in the proposed plan does not allow for a discontinuous minor street extension and where there are no more than three (3) dwelling units proposed to take access, the City Engineer may allow eyebrows. Eyebrows shall be limited to a maximum length of 100 feet, when measured from the main street right-of-way with which it takes access. The City Engineer may allow less than that required in (d) above, after taking into consideration the effects upon traffic flows. The right-of-way width shall be no less than thirty-six (36) feet, curb to curb, with an eighteen foot radius at the terminus;
- (p) Private way/drive. This type of street will be allowed when the conditions of Section 24(d) are met. A private drive shall be constructed to the same structural standards that would apply to a public street. Storm runoff will be controlled to prevent damage to adjacent properties. A storm drainage plan shall be approved by the City Engineer. The right-of-way width will be determined based on site conditions and proposed use and will be approved by the Planning Commission.
- (q) Bikeways. Provisions shall be made for bikeways planned along arterial and collector streets and where shown on the Bikeway Master Plan. Arterial streets shall be designed to be wide enough to accommodate a five-foot wide bike land adjacent to each outside traffic lane. Collector streets shall be designed so that bike lanes may be striped in the future. Where a proposed development abuts a collector street less than 44 feet in width, the Planning Commission may require that on-street parking be restricted to one side of the street only or that the deed(s) of the lot(s) adjacent to the street show that on-street parking will be eliminated in the future for bikeway development.

Section 31. Blocks.

- (a) General. The length, width, and shape of blocks shall take into account the need for adequate lot size and street width and shall recognize the limitations of the topography.
- (b) Size. No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street, or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.
- (c) Easements.
 - (1) Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever

necessary. The easements shall be at least ten (10) feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six (6) feet in width. Easements of ten (10) feet in width shall be required along all fifty (50) foot rights-of-way, and five (5) feet in width shall be required along all sixty (60) foot rights-of-way.

- (2) Water courses. If a subdivision is traversed by water courses such as a drainage way, channel, or stream, there shall be provided a storm unit easement or drainage right-of-way conforming substantially with the lines of the water course and of such width as will be adequate for the purpose, unless the water course is diverted, channelled or piped in accordance with plans approved by the City Engineer's office. Streets or parkways parallel to major water courses may be required.
- (3) Pedestrian ways. When desirable for public convenience, safety, or travel, pedestrian ways not less than ten (10) feet in width may be required to connect to cul-de-sacs, to pass through unusually long or oddly shaped blocks, to connect to recreation or public areas such as schools, or to connect to existing or proposed pedestrian ways.

Section 32. Lots.

- (a) Size and shape. Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. All lots in a subdivision shall be buildable.
 - (1) Lot size shall conform to the zoning requirement of the area. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use contemplated. The depth of lots shall not ordinarily exceed two times the average width.
- (b) Access. Each lot shall abut upon a street other than an alley for a width of at least twenty-five (25) feet except those lots approved and created under the provisions of Section 24(c) above. Direct access onto a major collector or arterial streets designated on the McMinnville Comprehensive Plan Map shall be avoided for all lots subdivided for single-family, common wall or duplex residential use, unless no other access point is practical.
- (c) Through lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten (10) feet wide, and across

which there shall be no right of access may be required along the line of lots abutting such a traffic artery or other incompatible use.

- (d) Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.
- (e) Flag lots. The creation of flag lots shall be discouraged and allowed only when it is the only reasonable method of providing access to the rear of a lot which is large enough to warrant partitioning or subdividing.

Section 33. Lot Grading. Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards.

- (a) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- (b) Fill slopes shall not exceed two feet horizontally to one foot vertically.
- (c) The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.
- (d) The minimum elevation at which a structure may be erected, taking into consideration the topography of the lot, the surrounding area, drainage patterns, and other pertinent data shall be established by the City Building Official.
- (e) The City Engineer shall determine whether a storm drainage system is necessary to control, manage, and dispose of water lying on or running over a subdivision. In addition, the subdivider shall be required to meet other standards and conditions imposed by state laws and city ordinances.

Section 34. Building lines. If special building setback lines are to be established in the subdivision or partition, they shall be shown on the plat or included in the deed restrictions.

Section 35. Large Lot Subdivision. In subdividing tracts into large lots which at some future time are likely to be resubdivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into lots, and contain such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of smaller size.

Section 36. Left-over Land. Islands, strips, or parcel of property unsuited for subdividing and not accepted by the City for appropriate use shall not be left unsubdivided but shall be identified as required in Section 17(k) above.

Improvements

Section 37. Improvement Procedures. In addition to other requirements, improvements shall conform to the requirements of this ordinance and improvement standards or specifications adopted by the City, and shall be installed in accordance with the following procedure:

- (a) Work shall not be commenced until plans have been reviewed for adequacy and approved by the City. To the extent necessary for evaluation of the subdivision proposal, the plans shall be required before approval of the final plat. All plans shall be prepared in accordance with requirements of the City;
- (b) Work shall not be commenced until the City has been notified in advance, and if work has been discontinued for any reason it shall not be resumed until the City has been notified;
- (c) Required improvements shall be inspected by and constructed to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such change in the public interest;
- (d) Underground utilities, sanitary sewers and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to lengths that will avoid the need to disturb street improvements and utilities when service connections are made;
- (e) Plans showing public improvements as built shall be filed with the City Engineer within 30 days after acceptance of the improvements by the Engineer.

Section 38. Specifications for Improvements. The City Engineer has submitted and the City Council has adopted the standard specifications for public works construction, Oregon Chapter A.P.W.A. and has included those special provisions that are, by their very nature, applicable to the City of McMinnville. The specifications cover the following:

- (a) Streets including related improvements such as curbs and gutters, shoulders, and median strips, and including suitable provisions for necessary slope easements;
- (b) Drainage facilities;
- (c) Sidewalks in pedestrian ways;
- (d) Sewers and sewage disposal facilities.

Section 39. Improvement Requirements. The following improvements shall be installed at the expense of the subdivider:

- (a) Water supply system. All lots within a subdivision shall be served by the City water supply system;
- (b) Electrical system. All lots within a subdivision shall be served by the City electrical system;
- (c) Sewer system. All lots within a subdivision shall be served by the City sewer system;
- (d) Drainage. Such grading shall be performed and drainage facilities installed conforming to City specifications as are necessary to provide proper drainage within the subdivision and other affected areas in order to assure healthful, convenient conditions for the residents of the subdivision and for the general public. Drainage facilities in the subdivision shall be connected to drainage ways or storm sewers outside the subdivision. Dikes and pumping systems shall be installed, if necessary, to protect the subdivision against flooding or other inundations;
- (e) Streets. The subdivider shall grade and improve streets in the subdivision, and the extension of such streets to the paving line of existing streets with which such streets intersect, in conformance with City specifications. Street improvements shall include related improvements such as curbs, intersection sidewalk aprons, street signs, gutters, shoulders, and median strips to the extent these are required;
- (f) Pedestrian ways. A paved sidewalk not less than five (5) feet wide shall be installed in the center of pedestrian ways;
- (g) Private way/drive. The subdivider shall grade and improve to conform with City specifications in terms of structural standards.

Exceptions, Variances, and Enforcement

Section 40. Exceptions in Case of Large Scale Development. The Planning Commission may modify the standards and requirements of this ordinance if the subdivision plat comprises a planned development unit, a large-scale shopping center, or a planned industrial area. The Planning Commission shall determine that such modifications are not detrimental to the public health, safety, and welfare, and that adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest.

Section 41. Exceptions in the Case of Hillside Development. The Planning Commission may modify the standards and requirements of this ordinance if the subdivision is located on land of twenty (20) percent or greater slope. To minimize disturbance of the existing grade and to take advantage of natural building sites, modification may concern alignment width and improvement of streets and building site locations. If modification involves the creation of some lots of less than the minimum area, the average area of lots

in the subdivision shall equal the density established for the area under the zoning in effect.

Section 42. Variance Application. When necessary, the Commission may authorize conditional variances to the requirements of this ordinance. The Commission shall hold at least one public hearing on a variance application. Procedures for the public hearing shall be the same as those described in Section 15(c) (1, 2, 3, 4, & 5). Public hearings for variances may be held simultaneously with tentative plan hearings when the same property is affected. Applications shall be made on forms provided by the Planning Department. Before a variance may be granted, the Commission shall first determine that the following circumstances substantially exist:

- (a) That there are special conditions affecting the property that are not common to all property in the area;
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and extraordinary hardship would result from strict compliance with these regulations because of the special circumstances or conditions affecting the property;
- (c) That the variance complies with the spirit and intent of these regulations and will not be detrimental to the public health, safety, or welfare or injurious to other property in the vicinity;
- (d) The variance requested is the minimum variance which would alleviate the hardship.

Section 43. Failure to Receive Notice - Not to Impair Hearing. For the purposes of giving notice to affected parties, the names and addresses of owners as shown on the records of the County Assessor may be used. Failure of a person or persons to receive notice as prescribed in this article shall not impair the validity of the hearing.

Section 44. Enforcement. The administration and enforcement of this subdivision ordinance shall reside with the City Engineer and the City Planning Director.

Section 45. Appeal from Ruling of Commission. An action or ruling of the Commission pursuant to this title may be appealed to the Council within fifteen days after the Commission has rendered its decision. Written notice of the appeal shall be filed with the City Recorder and shall set forth in detail the basis for and issues raised in the appeal. If the appeal is not taken within the fifteen day period, the decision of the Commission shall be final. If the appeal is filed, the Council shall receive a report and recommendation thereon from the Commission and shall hold a public hearing on the appeal. Notice of a Council hearing on an appeal of a decision of the Commission shall take the form of that provided for in the initial application before the Commission.

- (a) The City Council shall hold a hearing on the appeal within forty (40) days from the time the appeal is filed. The Council may continue the hearing for good cause. Following the hearing, the Council may overrule or modify the decision or requirement made by the Planning Commission if the decision of the Council complies with the spirit and intent of the ordinance. The disposition of the appeal shall be final.

Section 46. Severability. If any provision of this ordinance shall for any reason be judged invalid or unconstitutional, the judgment shall not affect the validity of the rest of the ordinance.

Section 47. Violation - Procedure - Penalty.

- (a) A uniform complaint, or citation to appear, may be issued to the owner or developer of property being used in violation of this ordinance, requiring said owner or occupier to appear in court regarding a violation of the subdivision ordinance.
- (b) A trial shall be heard before the judge without a jury. No appeal from the decision may be taken. The standard of proof required shall be by a preponderance of the evidence.
- (c) A person convicted of violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500) for each offense.
- (d) A violation of this ordinance shall be considered a separate offense for each day that the violation continues.
- (e) In the event the owner/developer fails to pay any fine imposed upon conviction of a violation, the court may issue a Show Cause Order to the individual so charged and require his presence in court to set forth the reasons for said failure to pay. If good and sufficient reasons do not exist, the court may request the Council to adopt an ordinance making the amount a lien against the property.

LETTERS SENT TO ALL BELOW THROUGH 10/20/01

Attn:	Mailing Address	City	State	Zip
	1685 NW EMERSON CT	MCMINNVILLE	OR	97128
	2155 NW 2ND ST	MCMINNVILLE	OR	97128
	243 E SCOTT DR	SHELTON	WA	98584
	2163 NW 2ND ST	MCMINNVILLE	OR	97128
	2194 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
	2186 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
HANES VICTORIA TRUSTEE	2168 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
MARCOULLIER CHARLES D	2162 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
SNYDER BEVERLY A	2148 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
LUTZ GLORIA J REVOCABLE LIVING TRUST	2140 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
	2124 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
	PO BOX 452	CARLTON	OR	97111
	14190 SW BARROWS RD #4	PORTLAND	OR	97223
	115 SW WESTVALE ST	MCMINNVILLE	OR	97128
	2264 MCGILCHRIST ST SE SUITE 210	SALEM	OR	97302
PLANNING DEPARTMENT	231 NE 5TH ST	MCMINNVILLE	OR	97128

Letters sent to all below postmarked
March 13, 2021

Map No	Tax Lot	Site Address	Owner
1	R4419AC00500	2177 NW 2ND ST	BITTERROOT LLC
2	R4419AC00501		MCMINNVILLE COVENANT CHURCH
3	R4419AC00502	2191 NW 2ND ST	N COLLINS PROPERTY LLC
4	R4419AC00503	2163 NW 2ND ST	RST DEVELOPMENT LLC
5	R4419AC00600	2194 NW WILLAMETTE DR	BARON LINDA
6	R4419AC00700	2186 NW WILLAMETTE DR	WINBOLT CALVIN
7	R4419AC00800	2168 NW WILLAMETTE DR	HANES DENNIS M SR TRUSTEE
8	R4419AC00900	2162 NW WILLAMETTE DR	MARCOULLIER MONIQUE T
9	R4419AC01000	2148 NW WILLAMETTE DR	SNYDER EDWIN E
10	R4419AC01100	2140 NW WILLAMETTE DR	LUTZ GLORIA J TRUSTEE FOR
11	R4419AC01200	2124 NW WILLAMETTE DR	CRAMER EVONNE
12	R4419AC01300	2116 NW WILLAMETTE DR	PEDRAZA JAMIE
13	R4419DB04801	2200 SW 2ND ST	E & A PROPERTY LLC - 1
14	R4419DB04900	115 SW WESTVALE ST	WALKER HEATHER
15	R4419DB90000	2240 N.W. 2nd ST	WESTVALE PROFESSIONAL CENTER LLC - hand delivered
			CITY OF MCMINNVILLE
16	TRACT A		

mailed March 13

March 12, 2021

To: Current neighbors of 2191 NW 2nd tax lot
From: N Collins properties LLC
RE: A Neighborhood meeting to share and discuss concerns and/or questions regarding a zoning variance request to be able to partition a single tax lot with two buildings (2191 and 2185) into two separate tax lots.
DATE: Tuesday April 6, 2021
Time: 6 pm pacific standard time
Place: Zoom meeting
Join Zoom Meeting
<https://us04web.zoom.us/j/77571479011?pwd=S2x2cVBUBW8yMmZBVEowQkQweXJ5dz09>

Meeting ID: 775 7147 9011
Passcode: SVk0k4

Dear Neighbors,

I am asking the Planning department for a partition on my tax lot 2191 that is 1.45 acres with two buildings on it. My lot is part of the Yamhill Valley Wellness Plaza. It was developed in 2005 and we are grateful to be part of the McMinnville community. I am asking for the partition into two separate tax lots so long term tenants have the opportunity to purchase the building they have been leasing.

The city of McMinnville has a restriction on three lots per access. This partition would create four lots with one access and hence, the variance I am asking for. This partition would not change anything about the long established Wellness plaza, no change in traffic patterns, no increased need for parking. All businesses would run as they have for the past 16 years, small businesses would have an opportunity to be owners.

Thank you for taking the time to read this and participate in the neighborhood zoom meeting. This is an opportunity to ask questions and voice concerns you may have about the variance to the zoning application I am filing. If you are unable to attend but have a concern or question, you can contact me by email at nc2ability@gmail.com or calling 503 538 2964.

Respectfully,


Nora Collins (N Collins Properties LLC)

Tentative Partition Map for:

N Collins Property LLC

Location: NE 1/4 Section 19, T. 4 S., R. 4 W., WM.,
 Parcel 1 PT 2005-06, in a portion of the
 Solomon Beary DLC #54, & the William Davis
 DLC #69, City of McMinnville, Yamhill County, OR

Tax Lot: 4419AC - 0502

Date: 11 September 2020

OWNER: N COLLINS PROPERTY LLC
 NORA COLLINS, MANAGING MEMBER

SITE: 2191 NW 2ND ST.
 MCMINNVILLE, OR 97128

ZONING: C-3

OWNER CONTACT: NORA COLLINS
 PH: 503-730-4642

Legend

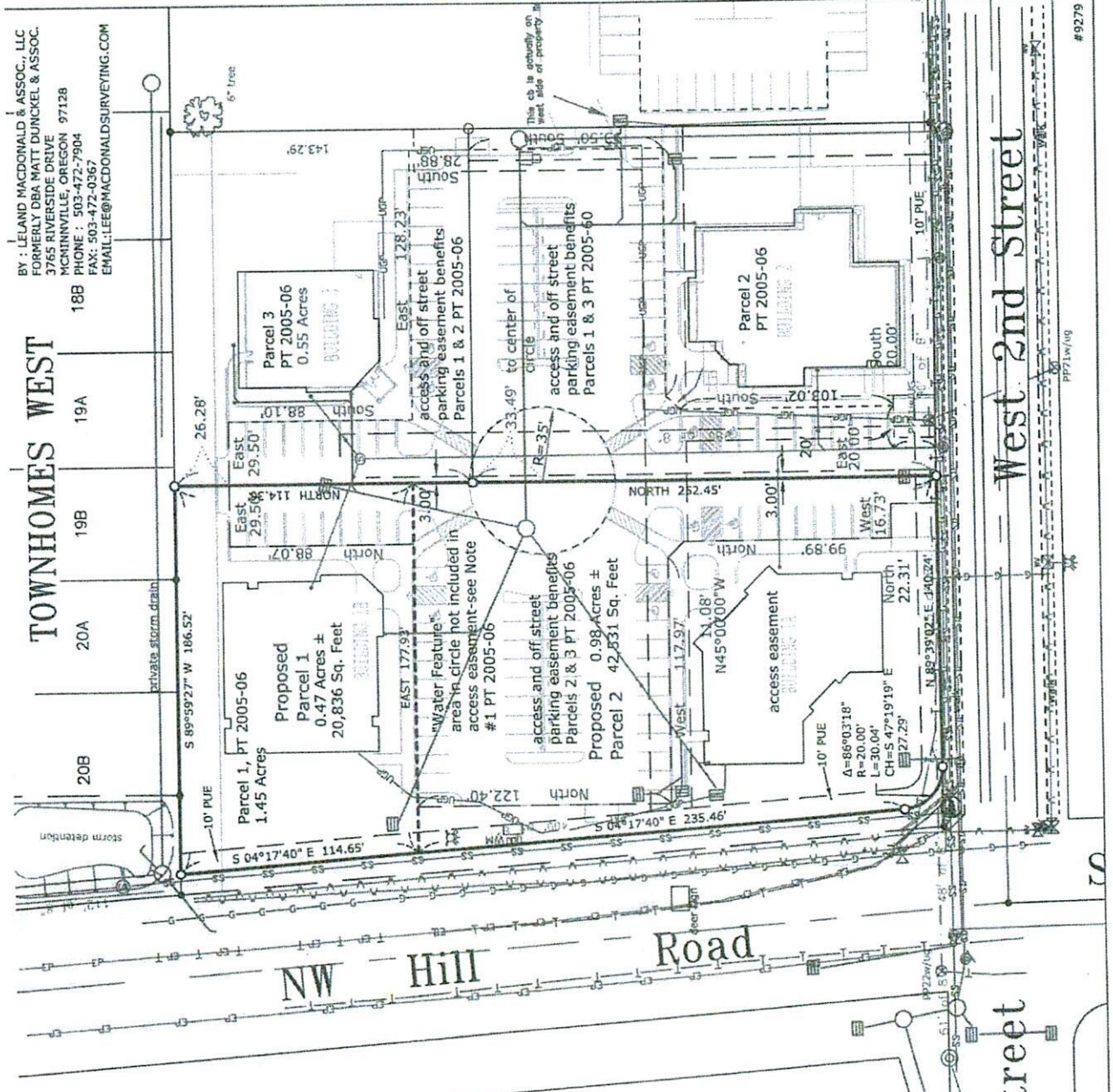
- existing property line
- proposed parcel lines
- water valve, hydrant, meter
- existing water main line
- existing fog stripe
- existing NW Natural Gas
- existing NW Natural Gas Valve
- existing concrete curb
- existing gutter
- existing back of walk
- existing telephone
- existing tree
- existing power pole
- sign
- existing edge of pavement
- existing culvert
- existing underground power
- overhead power
- existing storm drain
- catch basin, area drain
- existing sanitary main line
- existing sewer manhole

Scale: 1" = 50'

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

 OREGON
 January 16, 2002
 IELAND A. MACDONALD
 53226

Renews 31 December 2020



BY: IELAND MACDONALD & ASSOC. LLC
 FORMERLY DBA MATT DUNCKEL & ASSOC.
 3765 RIVERSTE DRIVE
 MCMINNVILLE, OREGON 97128
 PHONE: 503-472-0366
 FAX: 503-472-0366
 EMAIL: LEE@MACDONALDSURVEYING.COM

TOWNHOMES WEST
 19A
 19B
 20A
 20B

West 2nd Street

West 2nd Street

#9279

Enclosure II

MEADOWLARK WAY

CT MEADOWLARK

ST

N

RD

15

13

14

ST

SESAME

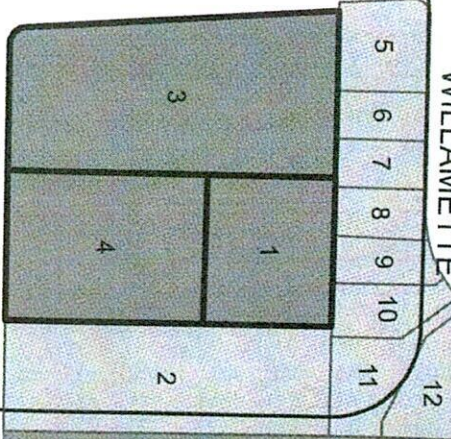
HUCKLEBERRY DR

MANZANITA ST

S MANZANITA ST

ST

ST



WILLAMETTE

5

6

7

8

9

10

11

12

3

4

2

HILLSIDE

PARK WAY

WILLAM

DR

W

COUNTRY CT

Neighborhood meeting for N Collins Properties LLC

A Neighborhood meeting was held via zoom at 6 pm Tuesday, April 6, 2021. Those attending were Ashley Hyder representing RST Development LLC, 2163 NW 2nd and Gloria Lutz, representing Gloria Lutz J Trustee for, 2140 NW Willamette Dr.

Ashley and Gloria commented on how much the neighborhood liked the Wellness Plaza and felt that the variance to the zoning should be allowed by the city so that a partition of the current tax lot for 2191 NW 2nd and 2185 NW 2nd could proceed. They both stated that they would be willing to write letters to the city if needed to support approval of the zoning variance. Discussion of continuing the great rapport that the Yamhill Valley Wellness plaza has with each owner as well as the neighbors along Willamette drive was expressed by both participants.

The meeting ended at 630pm. No phone or emails were sent to N Collins Properties LLC prior to the meeting.

The only revisions that we made to the proposal based on comments received at the meeting were to point out the pedestrian safety that a second access would have and the confusion putting an access off Hill road would pose to drivers as well as pedestrians.

Respectfully submitted by, Nora Collins (N Collins Properties LLC)





NEIGHBORHOOD MEETING

FUTURE LAND USE APPLICATION

Zoning Variance to McHenryville Municipal code in the process of participating one lot into two lots at 2191 and 2365 NW 2nd street.

DATE

TUESDAY APRIL 6TH 2021

TIME

6 PM

MEETING LOCATION

City Town Meeting
McHenryville, VA
11 Howard Ave NW Washington VA
20154-5208
Meeting 551-912-1111
Meeting 551-912-1111

Hill Rd.



2nd Street



YAMHILL VALLEY WELL

WALKER PHYSICAL THERAPY
J. WALKER DENTAL CLINIC
WEST HILLS HEALTHCARE

DR. CALPISO
NATURAL CLINIC
←

New
2nd
St