



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

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DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A TENTATIVE PARTITION AT 1421-1675 NE HIGHWAY 99W

- DOCKET:** MP 7-20 (Tentative Partition)
- REQUEST:** Application for a Tentative Partition to partition an approximately 3.33 acre parcel of land into three (3) parcels approximately 2.79, 0.28, and 0.26 acres in size to allow for two stand-alone buildings to be located on their own parcels, while utilizing shared access, parking, and circulation areas on the subject site.
- LOCATION:** 1421 – 1675 NE Highway 99W. The property is also identified as Tax Lot 101, Section 16AB, T. 4 S., R. 4 W., W.M.
- ZONING:** C-3 (General Commercial)
- APPLICANT:** Leland MacDonald, on behalf of property owner MTCOR, LLC
- STAFF:** Chuck Darnell, Senior Planner
- DATE DEEMED COMPLETE:** April 12, 2021
- DECISION MAKING BODY & ACTION:** The McMinnville Planning Director makes the final decision, unless the Planning Director’s decision is appealed to the Planning Commission.
- DECISION DATE & LOCATION:** July 21, 2021, Community Development Center, 231 NE 5th Street, McMinnville, Oregon.
- PROCEDURE:** An application for a Tentative Partition is processed in accordance with the procedures in Section 17.72.110 of the Zoning Ordinance. The application is reviewed by the Planning Director in accordance with the Director’s Review with Notification procedures specified in Section 17.72.110 of the Zoning Ordinance.
- CRITERIA:** The applicable criteria for a Tentative Partition are specified in Section 17.53.060 of the Zoning Ordinance. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

I. APPLICATION SUMMARY:

Subject Property & Request

The proposal is an application for a Tentative Partition (MP 7-20) to partition an approximately 3.33 acre parcel of land into three (3) parcels approximately 2.79, 0.28, and 0.26 acres in size to allow for two stand-alone buildings to be located on their own parcels, while utilizing shared access, parking, and circulation areas on the subject site. The subject site is located at 1421 – 1675 NE Highway 99W, and is identified as Tax Lot 101, Section 16AB, T. 4 S., R. 4 W., W.M.

The subject property is located north of NE Highway 99W. The subject property and surrounding properties are primarily zoned C-3 (General Commercial), with the exception of the property immediately adjacent to the north which is zoned R-4 (Multiple Family Residential). The site is currently developed as a commercial shopping center with multiple buildings that utilize shared access, drive aisles, parking, and some utilities. Uses on the abutting properties to the west, south, and east are commercial, and to the north is an existing apartment use. **See Vicinity Map (Figure 1), Zoning Map (Figure 2), and Applicant's Proposed Partition Plan (Figure 3).**

Summary of Criteria & Issues

The application is subject to the standards and procedures established in Chapter 17.53 (Land Division Standards) of the Zoning Ordinance, which are intended to “[...] provide uniform procedures and standards for the subdivision and partitioning of land, and adjustment of property lines; to assure adequate width and arrangement of streets; to coordinate proposed development with plans for utilities and other public facilities; to avoid undue congestion of population; to assure adequate sanitation and water supply; to provide for the protection, conservation, and proper use of land; to secure safety from fire, flood, slides, pollution, drainage or other dangers; to provide adequate light and air, recreation, education, and adequate transportation; to promote energy conservation; to protect in other ways the public health, safety, and welfare; and to promote the goals and policies of the McMinnville Comprehensive Plan.” The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

As required by the Land Division Standards, lots created by partition are required to conform to the zoning requirements of the area. The C-3 (General Commercial Zone) does not have a minimum lot size, and there are no required yards unless the side or rear yard is adjacent to a residential zone. As noted above, the property to the north is residentially zoned and in residential use.

Attachments:

Attachment 1 – Application and Attachments

Figure 1. Vicinity Map (Property Lines Approximate)

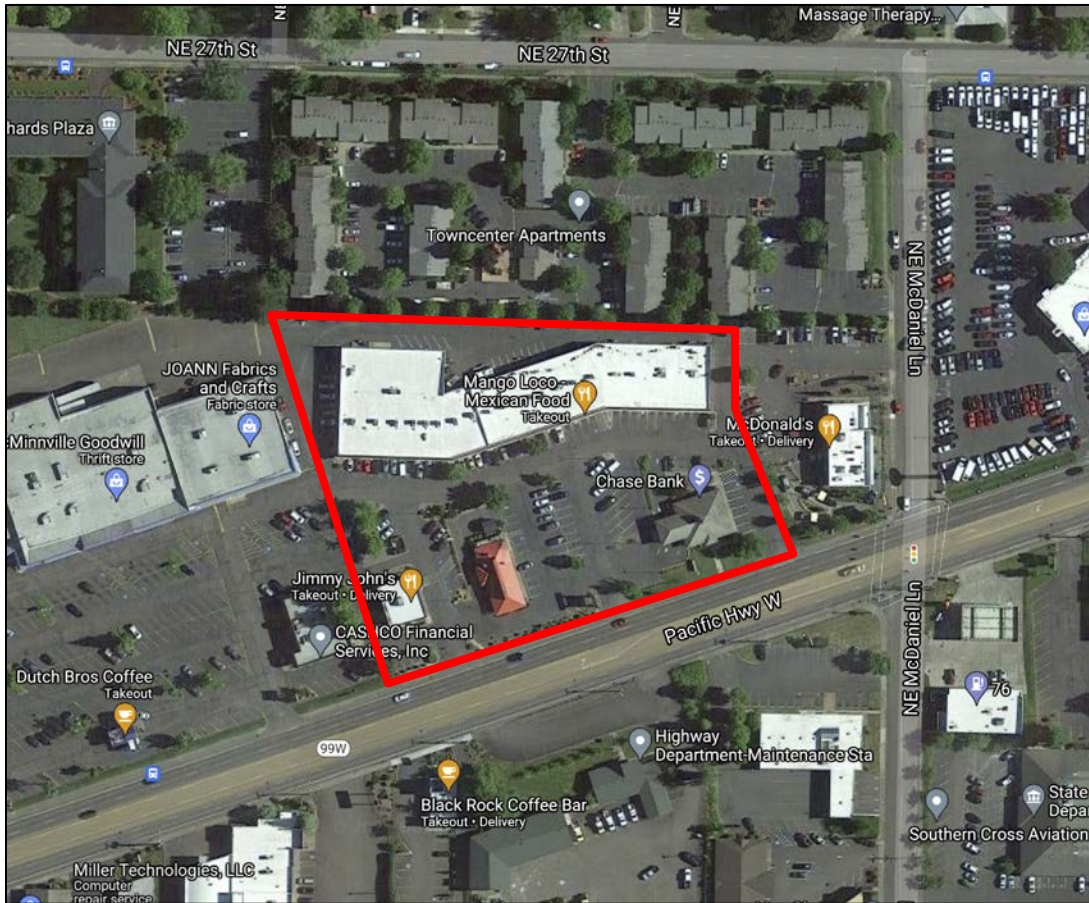
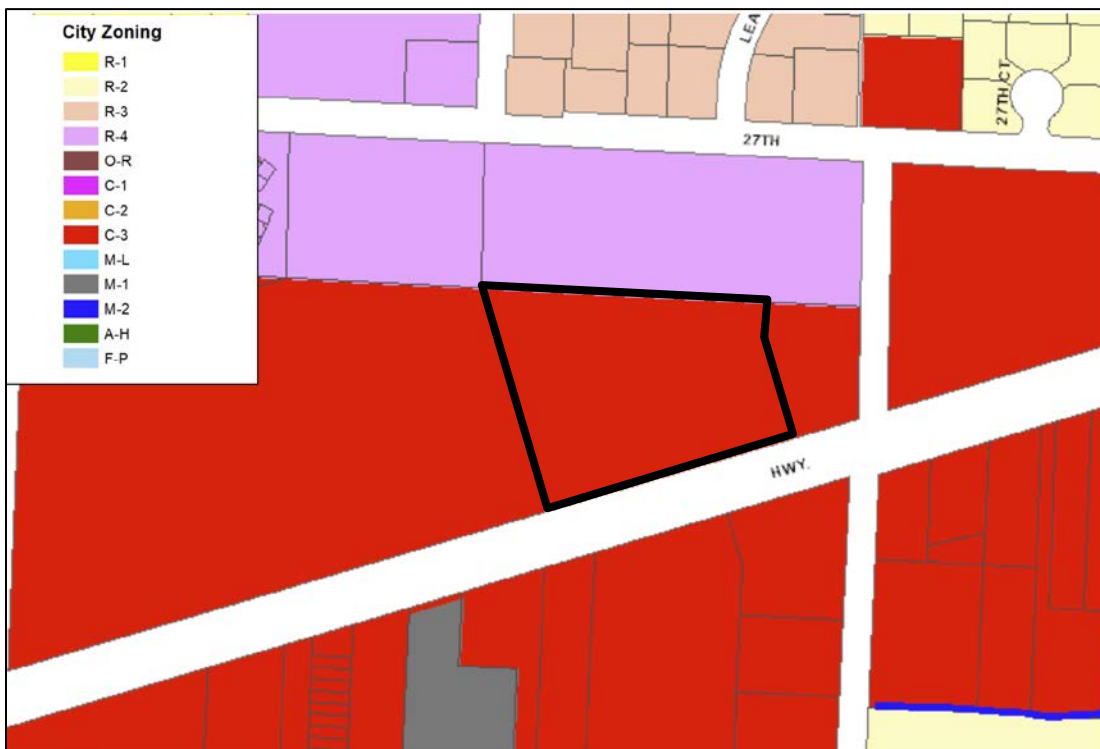


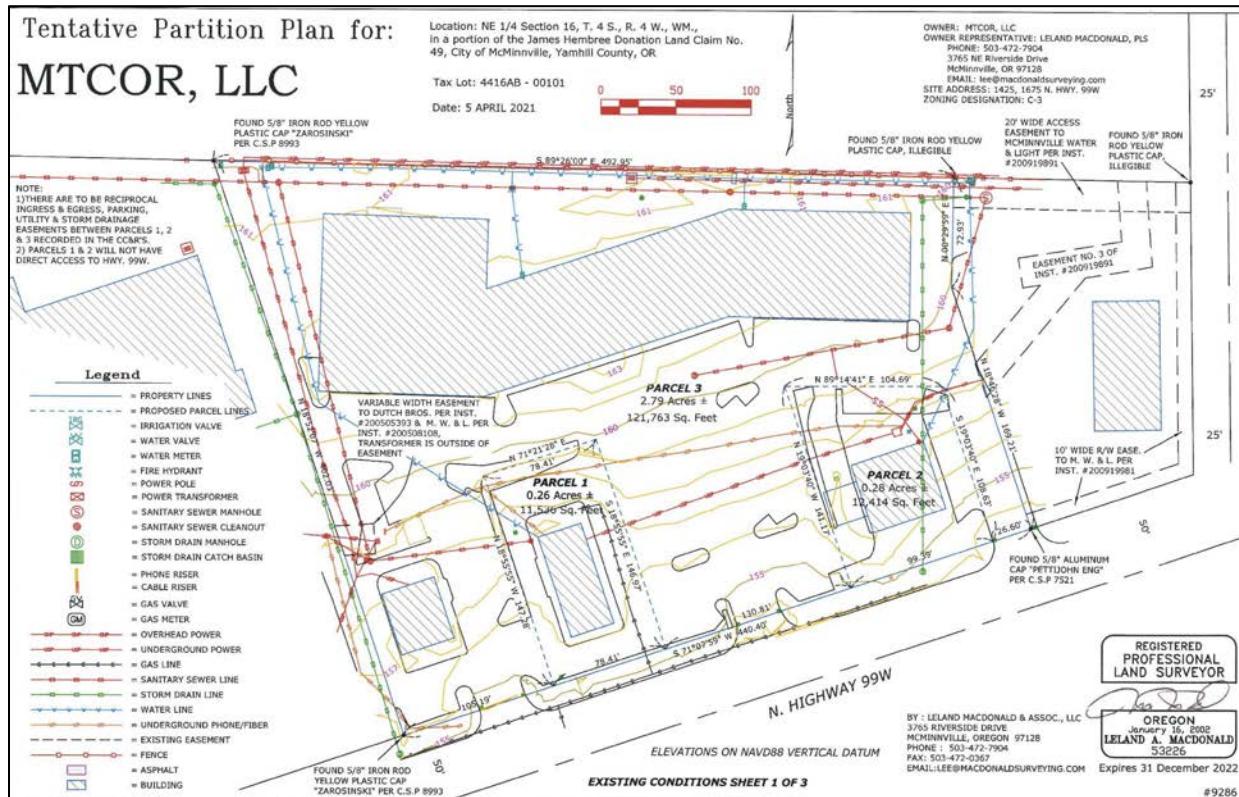
Figure 2. Zoning Map



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Figure 3. Applicant’s Proposed Partition Plan



II. CONDITIONS:

1. The applicant shall submit to the City Engineer, for review and approval, a utility plan for the subject site. At a minimum, this plan shall indicate the manner in which separate sanitary sewer, storm sewer, and water services will be provided to each of the proposed lots. The plan shall also identify the existing private storm water facilities on the subject site. Each lot will need to be served by a separate sanitary sewer lateral and connection to the public sewer main. Easements and maintenance agreements as may be required by the City Engineer for the provision, extension and maintenance of these utilities shall be submitted to the City Engineer for review and approval prior to filing of the final plat. All required utilities shall be installed to the satisfaction of the responsible agency prior to the City’s approval of the final plat.
2. That all public utilities under the jurisdiction of McMinnville Water and Light within the subject site shall be adequately identified within easements on the final plat. More specifically, an additional 10 foot easement, to the benefit of McMinnville Water and Light, shall be provided on the final plat over the power line running adjacent to Easements 2 and 12 as shown on Sheet 1 of the tentative partition plan. In addition, Easements 3, 4, and 5 as shown on Sheet 2 of the tentative partition plan shall be identified on the final plat as being to the benefit of McMinnville Water and Light instead of being private easements.
3. That the final partition plat shall reflect the private access and parking easements as shown on Sheet 3 of the tentative partition plan. Maintenance agreements for private access and parking easements shall be submitted to the Planning Department for review and approval prior to approval of the final partition plat.

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4. That approval of this tentative plat will expire 12 (twelve) months after the date of issuance of this letter. If the final plat has not been submitted prior to expiration of the tentative plat, or a written request for an extension of this approval has not been submitted and approved within that same period, the applicant must resubmit a tentative plat for further consideration, and comply with regulations and conditions applicable at that time.
5. Two copies of the final partition plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.
6. This partition will not be considered a legal partition until such time that a copy of the recorded document is provided to the City of McMinnville's Planning Department.
7. That the three parcels created by the proposed partition shall continue to be considered a multi-tenant complex in regards to freestanding signage and that freestanding signage within the subject site shall continue to be shared between the three new parcels within the subject site and multi-tenant complex. The existing freestanding signage on the subject site may remain, unless determined to be nonconforming and in need of being brought into compliance due to any of the actions described in MMC Section 17.62.110. Alternatively, the freestanding signage of the subject site may be reconfigured in any other manner amongst the three new parcels created by the proposed partition, provided that the freestanding signage is still consistent with the commercial freestanding sign standards in MMC Section 17.72.070(C)(1). Mounted signage is not limited in any way, and is allowed throughout the subject site as allowed by MMC Section 17.72.070(C)(2).

III. ATTACHMENTS:

1. MP 7-20 Application and Attachments (on file with the Planning Department)

IV. COMMENTS:

Agency Comments

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

- **McMinnville Engineering Department**

Engineering comments were provided in the form of suggested conditions. Those conditions of approval were included in the conditions listed in Section II above.

- **McMinnville Building Department**

No Building Code issues.

- **McMinnville Fire Department**

We have no issues with this request. Note: Current Fire Code requirements shall be met by any development.

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- Oregon Department of Transportation

McMinnville. Please include these comments in the public record and notify ODOT of the decision by sending a copy to odotr2planmgr@odot.state.or.us when available.

The site is adjacent to Pacific Highway West, No. 091 (OR-99W), and is subject to state laws administered by ODOT. The site currently has three highway approaches in addition to several other approaches via neighboring properties. The applicant is not proposing any physical modifications to the approaches and the proposal will not trigger a change of use. ODOT has no objections to the proposal. Please ensure that the proper easements are recorded to allow access to all newly created parcels.

- McMinnville Water & Light

1. MW&L will require a 10' easement over the power line running adjacent to easements 2 and 12. Reference exhibit "EXISTING CONDITIONS SHEET 1 OF 3" for location of power line.

2. Power easements 3,4,5 need to be to the benefit of MW&L, not private power line easements. Reference exhibit "PROPOSED EASEMENTS SHEET 2 OF 3".

- Comcast

We do have conduit in the ground here supporting both fiber and coax lines.

Public Comments

Notice of this request was mailed to property owners located within 100 feet of the subject site. No public testimony was received by the Planning Department prior to the Planning Director's decision.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant, Leland MacDonald, on behalf of property owner MTCOR, LLC, submitted the Tentative Partition application on November 23, 2020.
2. The application was deemed incomplete on December 23, 2020. A revised application submittal, including some items that were requested by the Planning Department to deem the application complete, was provided on March 1, 2021.
3. The application was deemed incomplete again on March 16, 2021. A revised application submittal, including additional items that were requested by the Planning Department to deem the application complete, was provided on April 5, 2021.
4. The application was deemed complete on April 12, 2021. Based on that date, the 120 day land-use decision time limit was to expire on August 10, 2021.
5. Based on some initial City comments provided to the applicant and owner related to utilities on site, the property owner requested additional time to allow for investigation of the existing condition of utilities on site. To allow time for that investigation to occur, the property owner extended the 120 day land-use decision time limit by 60 days. Therefore, the City's land-use decision time limit now expires on October 9, 2021.

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6. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.110 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

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

7. Notice of the application and was mailed to property owners within 100 feet of the subject property in accordance with Section 17.72.110 of the Zoning Ordinance.
8. No public testimony was submitted to the Planning Department prior to the Planning Director's review of the application.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 1421 – 1675 NE Highway 99W. The property is also identified as Tax Lot 101, Section 16AB T. 4 S., R. 4 W., W.M.
2. **Size:** Approximately 3.33 acres
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3 (General Commercial)
5. **Overlay Zones/Special Districts:** None.
6. **Current Use:** Retail / Commercial Shopping Center
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None
8. **Other Features:**
 - a. **Slopes:** Generally level site, sloping very slightly to the west.
 - b. **Easements and Utilities:** The subject site is subject to numerous easements, which are documented in the submitted site plan and more specifically identified in the title report provided with the application materials.
9. **Utilities:**
 - a. **Water:** The property is currently served by a water main within the adjacent right-of-way. The treatment plant has sufficient treatment capacity.
 - b. **Sewer:** The property is served by a partially private sewer main north of the subject site. The municipal water reclamation facility has sufficient capacity to accommodate expected waste flows resulting from the use.
 - c. **Stormwater:** Storm water service is available near the site within the adjacent right-of-way.
 - d. **Other Services:** Other services are available to the property. Overhead utilities are present along the adjacent right-of-way.
10. **Transportation:** Highway 99W is classified as a Major Arterial Street in the Transportation System Plan (TSP). The existing right-of-way adjacent to the site is approximately 90 feet in width, with 50 feet of right-of-way width adjacent to the site as measured from the right-of-way

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centerline. This is less than the required 104 foot right-of-way width along the entire site's frontage, which will be discussed in the findings below. A 5 foot wide, curb-tight sidewalk exists along the street frontage adjacent to the site. A striped bike lane also exists along the street frontage adjacent to the site.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Minor Partition are specified in Chapter 17.53 of the Zoning Ordinance.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

Comprehensive Plan Volume II:

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, policies, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE NEIGHBORHOOD-SERVING AND OTHER COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.

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

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

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

APPLICANT'S RESPONSE: None.

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FINDING: SATISFIED. The subject site is completely developed and improved with a cluster of buildings, landscaping areas, parking areas, and vehicle circulation areas, which make up a larger-scale commercial shopping center. The subject site is also located on a major arterial street (Highway 99W). The existing development on the subject site utilizes shared vehicle access, circulation, and parking areas, which are proposed to be maintained and continue to be shared after the partition through the establishment of variable width shared access and parking easements. The proposal of a tentative partition does not include any further development or site alteration, and does not result in any changes to this existing built condition. Therefore, this internal traffic circulation system will be maintained, and there will be no new direct access to the adjacent major arterial street. See findings for Section 17.53.100(C) below for more detail.

Policy 34.00 The City of McMinnville shall develop and maintain guidelines concerning the size, placement, and type of signs in commercial areas.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION #7. The subject site currently is developed as a commercial shopping center with a cluster of commercial buildings and landscaping areas. The commercial buildings and uses on the site also utilize shared vehicle access, circulation, and parking areas, which are proposed to be maintained and continue to be shared after the partition. The site also includes freestanding signage that is currently partially shared amongst buildings on site.

The City of McMinnville has developed guidelines, in the form of zoning standards, concerning the size, placement, and type of signs in commercial areas. These standards for signage on commercially zoned properties are included in McMinnville Municipal Code Section 17.72.070(C). MMC Section 17.72.070(C)(1) states the following: “Freestanding Signs: Each site or multi-tenant complex is allowed one (1) permanent freestanding sign not to exceed forty-eight (48) square feet in area and six (6) feet in height. In addition, each site or multi-tenant complex is allowed one (1) additional permanent freestanding sign per 500 feet of frontage, not to exceed three (3) per site or multi-tenant complex, each not to exceed 125 square feet in area and twenty (20) feet in height if located on Highways 99W or 18 and sixteen (16) feet in height if located elsewhere.”

The existing freestanding signage on the current parcel is the maximum amount of freestanding signage that would be allowed for the current parcel, as the site has approximately 440 feet of street frontage and there are two taller freestanding pole signs and one shorter freestanding monument sign. Adequate detail on the exact height and size of these freestanding signs is not currently provided, so the exact height or placement of the signs may not be in conformance with the maximum height, size, or spacing required between the taller signs, but the number of signs themselves is at the maximum allowed for the current parcel (see MMC Section 17.72.070(C)(1) above). The freestanding sign allowance within the commercial sign standards in MMC Section 17.72.070(C)(1) refers to site or multi-tenant complex, and the current development of the subject site is consistent with a multi-tenant complex as defined in MMC Section 17.06.040 (Sign Related Definitions). More specifically, “multi-tenant complex” is defined as “A development consisting of one or more lots and two or more businesses sharing appurtenant facilities, such as driveways, parking and pedestrian walkways, and is designed to provide varied products and services at a single location.” The subject site, after the proposed partition, will have one or more lots, and will consist of those lots and the businesses within them sharing facilities including right-of-way access points, driveways, vehicle circulation areas, and parking areas.

Therefore, a condition of approval is included to require that the three parcels after the partition be considered a multi-tenant complex in regards to freestanding signage and that freestanding

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signage continue to be shared between the three new parcels within the subject site and multi-tenant complex. The condition of approval specifies that the existing freestanding signage on the subject site may remain, unless determined to be nonconforming and in need of being brought into compliance due to any of the actions described in MMC Section 17.62.110, or that the freestanding signage of the subject site may be reconfigured in any other manner consistent with MMC Section 17.72.070(C)(1). The condition of approval specifies that mounted signage is not limited and is allowed throughout the subject site as allowed by MMC Section 17.72.070(C)(2).

This condition of approval is further supported by the purpose of the Signs chapter of the McMinnville Municipal Code, which in MMC Section 17.62.010 states that “[...] the purpose of this chapter is to [...] Improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards; [...] Minimize visual clutter caused by signs by limiting their numbers and duration of use;”. The continued treatment of the three parcels within the multi-tenant and multi-building complex and commercial shopping center as a multi-tenant complex will ensure the purpose of the Signs chapter and the City of McMinnville’s policy of developing and maintaining guidelines concerning the size, placement, and type of signs in commercial areas are achieved.

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

Policy 120.00 The City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows

Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications:

1. *Major, minor arterials.*
–Access should be controlled, especially on heavy traffic-generating developments.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The existing development on the subject site utilizes shared vehicle access, circulation, and parking areas, which are proposed to be maintained and continue to be shared after the partition through the establishment of variable width shared access and parking easements. The proposal of a tentative partition does not include any further development or site alteration, and does not result in any changes to this existing built condition. Therefore, there will be no new direct access to the adjacent major arterial street. See findings for Section 17.53.100(C) below for more detail.

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

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The street improvements (include pedestrian and bicycle facilities) and right-of-way width adjacent to the subject site are determined to be adequate for the proposed tentative partition. They are determined to be adequate based on the fact that the subject site is completely developed and improved with buildings, landscaping areas, parking areas, and vehicle circulation areas. The proposal of a tentative partition does not include any further

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development or site alteration, and does not result in any changes to this existing built condition. Therefore, no off-site improvements are required based on the impacts generated by this particular land division. See findings for Section 17.53.101(B) below for more detail.

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

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

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The street improvements and right-of-way width adjacent to the subject site are determined to be adequate for the proposed tentative partition. They are determined to be adequate based on the fact that the subject site is completely developed and improved with buildings, landscaping areas, parking areas, and vehicle circulation areas. The proposal of a tentative partition does not include any further development or site alteration, and does not result in any changes to this existing built condition. Therefore, no off-site improvements are required based on the impacts generated by this particular land division. See findings for Section 17.53.101(B) below for more detail.

Policy 132.40.10 Multi-modal Improvements – To manage growth, improvements to transportation facilities may include both motorized and non-motorized facilities improvements, constructed in accordance with the City’s minimum design standards.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The street improvements (include pedestrian and bicycle facilities) and right-of-way width adjacent to the subject site are determined to be adequate for the proposed tentative partition. They are determined to be adequate based on the fact that the subject site is completely developed and improved with buildings, landscaping areas, parking areas, and vehicle circulation areas. The proposal of a tentative partition does not include any further development or site alteration, and does not result in any changes to this existing built condition. Therefore, no off-site improvements are required based on the impacts generated by this particular land division. See findings for Section 17.53.101(B) below for more detail.

Policy 132.56.00 Provide Bicycle Facilities on Arterials and some Collector Streets – To the extent possible, arterial and some collector streets undergoing overlays or reconstruction will either be re-striped with bicycle lanes or sharrow (bicycle/auto shared-lane) routes as designated on the Bicycle System Plan Map. Every effort will be made to retrofit existing arterials and selective collectors with bicycle lanes, as designated on the Bicycle System Plan Map.

APPLICANT’S RESPONSE: None.

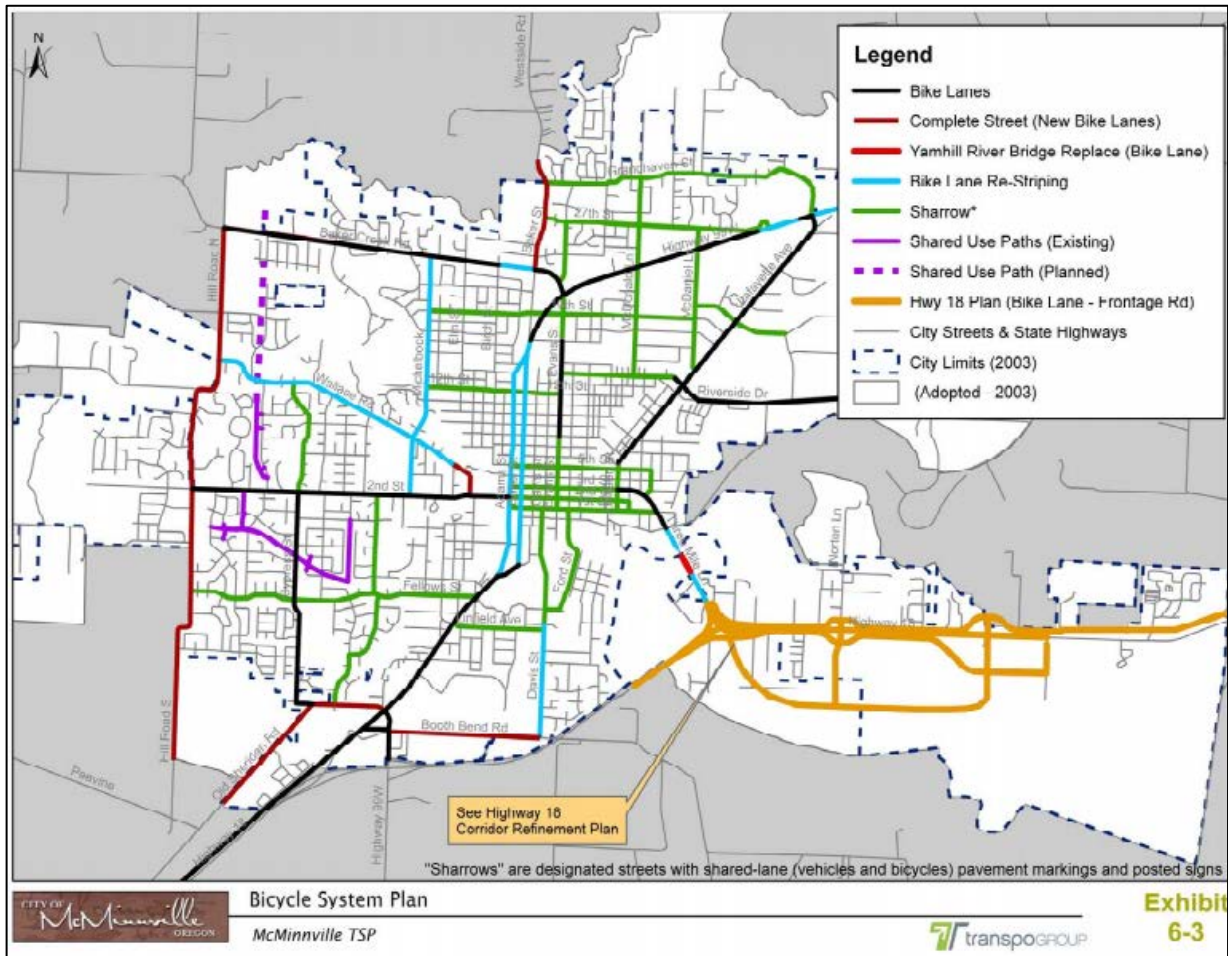
FINDING: SATISFIED. The street improvements (include pedestrian and bicycle facilities) and right-of-way width adjacent to the subject site are determined to be adequate for the proposed tentative partition. They are determined to be adequate based on the fact that the subject site is completely developed and improved with buildings, landscaping areas, parking areas, and vehicle circulation areas. The proposal of a tentative partition does not include any further

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development or site alteration, and does not result in any changes to this existing built condition. Therefore, no off-site improvements are required based on the impacts generated by this particular land division. See findings for Section 17.53.101(B) below for more detail.

Highway 99W, which is adjacent to the subject site, is identified as a major arterial in the McMinnville Transportation System Plan, and therefore is identified by Policy 132.56.00 as including bicycle lanes. The Bicycle System Plan Map, as shown in Exhibit 6-3 of the McMinnville Transportation System Plan, is provided below, which identifies bicycle lanes on SW Baker Street (Highway 99W). An existing bicycle lane is already striped along the subject site’s frontage, and is not proposed to be changed or altered in any way. Also, see findings for Section 17.53.101(B) below for more detail.



Policy 132.62.00 *TSP as Legal Basis – The City of McMinnville shall use the McMinnville TSP as the legal basis and policy foundation for actions by decision makers, advisory bodies, staff, and citizens in transportation issues. The goals, objectives, policies, implementation strategies, principles, maps, and recommended projects shall be considered in all decision-making processes that impact or are impacted by the transportation system.*

Policy 132.62.05 *TSP Policies – The City of McMinnville shall use the McMinnville TSP to:*
 1. *Describe the classification or function of all streets within the McMinnville planning area. Policies found in the Plan shall be used to develop connective local street circulation patterns.*

2. Require new development to provide adequate accessibility, as defined by the McMinnville Zoning Ordinance, for all travel modes within a development and in coordination with existing and other proposed development. Street design standards in the McMinnville Zoning Ordinance are to be used to secure adequate public street and sidewalk facilities. [...]

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The street improvements and right-of-way width adjacent to the subject site are determined to be adequate for the proposed tentative partition. They are determined to be adequate based on the fact that the subject site is completely developed and improved with buildings, landscaping areas, parking areas, and vehicle circulation areas. The proposal of a tentative partition does not include any further development or site alteration, and does not result in any changes to this existing built condition. Therefore, no off-site improvements are required based on the impacts generated by this particular land division. See findings for Section 17.53.101(B) below for more detail.

Policy 132.62.20 TSP Use in Review of Land Use Actions – The City of McMinnville shall consider and apply the goals, policies, planning principles, recommended projects, implementation strategies, and maps contained in McMinnville TSP in the review of land use actions and development applications.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The street improvements and right-of-way width adjacent to the subject site are determined to be adequate for the proposed tentative partition. They are determined to be adequate based on the fact that the subject site is completely developed and improved with buildings, landscaping areas, parking areas, and vehicle circulation areas. The proposal of a tentative partition does not include any further development or site alteration, and does not result in any changes to this existing built condition. Therefore, no off-site improvements are required based on the impacts generated by this particular land division. See findings for Section 17.53.101(B) below for more detail.

GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The process for a Tentative Partition provides an opportunity for citizen involvement through the public notice and comment period. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials prior to the McMinnville Planning Director’s review of the request. All members of the public have access to provide testimony and ask questions during the public review process.

McMinnville Municipal Code

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

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Land Division Standards - Partition

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

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

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

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION #1. The applicant submitted an application and tentative partition plan on November 23, 2020, and then provided revised materials on March 1, 2021 and April 5, 2021 responding to the application having been deemed incomplete on two separate occasions. The application and revised materials contained sufficient information to be deemed complete on April 12, 2021. A condition of approval is included to require that the applicant submit a utility plan for the subject site that indicates the manner in which separate sanitary sewer, storm sewer, and water services will be provided to each of the proposed lots. Each lot will need to be served by a separate sanitary sewer lateral and connection to the public sewer main. The condition of approval also specifies that easements and maintenance agreements as may be required by the City Engineer for the provision, extension and maintenance of these utilities shall be submitted to the City Engineer for review and approval prior to filing of the final plat, and that all required utilities shall be installed to the satisfaction of the responsible agency prior to the City’s approval of the final plat.

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17.53.060(B). Upon receiving a complete application for a partition, notification and review shall be provided as stated in Section 17.72.110. The Director's decision shall be based upon a finding that the tentative plan substantially conforms to the requirements of this chapter.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The application for a Tentative Partition of the subject site was deemed complete on April 12, 2021. Notification was mailed to property owners within 100 feet of the subject site on June 22, 2021. Findings have been provided for applicable Comprehensive Plan policies and goals, and criteria and standards of the McMinnville Municipal Code and other applicable ordinances.

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

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

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITIONS #2 AND #3. A condition of approval is included to require one additional easement, and to specify that some of the easements as proposed on Sheet 2 of the tentative partition plan shall be public. This condition is included because the utilities that are encompassed by the easements are not private but are public and under the jurisdiction of McMinnville Water and Light. Another condition of approval is included to ensure that the final plat include the appropriate private access and parking easements as shown on Sheet 3 of the tentative partition plan.

One of the resulting parcels of the proposed land division does result in a parcel that is approximately 2.79 acres in size. However, a future development plan was not included for the proposed division of the subject site due to the proposed method of allowing for shared access and circulation within the site. The proposed division into three parcels, along with the size and configuration of the proposed private shared access and parking easements, would result in the easements providing access to the maximum number of parcels allowed to be accessed from a single access easement (three parcels including the original). See findings for Section 17.53.100(C) below for more detail.

17.53.060(D). Approval of a Tentative Partition Plat shall be valid for a one-year period from the effective date of approval. Upon written request, the Director may approve a one-year extension of the decision. Additional extensions shall require the approval of the Planning Commission.

APPLICANT'S RESPONSE: None.

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FINDING: SATISFIED WITH CONDITION #4. A condition of approval has been included to confirm that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision.

17.53.061 Submission of Final Partition Plat. Within 12 (twelve) months after approval of the tentative plan, the partitioner shall prepare a final plat in conformance with the tentative plan as approved and submit the final plat to the City Engineering Department. Information required on the final plat shall be consistent with the requirements listed in ORS 92.050 and ORS 209.250. The partitioner shall submit the original drawing and two (2) exact copies thereof, and any supplementary information to the City Engineer.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITIONS #4 AND #5. A condition of approval has been included to confirm that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision. A condition of approval is also included to require that two copies of the final partition plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.

17.53.063 Filing of Final Partition Plat. The partitioner 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 30 (thirty) days after the date the last required signature has been obtained.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITIONS #4 AND #6. A condition of approval has been included to confirm that the signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording. A condition of approval has also been included to confirm that the partition will not be considered a legal partition until such time that a copy of the recorded final plat document is provided to the City of McMinnville's Planning Department.

Land Division Standards – Approval of Streets and Ways

17.53.100 Creation of Streets.

- C. An easement providing access to property and which is created to allow the partitioning of land for the purpose of lease, transfer of ownership, or building development, whether immediate or future, shall be in the form of a street in a subdivision, except that a private easement to be established by deed without full compliance with these regulations may be approved by the Planning Director under the following conditions:
1. If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access and said access shall be not less than 15 (fifteen) feet in width and shall have a hard surfaced drive of 10 (ten) feet width minimum;
 2. The Planning Director shall require the applicant to provide for the improvement and maintenance of said access way, and to file an easement for said access way which includes the right to passage and the installation of utilities. Such requirements shall be submitted to and approved by the City Attorney.
 3. Access easements shall be the preferred form of providing access to the rear lots created by partition if the alternative is the creation of a flag lot.

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APPLICANT’S RESPONSE: It is not possible to create a public street within the existing strip center due to it's [sic] existing configuration and access point topography, therefor [sic] an easement is the only reasonable method by which the rear portion of the new lots can be accessed; The new lots have an unusual configuration in that two of them are wholly internal to the lot being partitioned; At least one lot is capable of being partitioned into two more new parcels; The cross access easement proposed is variable in width with a minimum access width of 24'; The existing hard surface drives to be utilized are 24' in width. Additionally all lots will have access at multiple points along ODOT Highway 99W, a major arterial, NE McDaniel Lane and NE McDonald Lane.

FINDING: SATISFIED WITH CONDITION #3. The City partially concurs with the applicant’s findings, primarily in that the existing lot has an unusual configuration and is large enough to warrant partitioning. The unusual configuration in this case is that the existing lot is a large and deep parcel that is located along a major arterial street (Highway 99W) that is also under Oregon Department of Transportation (ODOT) jurisdiction. The existing development and circulation pattern of the subject property and the surrounding properties limit additional access options for the proposed partition. Strict application of the requirements for a partition without the use of this provision for a shared access easement could result in additional access points onto Highway 99W, a major arterial, without added benefit to the property and contrary to the public purpose enumerated in other Comprehensive Plan policies. More specifically, Comprehensive Plan Policy 120.00 specifies that the City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows. Policy 122.00 specifies that the City of McMinnville shall encourage the following provisions for each of the three functional road classifications:

1. Major, minor arterials.

-Access should be controlled, especially on heavy traffic-generating developments.

In addition, as described above, the adjacent right-of-way of Highway 99W is under ODOT jurisdiction, and is subject to ODOT’s access control review and approval. As part of the ODOT comments submitted on the record for this tentative partition request, ODOT specifically notes that they have no concern with the partition, after stating that the request does not include any physical modifications to the site’s existing approaches (i.e. access points). ODOT specifically requested that the City ensure that the proper easements are recorded to allow access to all newly created parcels utilizing the existing approaches.

For these reasons, the proposed use of a shared access easements for the proposed three newly created parcels is found to be the reasonable method of providing access. No more than three parcels are being created by the proposed partition, and as described by the applicant, all of the drive aisles within the variable width access easement are of a width that exceeds the minimum required. A condition of approval is included to require that the final partition plat reflect the private access and parking easements as shown on Sheet 3 of the tentative partition plan.

17.53.101 Streets.

A. **General.** The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. Where location is not shown in a comprehensive plan, the arrangement of streets in a subdivision shall:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; or
 3. Maximize potential for unobstructed solar access to all lots or parcels. Streets providing direct access to abutting lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features. The east-west orientation of streets shall be integrated into the design.
- B. Rights-of-way and street widths. The width of rights-of-way and streets shall be adequate to fulfill city specifications as provided in Section 17.53.151 of this chapter. Unless otherwise approved, the width of rights-of-way and streets shall be as shown in the following table:

COMPLETE STREET DESIGN STANDARDS										
		Arterial		Collector		Neighborhood Connector	Local Residential	Alley		
		Major	Minor	Major	Minor					
Streetscape	Street Profile	Auto/Truck Amenities (lane widths) ¹		2-4 lanes (12 ft.)	2 lanes (11 ft.)	2 lanes (11 ft.)	2 lanes (10 ft.)	See Street Width	See Street Width	20 ft.
		Median / Center Turn Lane		14 ft.	12 ft.	12 ft.	10 ft.	None	None	None
		Bike Facility ²		2 lanes (6 ft.)	2 lanes (6 ft.)	2 lanes (5 ft.)	2 lanes (5 ft.) or shared lane	Shared Lane	Shared Lane	None
		Curb-to-curb Street Width ³		na	na	na	30 or 40 ft.	28 ft.	28 ft.	Not Apply
	Pedestrian Zone (with ADA)	On-Street Parking		na	na	na	30 or 40 ft.	28 ft.	28 ft.	Not Apply
		Pedestrian Amenities ⁴		8 ft. Com	5 ft. Res	5 ft. Res	5 ft. Res	5 ft.	5 ft.	None
		Sidewalks (both sides)		8 ft. Com	5 ft. Res	5 ft. Res	5 ft. Res	5 ft.	5 ft.	None
	Planter Strips		na	6 ft. Res	6 ft. Res	6 ft. Res	5 ft. Res	5 ft. Res	None	
	Preferred Adjacent Land Use – Intensity		High	Medium to High	Medium	Medium	Medium to Low	Low	Low	
	Traffic Management	Maximum Average Daily Traffic		32,000	20,000	16,000	10,000	1,200 – 3,000	1,200	500
Traffic Calming		Not Typical	Not Typical	Not Typical	Permissible/ Not Typical	Permissible/ Not Typical	Typical	Not Typical		
Managed Speed ⁵		35 mph	30-35 mph	25-30 mph	25 mph	25 mph	15-25 mph	10 mph		
Through-traffic Connectivity		Primary	Typical	Typical	Typical	Not Typical	Not Permissible	Not Permissible		
Access Control		Yes	Yes	Some	Some	No	No	No		
Maximum Grade		6%	6%	10%	10%	12%	12%	12%		
Right-of-Way:		104 ft.	96 ft.	74 ft.	56 ft. (no bike lane) 66 ft. (bike lane)	50 ft.	50 ft.	20 ft.		

General Design Notes:

1. Lane widths shown are the preferred construction standards that apply to existing routes adjacent to areas of new development, and to newly constructed routes. For arterial and collector streets within industrial zones, lanes widths shall be 12 feet.
2. An absolute minimum bike lane width for safety concern is 5 ft. on arterial and 4 ft. on collector streets, which is expected to occur in locations where existing development along an established route or other physical constraint preclude construction of the preferred facility width.
3. Street design for each development shall provide for emergency and fire vehicle access.
4. Sidewalks 10-12 feet in width are required in commercial areas to accommodate the Pedestrian zone. Street trees are to be placed in tree wells. Placement of street trees and furniture and business accesses are to meet ADA requirements for pedestrian access.
5. Speeds in the central business district may be 20-25 mph. Traffic calming techniques, signal timing, and other efforts will be used to keep traffic within the desired managed speed ranges for each Functional Class. Design of a corridor's vertical and horizontal alignment will focus on providing an enhanced degree of safety for the managed speed.
6. None with on-street parking

Street Design Standard Notes:

- (a) Exclusive of side slope easement which may be required in addition for cuts and fills in rough terrain.
- (b) The right-of-way and street width may be varied after consideration of the unique characteristics of the land including geography, topography, unique vegetation, and its relation to land development already present or proposed in the area.
- (c) The right-of-way, street width, improvement standards, and turnaround radius of commercial/industrial cul-de-sacs and streets shall be dependent upon the types of vehicle traffic to be served.
- (d) Intersection curb radii shall not be less than 25 feet. On-street parking shall not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb return. Where such a local residential street intersects an arterial, parking along the local street shall not be permitted within a 60-foot distance of the intersection measured from the terminus of the curb return. The developer shall be responsible for the provision and installation of "No Parking" signs as approved by the City Engineering Department.
- (e) Sidewalks and planting strips shall not be required along eyebrows.
- (f) For cul-de-sacs greater than 300 feet in length, fire hydrants may be required to be installed at the end of the bulb and appropriately spaced along the throat of the cul-de-sac as determined by the McMinnville Fire Department.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The street and right-of-way width adjacent to the subject site are determined to be adequate for the proposed tentative partition. They are determined to be adequate based on the fact that the subject site is completely developed and improved with buildings, landscaping areas, parking areas, and vehicle circulation areas. The proposal of a tentative partition does not include any further development or site alteration, and does not result in any changes to this existing built condition.

The existing right-of-way width adjacent to the subject site is 90 feet in width, which is less than the 104 foot width identified in the complete street design standards table above. However, when measured from the established centerline of the street, 50 feet of right-of-way exists

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adjacent to the subject site. Therefore, at most an additional 2 feet of right-of-way could be dedicated as part of development or division of the site, which is not a substantial addition of right-of-way to accommodate further public improvements. The existing right-of-way adjacent to the site is already fully improved, with auto travel lanes, a striped bicycle lane, and a 5 foot wide sidewalk.

Based on the existing improved conditions and characteristics of the subject site described above, and also based on the fact that there will be no change to the existing built condition as part of the partition of the site, it is determined that this existing 50 feet of right-of-way and 5 foot wide sidewalk is adequate and those are not required to be widened solely based on the proposed partition. This determination is further supported by footnote (b) within the complete street design standards table, which states that “The right-of-way and street width may be varied after consideration of the unique characteristics of the land including geography, topography, unique vegetation, and its relation to land development already present or proposed in the area.”

17.53.105(A). Size and shape. Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. All lots in a subdivision shall be buildable.

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 lot shall not ordinarily exceed two times the average width.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The lots resulting from the proposed partition are of a size, width, shape, and orientation appropriate for the use contemplated (commercial). The existing site is already developed as a commercial shopping center with retail and restaurant uses, and the size and orientation (rectangular) of the lots as proposed will accommodate these commercial use. The shared access, parking, and circulation area proposed will further accommodate commercial use on the three parcels. There is no minimum lot size required by the C-3 (General Commercial) zone. The depth of each of the proposed new parcels (proposed Parcels 1 and 2) do not exceed two times the width. The parent parcel (proposed Parcel 3) is of an unusual size and configuration currently, as it is a large parcel and deep when measured from the adjacent right-of-way (approximately 402 feet at its longest dimension). While this overall size and dimension of the parent parcel will not change, with the exception of the two proposed new parcels being created within the parent parcel, the depth of the parcel does not exceed two times the width.

17.53.105(B). Access. Each lot shall abut upon a street other than an alley for a width of at least 25 (twenty-five) feet or shall abut an access easement which in turn abuts a street for at least 15 (fifteen) feet if approved and created under the provisions of 17.53.100(C). Direct access onto a major collector or arterial street designated on the McMinnville Comprehensive Plan Map shall be avoided for all lots subdivided for single-family, common wall, or duplex residential use, unless no other access point is practical.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. All proposed parcels (Parcels 1, 2, and 3) would both abut a street (Highway 99W) for widths of 78.41 feet, 99.39 feet, and 262.60 feet respectively. The proposed partition includes a variable width shared access, circulation, and parking easement, based on the street classification as a major arterial and based on comments provided by the Oregon Department of Transportation which has jurisdiction and authority over the adjacent right-of-way (Highway 99W). See findings for Section 17.53.100(C) above for more detail.

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17.53.105(C). Through Lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 (ten) feet wide, and across which there shall be no right of access, may be required along the line of lots abutting such a traffic artery or other incompatible use.

APPLICANT’S RESPONSE: None.

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

17.53.105(D). Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed property lines of the two proposed new parcels run at approximate right angles to Highway 99W, the street upon which the parcels face. The side property lines of the larger, parent parcel will remain as they exist today, which also currently run at approximate right angles to Highway 99W. Therefore, this criterion is met.

17.53.060(E). Flag lots. The creation of flag lots shall be discouraged and allowed only when it is the only reasonable method of providing access to the rear of a lot which is large enough to warrant partitioning or subdividing. [...]

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The final configuration of the parent parcel (which would be proposed Parcel 3) does have somewhat of a form of a flag lot, as portions of proposed Parcel 3 do extend along and surround the two other new parcels that would be created as part of the partition. However, this configuration is based on the unusual size of the lot and the unusual configuration of the property, as well as its location on a major arterial street (Highway 99W) that is under Oregon Department of Transportation jurisdiction. A variable width shared access, circulation, and parking easement is proposed as a component of the partition based on these circumstances, and is described in the findings for Section 17.53.100(C) above in more detail.

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