



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

503-434-7311  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPLICATION FOR A TENTATIVE PARTITION OF TAX LOT R4417BA 08399 and 08500 AT 902 AND 988 NW BAKER CREST CT.**

**DOCKET:** MP 3-21 (Tentative Partition)

**REQUEST:** Application to partition two parcels into three parcels. The property was originally platted as Lots 1, 2, and 3 of the Norwegian Wood Subdivision. Through subsequent property line adjustment, the three lots were reconfigured into the two parcels that now exist. The proposed partition would divide the two parcels into three parcels, recreating the original configuration established by the Norwegian Wood Subdivision. The overall combined site area of the two existing parcels is 29,194 square feet, and the resulting three parcels would be 10,477 square feet, 9,069 square feet, and 9,648 square feet.

**LOCATION:** Map & Tax Lot: R4417BA 08399 and 08500  
Address: 902 and 988 NW Baker Crest Ct.

**ZONING:** R-1 (Single-Family Residential)

**APPLICANT:** Quinby Construction LLC, c/o Eric Harrison

**PROPERTY OWNER:** Lin C. Chan

**STAFF:** Tom Schauer, Senior Planner

**DATE DEEMED COMPLETE:** September 30, 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:** October 28, 2021, Community Development Center, 231 NE 5<sup>th</sup> 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.



## **I. APPLICATION SUMMARY:**

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

The proposal is an application to partition two parcels into three parcels. The property was originally platted as Lots 1, 2, and 3 of the Norwegian Wood Subdivision (ZC 1-06, S 1-06, L 23-06). Through a subsequent property line adjustment (BLA 5-12), the three lots were reconfigured into the two parcels that now exist. The proposed partition would divide the two parcels into three parcels, recreating the original configuration established by the Norwegian Wood Subdivision. The overall combined site area of the two existing parcels is 29,194 square feet, and the resulting three parcels would be 10,477 square feet (Proposed Parcel #1), 9,069 square feet (Proposed Parcel #2), and 9,648 square feet (Proposed Parcel #3).

***See Vicinity Map (Figure 1), Zoning Map (Figure 2), Previous Property Line Adjustment (Figure 3), Applicant's Proposed Partition Plan (Figure 4), Approved Street Tree Plan for Norwegian Wood Subdivision (Figure 5), and DOGAMI Landslide Susceptibility Mapping (Figure 6) below.*** Other items submitted as part of the application are included with the application, which is attached.

### ***Summary of Criteria***

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

The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

### ***Summary of Background and Key Issues***

At the time the lots were platted as part of the Norwegian Wood Subdivision, most public improvements were constructed for the subdivision, including the street with curb and gutter; storm drainage; sanitary sewer; water; power; and franchise utilities within the public utility easement. Sidewalks were constructed on individual lots as homes were constructed. Sidewalks have not been installed along the frontage of the subject lots. Lots 1, 2, and 3 were subsequently consolidated into two parcels (BLA 5-12), and this application would re-establish the three lots in the original configuration. The proposed lots already have frontage on the street that was constructed at the time of the Norwegian Wood Subdivision. Water and sewer services were provided to each of the three lots originally. The sewer lateral to former Lot 2 (Proposed Parcel 2) was capped with the first property line adjustment that reconfigured the original three lots into two lots. For this partition, that line will need to be re-used, so each lot has a lateral.

A street tree plan was approved for the Norwegian Wood Subdivision, L 23-06. A curbside sidewalk with nine street trees planted behind the sidewalk in the right-of-way was approved. Street trees were planted. Correspondence from 2008 indicated that some of the street trees that were planted had died and new trees needed to be planted. At that time, a tree survey indicated that one tree on Lot 2 and one tree on Lot 3 were dying or had died and needed to be replaced.

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#### *Attachments:*

Attachment 1 – Application and Attachments

It appears those trees have since died or been removed, or they were not planted. On October 27, 2021, seven of the nine trees were present. There are three trees along the frontage of Parcel 1, two along the frontage of Parcel 2, and two along the frontage of Parcel 3. The two trees along the frontage of Parcel 3 were planted with equal spacing different than specified in the approved street tree plan to accommodate three trees. The street trees do not appear to have a root barrier. The street trees will need to be retained consistent with the approved street tree plan and the two additional trees identified in the approved street tree plan planted in accordance with the City standards, or the applicant will need to request approval for any modifications to the approved street tree plan. However, the street trees were planted prior to the installation of the sidewalk. Sidewalks will still need to be installed at the time of home construction. When the sidewalk is constructed, a root barrier will need to be installed if it can be installed without compromising the existing street trees.

If the applicant proposes removal of any of the street trees, this will require submittal of a request for removal as specified in Chapter 17.58 of the Zoning Ordinance. If installation of root barrier will result in root damage and impact the health of the existing trees, the applicant shall provide a plan for review and approval for how street trees will be retained with root barrier or removed and replaced consistent with the approved street tree plan.

Existing street trees to be retained shall be protected during construction from construction equipment, stockpiling of materials, and grading which would impact the trees to be retained.

There also appear to be trees on the site near the southwest corner which are not shown on the tentative plan, which may be subject to the tree retention/removal provisions of Chapter 17.58 of the Zoning Ordinance if they are proposed for removal.

Section 15.58.020(D) specifies, “The provisions of this ordinance shall apply to all trees on developable land and subject to or undergoing development review such as site plan review, tentative subdivision review, or partition review.” Chapter 17.58 includes provisions for retention and protection of certain trees. Trees subject to the provisions of that Chapter are defined in Chapter 17.06 as those “which have a trunk five inches or more in diameter 4.5 feet above ground level at the base of the trunk. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.”

The applicant shall identify whether any trees near the back of the lots at the top of slope are located on the property and have these characteristics. If present, the applicant will need to identify whether they are proposed to retain the trees, in which tree protection must be in place during construction. Otherwise, the applicant would need to submit a request for removal as specified in the Zoning Ordinance.

Some additional conditions of the original Norwegian Wood Subdivision are applicable to the development of these lots, and are incorporated as conditions of approval, primarily addressing slope and any requirements of the Building and Engineering Divisions regarding suitability of any fill.

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Figure 1. Vicinity Map

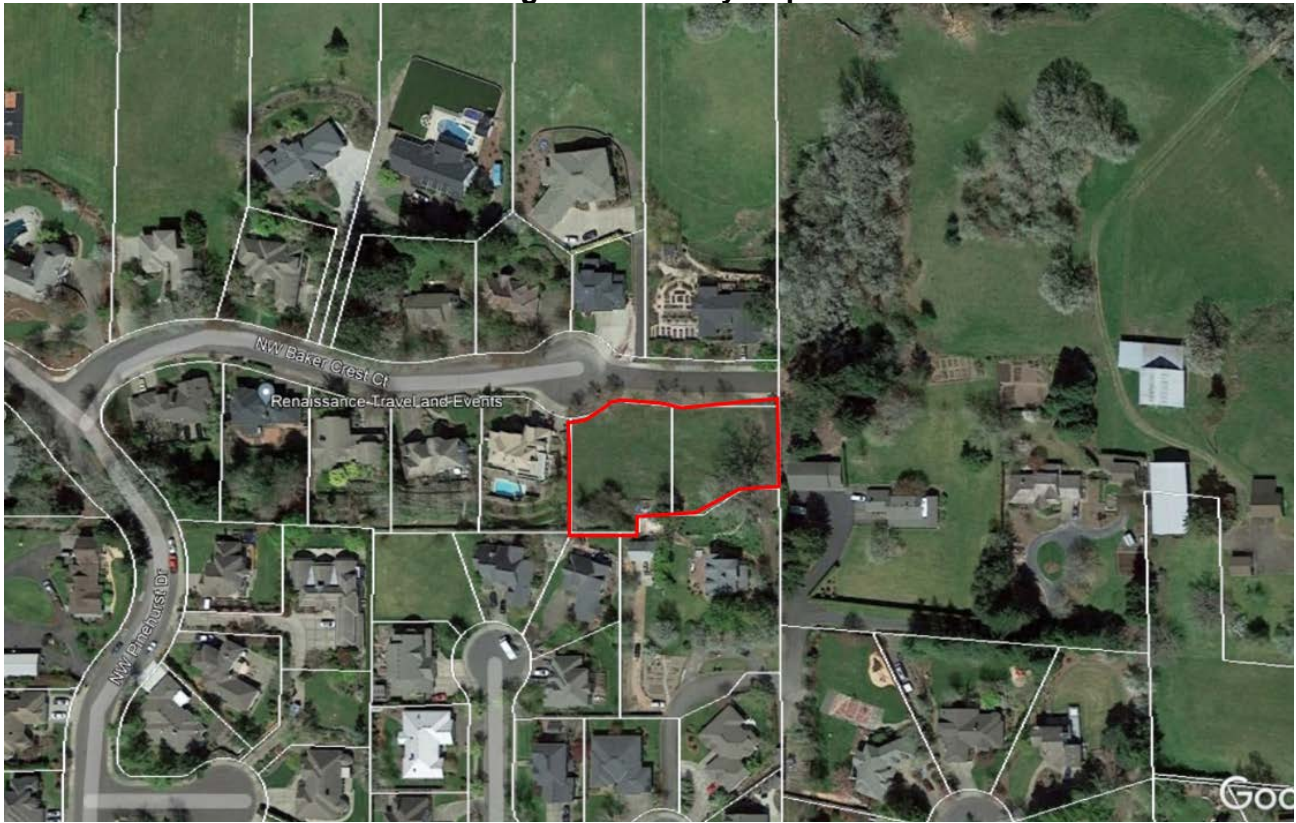
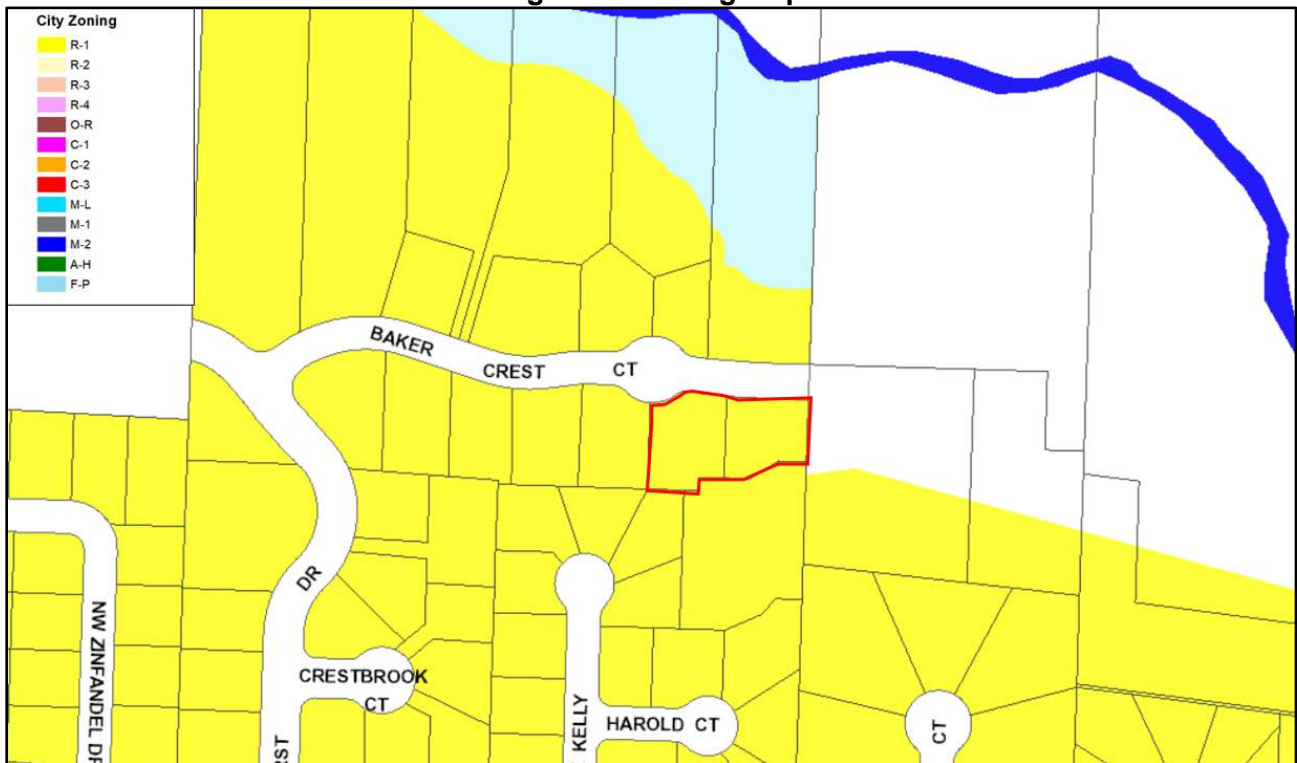


Figure 2. Zoning Map



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Figure 3. Previous Property Line Adjustment BLA 5-12

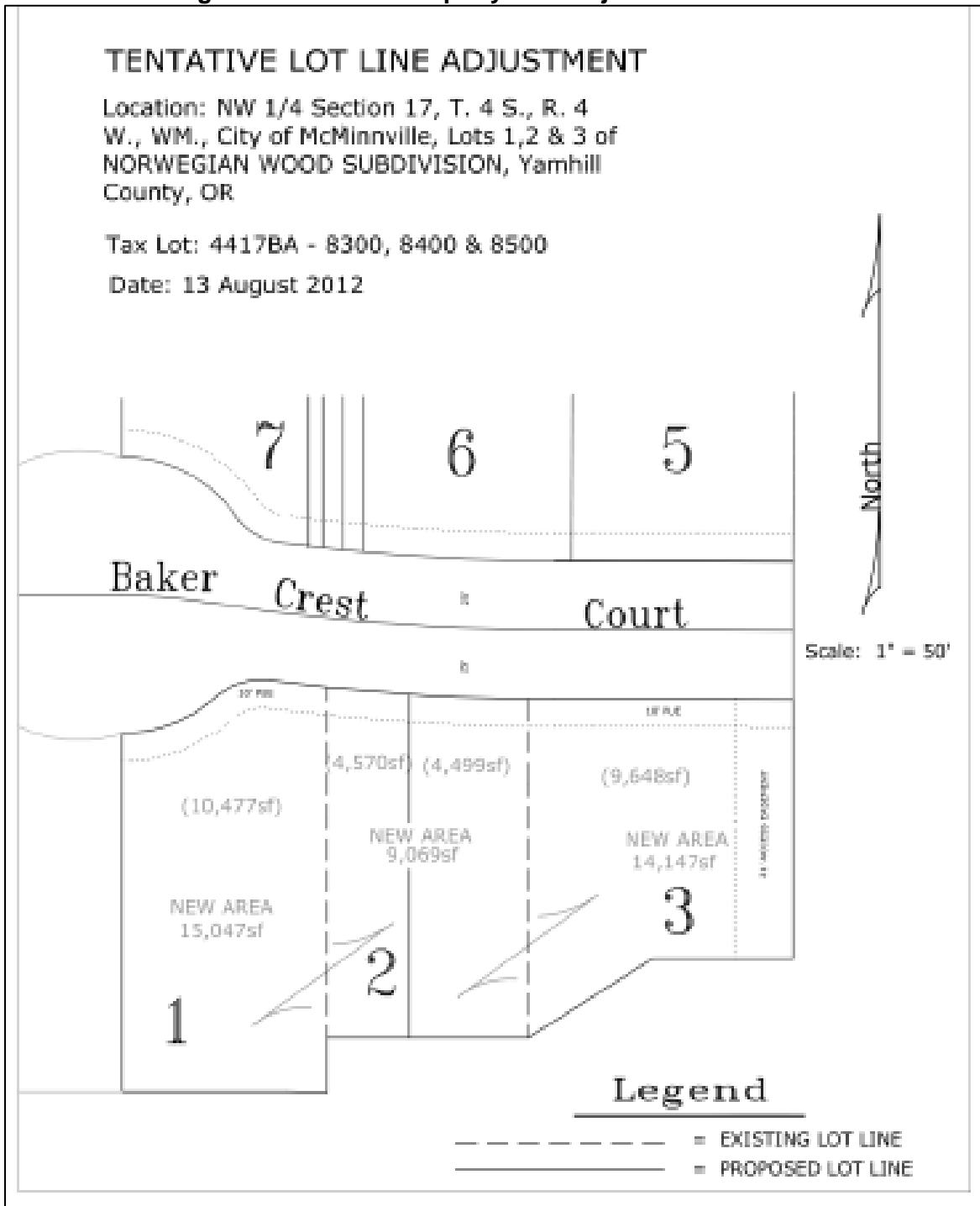
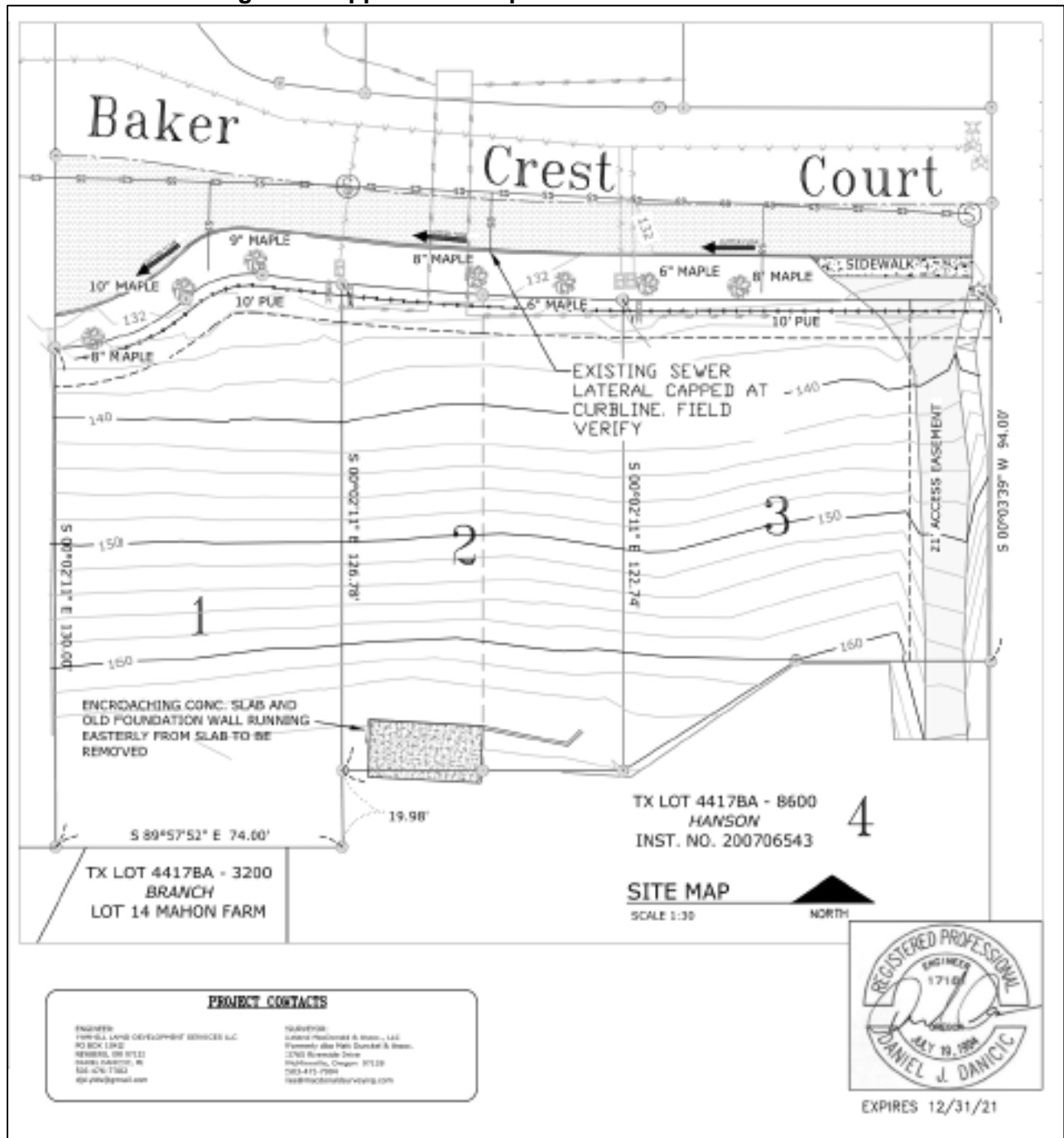
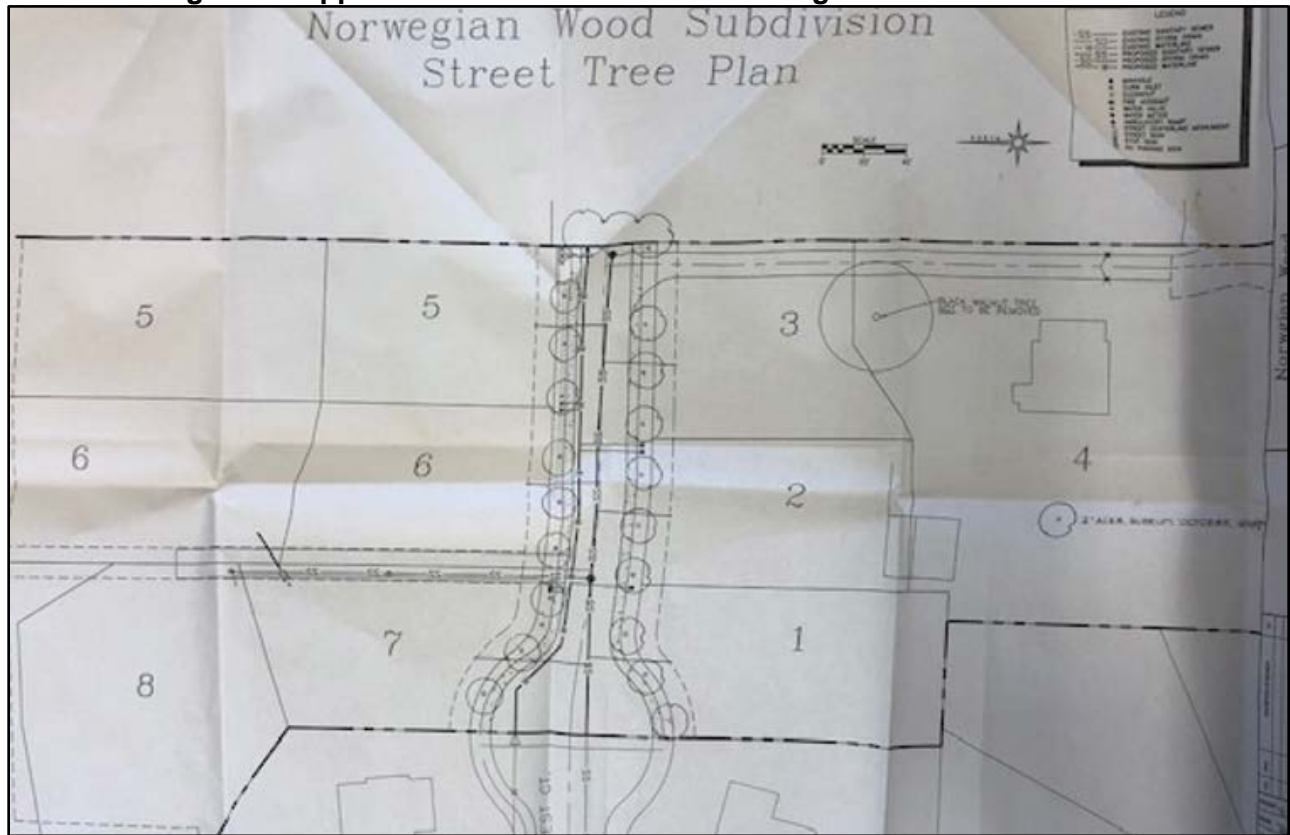


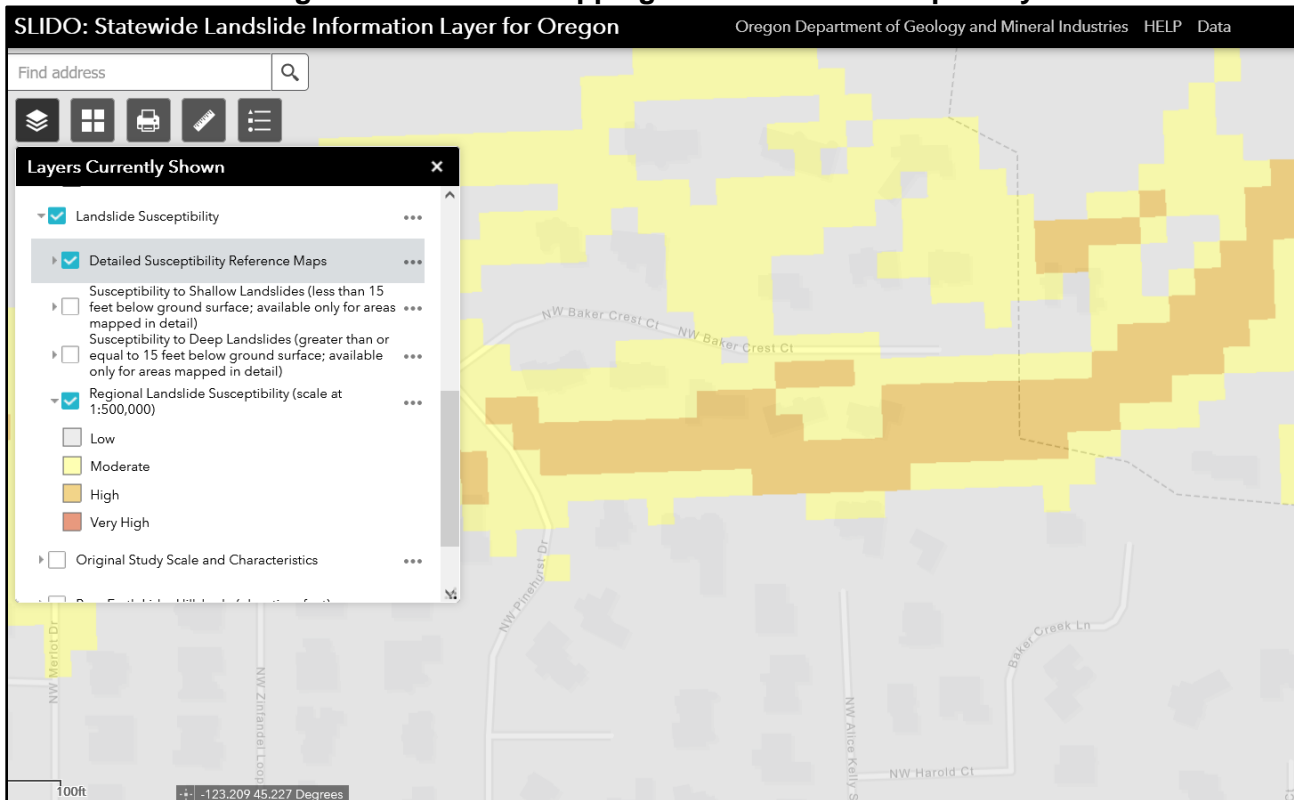
Figure 4. Applicant's Proposed Tentative Partition Plan



**Figure 5. Approved Street Tree Plan for Norwegian Wood Subdivision**



**Figure 6. DOGAMI Mapping of Landslide Susceptibility**



**Attachments:**

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## **II. CONDITIONS:**

1. The applicant shall submit information showing where two additional street trees will be replaced consistent with the approved street tree plan. In addition to the street trees, the applicant shall identify whether there are any trees on the property which meet the definition in Chapter 17.06 for trees of the size which are subject to the provisions of Chapter 17.58. Any such existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition are subject to the provisions of Chapter 17.58 – “Trees” of the McMinnville Municipal Code.

The applicant shall identify whether any trees are proposed for removal. No trees shall be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. The Planning Director shall review any proposed tree removal request to determine if the proposal represents any minor changes to the approved street tree plan, or whether tree removal will require approval by the Landscape Review Committee as specified in Section 17.58.040 “Tree Removal and Replacement.” In such case, surrounding property owners will be notified of any tree removal request utilizing the same notification standards as those outlined in Chapter 17.72 of the McMinnville Municipal Code for minor partitions.

Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees.

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

2. Root barrier adjacent to the street trees shall be installed in accordance with City standards at the time the sidewalk is installed, consistent with the City standards specified in the Zoning Ordinance and the City’s standard drawings. Root barrier is to be installed along the sidewalk 10-feet in length centered at the trunk of the tree, and is to be installed to a depth of 18 inches. If installation of the sidewalk and/or root barrier would potentially result in damage to the tree or its roots that would impact its health or survival, or if trees are proposed for removal for other reasons above, the applicant shall not remove trees without prior review and written approval by the Planning Director, pursuant to Chapter 17.58, as described above.
3. For any proposed additional street tree planting or planting of any replacement trees, per Section 17.58.110 of the Zoning Ordinance, the trees shall be installed prior to submittal of the final plat.

As an alternative the applicant may file a surety bond or other approved security to assure the planting of the required street trees as prescribed in Section 17.53.153. Additional or replacement trees consistent with the approved street tree plan shall be installed prior to Certificate of Occupancy or may be installed from November 1 to March 1 following Certificate of Occupancy, adjacent to those properties on which a structure has been constructed and received final occupancy.

It shall be the applicant's responsibility to relocate street trees as may be necessary to accommodate individual building plans. The applicant shall also be responsible for the maintenance of the street trees, and for the replacement of any trees which may die due to neglect or vandalism, for one year from the date of planting

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4. To comply with Policy #12 of the Great Neighborhood Principles in the Comprehensive Plan, (187.50(12)(b)), the applicant shall submit evidence that there will be variation in home design on the parcels. Policy 187.50(12)(b) specifies, “Similar housing types, when immediately adjacent to one another, shall provide variety in building form and design.” Variety shall consider massing, color pallet, rooflines, and door and window placement and patterns.
5. If any major excavation or development (structural or driveway) is proposed on a lot in an area with slope of 15% or greater, a geotechnical report will be required to mitigate the potentiality of land slide hazards, and any resulting recommendation of that report will need to be incorporated into the construction project.
6. Per Condition #4 from the original Norwegian Wood Subdivision approval S 1-06, prior to issuance of building permits for individual lots, the applicant shall submit evidence that all fill placed in the areas where building sites are expected is engineered. Evidence shall meet with the approval of the City Building Division and the City Engineering Department.
7. Lot grading and fill shall comply with the requirements of Section 17.53.110, including the following: Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:
  - o Cut slopes shall not exceed one and one-half (1½) feet horizontally to one (1) foot vertically.
  - o Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.
  - o The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.
8. All lots require sanitary sewer services. The existing sanitary sewer laterals stubbed out should be extended to the property lines if they are not already. Please contact the Engineering Department with questions about timing of this requirement relative to the final plat vs. building permits, including the lateral that was previously cut and capped.
9. 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.
10. That approval of this tentative plat will expire 12 (twelve) months after the date of issuance of this decision. If the final plat has not been submitted prior to expiration of the tentative plat, or a written request for an extension of this approval has not been submitted and approved within that same period, the applicant must resubmit a tentative plat for further consideration, and comply with regulations and conditions applicable at that time.
11. 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.

**NOTE:** *Zipty telecommunications provided comments in response to notice of this application as follows, “If the lots would like Zipty telecommunications service, the developer will need to bring minimum 1.5” conduit/path from each new home to the Public Utility Easement/ Right-of-Way and along the PUE/ROW to the lot line between lots 1 and 2.”*

**III. ATTACHMENTS:**

1. MP 3-21 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; Northwest Natural Gas; and ODOT Region 2.

Responses were received from the following agencies, provided below:

***McMinnville Building Department:***

- No building code issues

***McMinnville Water & Light:***

- Water: Protect the existing water services, especially if the new lot lines don't match the existing subdivision plat.
- Power: Protect existing McMinnville Water and Light Electric Junction Boxes.

***McMinnville Engineering Department:***

All of the lots need sanitary sewer served to them. The existing sanitary sewer laterals stubbed out should be extended to the property lines if they are not already. Technically, the lot is not served if the stub is not to the property/ends in the City right-of-way.

***Zipty Fiber:***

No conflicts. If the lot would like Zipty service, the developer will need to bring minimum 1.5" conduit/path from each new home to the Public Utility Easement/ Right-of-Way and along the PUE/ROW to the lot line between lots 1 and 2.

***Comcast:***

No conflicts foreseen with this project.

**Public Comments**

Notice of this request was mailed to property owners located within 100 feet of the subject site. No public testimony was received.

**V. FINDINGS OF FACT - PROCEDURAL FINDINGS**

1. The application was submitted on July 13, 2021.
2. The application was deemed incomplete on July 23, 2021, and the applicant submitted additional information on August 31, 2021. The application was deemed complete on September 30, 2021.
3. On October 5, 2021, 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

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***Attachments:***

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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; Northwest Natural Gas; and ODOT Region 2.

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

4. On October 4, 2021, notice of the application and public comment period was mailed to property owners within 100 feet of the subject property in accordance with Section 17.72.110 of the Zoning Ordinance.
5. The 14-day public comment period closed on October 18, 2021.
6. No Public testimony was submitted to the Planning Department.
7. The Planning Director issued a decision on October 28, 2021.

## **VI. FINDINGS OF FACT - GENERAL FINDINGS**

1. **Location:**
  - a. Address: 902 and 988 NW Baker Crest Ct.
  - b. Map & Tax Lot: R4417BA 08399 & 08500
2. **Size:** 29,194 square feet (0.67 acres)
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:**
  - a. **Subject Property:** R-1
  - b. **Surrounding Properties:**
    - i. **North:** R-1
    - ii. **South:** R-1
    - iii. **East:** County EF-80
    - iv. **West:** R-1
5. **Overlay Zones/Special Districts:** None identified.
6. **Current Use:** Undeveloped
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** There may be some trees on site not shown on the tentative plan which are subject to the provisions of Chapter 17.58.
8. **Other Features:**
  - a. **Slopes:** The property slopes upward from the street southerly toward the rear of the lots, with approximately 30 feet of elevation gain between the street and the rear lot lines.
  - b. **DOGAMI Mapping:** The property includes areas mapped by DOGAMI (the Oregon Department of Geology and Mineral Industries) as high and moderate landslide susceptibility.

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- c. **Easements:** There is an existing 10' public utility easement along the street frontage. There is an existing 21-foot emergency access easement across the easterly portion of the existing Parcel 2/proposed Parcel 3.
9. **Utilities:** Utilities were installed in conjunction with the Norwegian Wood Subdivision.
- a. **Water:** Municipal water mains and services are present along the property's frontage as shown on the tentative plan.
  - b. **Sewer:** Municipal sewer mains and laterals are present along the property's frontage as shown on the tentative plan. The lateral which originally served lot 2 was capped at the right-of-way when the previous lot line adjustment was approved which eliminated lot 2 as a separate lot and conveyed portions of that lot to the adjoining lots. That lateral would need to be used for service to Lot 2.
  - c. **Stormwater:** The existing storm drainage is westerly along the curb to an existing storm catch basin and pipe system in NW Baker Crest.
  - d. **Other Services:** Other franchise services are available to the property.

#### 10. **Transportation and Access:**

The existing and proposed parcels have frontage on, and will take access from, Baker Crest Court, which was improved at the time of the Norwegian Wood Subdivision plat. Baker Crest Court is functionally classified as a local street in the Transportation System Plan. designated as a No new street is proposed. Baker Crest Court terminates at the east side of the subject property and is designed for future extension to the east. Emergency access is present via the easement along the easterly side of the property, extending to the south.

Sidewalks have not been installed along the frontage of these lots. Per condition 5a of the original approval for Norwegian Wood subdivision S 1-06, a planter strip shall be provided between the curb and sidewalk.

### **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, polices, and proposals as they apply to this application.

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

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**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 117.00*      *The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.*
- 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 132.62.20*      *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.** No new street is proposed. The existing street and the proposed lots are consistent with the goal and policies and the TSP. Access is consistent with the applicable street, access, and associated lot standards of Chapter 17.53.

**GOAL VII 1: TO PROVIDE NECESSARY PUBLIC AND PRIVATE FACILITIES AND UTILITIES AT LEVELS COMMENSURATE WITH URBAN DEVELOPMENT, EXTENDED IN A PHASED MANNER, AND PLANNED AND PROVIDED IN ADVANCE OF OR CONCURRENT WITH DEVELOPMENT, IN ORDER TO PROMOTE THE ORDERLY CONVERSION OF URBANIZABLE AND FUTURE URBANIZABLE LANDS TO URBAN LANDS WITHIN THE McMINNVILLE URBAN GROWTH BOUNDARY.**

- Policy 136.00*      *The City of McMinnville shall insure that urban developments are connected to the municipal sewage system pursuant to applicable city, state, and federal regulations.*
- Policy 142.00*      *The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.*
- Policy 143.00*      *The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage.*
- Policy 144.00*      *The City of McMinnville, through McMinnville Water and Light, shall provide water services for development at urban densities within the McMinnville Urban Growth Boundary.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The properties are served with adequate municipal services and utilities which were installed at the time of the Norwegian Wood Subdivision.

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*Attachments:*

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**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.

**CHAPTER IX URBANIZATION**

**GOAL IX.1: TO PROVIDE ADEQUATE LAND TO SERVICE THE NEEDS OF THE PROJECTED POPULATION TO THE YEAR 2023, AND TO ENSURE THE CONVERSION OF THESE LANDS IN AN ORDERLY, TIMELY MANNER TO URBAN USES.**

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

**GREAT NEIGHBORHOOD PRINCIPLES POLICIES: Policies 187.10-187.50(1)–(12)**

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITIONS.** The scale of the development limits the ability to address several of the Great Neighborhood Principles. However, Policy 187.50(1) addresses natural feature preservation, which shall be addressed through conditions of approval providing for preservation and/or replacement of trees as specified in Chapter 17.58. Policy 187.50(12)(b) addresses housing variety, “Similar housing types, when immediately adjacent to one another, shall provide variety in building form and design.” As a condition of approval, there shall be variety in the design of homes on the lots.

**McMinnville Zoning Ordinance (Title 17 of the Municipal Code)**

The following Sections of the Zoning Ordinance provide criteria applicable to the request:

***Chapter 17.53. Land Division Standards:***

***Land Division Standards - Partition***

***17.53.060(A). Submission of Tentative Partition Plan...***

**APPLICANT’S RESPONSE:** The following responses were provided in response to the completeness review letter requesting additional information.

- (4) See submitted plan for detail on the access easement.
- (4) It is not known why there is a difference between the original conditions and what was recorded. Our submittal is based on the recorded subdivision plat.
- (5) Existing improvements found at the top of slope near the south side of the property near the rear lot line of the proposed parcels.

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- (6) Refer to submitted plan.
- (8) An updated title report will be submitted to meet his criteria.
- (9) Refer to submitted plan.
- (11) Refer to submitted plan. No natural features are proposed to be removed.
- (12) The existing storm drainage is westerly along the curb to an existing storm catch basin and pipe system in NW Baker Crest.
- (12) Based on information from the City of McMinnville Engineering Dept., the original sewer lateral appears to have been cut and capped just behind the curb line. This will be confirmed when the lot is developed.

**FINDING: SATISFIED.** The applicant submitted an application which was deemed complete upon a determination that the items specified in Section 17.53.060(A) were submitted.

**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 WITH CONDITIONS.** *See Below.* The application was processed in accordance with Section 17.72.100. Findings regarding substantial conformance of the tentative plan with the requirements of this Chapter are addressed individually below.

**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.** Conditions of approval are included to ensure consistently with the Comprehensive Plan. No dedication of land or easements if required as a condition of approval. Necessary dedications were provided at the time the Norwegian Wood Subdivision was platted. There are no required dedications or conditions which would be greater than could be required if the entire parcel were subdivided into 4 or more lots.

The proposed partition will not result in more than three parcels within a calendar year. The proposed partition doesn't result in any parcels of one acre or more in size.

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*Attachments:*

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

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITIONS.** Conditions of approval are included to specify that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision, and the final plat must be finalized or the tentative plan will expire, unless an extension is approved as specified in the Zoning Ordinance.

### **Land Division Standards - Future Development Plan**

**17.53.080. Submission of Future Development Plan.** *A future development plan is required when it is evident that the property to be subdivided or partitioned can be further divided...*

*It shall be the responsibility of the Engineering Department and Planning Department to review a future plan to ensure that it substantially conforms to the requirements of this chapter. The review body will ensure that the infrastructure for the future plan is consistent with the current development requirements. The Planning Director may reject a future plan if it is found that it does not substantially conform to the requirements of this chapter. The review body may make any of the following recommendations:*

- A. The construction of streets and utilities or the dedication of right-of-way for future improvements.*
- B. Any easements as deemed necessary for the extension of utility services.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** Based on the proposed parcel sizes and the minimum requirements of the R-1 zone, it is not evident the property would be further divided. Right-of-way and utilities were provided in conjunction with the Norwegian Wood Subdivision for future extension to the east.

### **Land Division Standards – Approval of Streets and Ways**

#### 17.53.100 Creation of Streets.

- A. The creation of streets shall be in conformance with requirements for a subdivision except, however, the City Council 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.**

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** No new street is proposed. Streets were established at the time of the Norwegian Wood Subdivision. All parcels will have frontage on and take access from the established street. Sidewalk improvements with planter strip are required along the frontage of each parcel at the time of development.

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- 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 15 (fifteen) 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 17.53.060 to 17.53.079 and Section 17.53.101 of these regulations, shall be recommended for approval with such conditions as are necessary to preserve these standards.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** No new street is proposed to be established by deed.

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

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** Each parcel has frontage on, and will take access from, the existing public street. No easement access or flag lot access is proposed for any parcel. There is an existing emergency access easement, but that doesn’t provide for primary access for any parcel.

- 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 17.53.101(P) and maintenance of said private way/drive; 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.
5. Gates are prohibited within or across public rights-of-way. Gates are prohibited across private streets that serve single-family residential development of four or more lots or parcels, multi-family housing complexes, manufactured home parks, or commercial or industrial subdivisions (Amended 8/14/07 by Ordinance No. 4879).

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The application is for a partition, not a subdivision, and a private way/drive is not proposed.

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) <sup>1</sup>	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 <sup>2</sup>	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 <sup>3</sup>	na	na	na	30 or 40 ft.	28 ft.	28 ft.	Not Apply
	Pedestrian Zone (with ADA)	On-Street Parking Two Sides None	74 ft.	46 ft.	44 ft.	30 or 40 ft.	28 ft.	28 ft.	Not Apply
		Pedestrian Amenities <sup>4</sup>	8 ft. Com	5 ft. Res 10-12 ft. Com	5 ft. Res 10-12 ft. Com	5 ft. Res 10-12 ft. Com	5 ft.	5 ft.	None
		Planters Strips		6 ft. Res na Com	6 ft. Res na Com	6 ft. Res na Com	5 ft. Res	5 ft. Res	None
	Traffic Management	Preferred Adjacent Land Use – Intensity	High	Medium to High	Medium	Medium	Medium to Low	Low	Low
		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 <sup>5</sup>		35 mph	30-35 mph	25-30 mph	25 mph	25 mph	15-25 mph	10 mph	
Through-traffic Connectivity		Primary	Typical	Typical	Typical	Not Typical	Not Permissible	Not Permissible	
Access Control		Yes	Yes	Some	Some	No	No	No	
Maximum Grade		6%	6%	10%	10%	12%	12%	12%	
Right-of-Way:		104 ft.	96 ft.	74 ft.	56 ft. (no bike lane) 66 ft. (bike lane)	50 ft.	50 ft.	20 ft.	

**General Design Notes:**

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

**Street Design Standard Notes:**

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

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 50 (fifty) 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 turnaround. Local streets shall provide connectivity as identified in Exhibit 2-1 of the McMinnville Transportation System Plan or connectivity that is functionally equivalent. 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 60 (sixty) 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 50 (fifty) 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 80 (eighty) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 (twenty) 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. The City may consider a reduction in arterial or collector street lane widths (lanes no less than 10 feet wide) by restriping existing travel lanes.
- 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 not more than 18 (eighteen) dwelling units. A cul-de-sac shall terminate with a turnaround.
- J. 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 or Planning Director may allow eyebrows. Eyebrows shall be limited to a maximum length of 125 feet, when measured from the main street right-of-way from which the eyebrow takes access. The City Engineer or Planning Director 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 36 (thirty-six) feet, with a paved 10 (ten) foot curb-to-curb radius at the terminus. Sidewalks shall not be installed within eyebrows without additional right-of-way dedication. (Amended 11/18/94 by Ordinance 4573.)
- K. 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 Director. The naming of new streets with names of local historic significance and/or where appropriate in alphabetical order is encouraged. (Amended 10/9/90 by Ordinance No. 4477.)
- L. Grades and curves. Grades shall not exceed six (6) percent on arterials, 10 (ten) percent on collector streets, or 12 (twelve) percent on any other street except as described below. Any local street grade exceeding 12 (twelve) percent shall be reviewed for approval by the Fire Code Official during the land use application process. When a local residential street is approved to exceed 12 (twelve) percent the following shall be required:
1. A maximum of 200 feet of roadway length may be allowed with a grade between 12 (twelve) percent and 15 (fifteen) percent for any one section. The roadway grade must reduce to no more than 12 (twelve) percent for a minimum of 75 linear feet of roadway length between each such section for firefighting operations.
  2. Fire sprinklers shall be installed in all residential and commercial structures whose access road is constructed at a grade higher than 12 (twelve) percent. The approval of such fire sprinklers shall be accomplished in accordance with the provisions of ORS 455.610(6).
- Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even 10 (ten) feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept sharper curves.
- M. 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.

- N. 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 non-access 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.
- O. 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.
- P. Private way/drive. This type of street will be allowed when the conditions of Section 17.53.100(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 Transportation System Plan. Arterial streets shall be designed to be wide enough to accommodate a six (6) foot wide bike lane adjacent to each outside traffic lane. All major collector and some minor collector streets (dependent upon available right-of-way) shall be designed with five-foot wide bike lanes. Where a proposed development abuts a collector street less than 40 feet (Minor Collector) or 44 feet (Major Collector) 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. (Amended 11/8/94 by Ordinance 4573.)
- R. Residential Collector Spacing. Generally, residential collector or arterial streets should be spaced no more than 1,800 feet from each other unless it is determined otherwise after consideration of the unique characteristics of the land including geography, topography, unique vegetation, and the relation of the site to developments already present or proposed in the area. (Amended 11/8/94 by Ordinance 4573.)
- S. Sidewalks. Along arterials and along major collectors with bikeways in commercial areas, sidewalks shall be eight (8) feet in width or, where less than eight (8) feet of right-of-way is available, shall extend to the property line and be located adjacent to the curb. Sidewalks in all other locations shall be five (5) feet in width and be placed one (1) foot from the right-of-way line. Sidewalks adjacent to a cul-de-sac bulb shall be located adjacent to the curb. (Amended 11/8/94 by Ordinance 4573.)
- T. Park strips. Park strips shall be provided between the curb and sidewalk along both sides of all streets except (a) commercial arterial and collector streets, in which case street trees may be placed in tree wells as specified by the McMinnville Street Ordinance; or (b) cul-de-sac bulbs. Street trees shall be planted and maintained within the park strip as specified in Chapter 17.58 (Trees) of the McMinnville Zoning Ordinance.
- U. Gates. Gates are prohibited within or across public rights-of-way. Gates are also prohibited across private streets that serve single-family residential development of four or more lots or parcels, multi-family housing complexes, manufactured home parks, or commercial or industrial subdivisions. The City may permit gates of limited duration for the purpose of facilitating public events, construction of public infrastructure, or other similar activities having a public interest or benefit at the discretion of the City Manager. (Ord. 5023, §2, 2017; Ord. 4922, §4B, 2010; Amended 8/14/07 by Ordinance No. 4879.)

**APPLICANT'S RESPONSE:** None.

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**FINDING: SATISFIED.** No new street is proposed. The proposed parcels will take access from the existing street. The street layout for the original Norwegian Wood subdivision would not comply with the current block length and perimeter standards. Properties to the south are already developed and terminate with cul-de-sacs without opportunities for additional connectivity. The existing street's current extension to the east as previously approved is the only remaining opportunity for street connectivity and continuation.

The existing street does not exceed 12% slope, so homes are not required to have fire sprinklers.

Subsections M-R are not applicable.

Subsections S and T are addressed with conditions of approval requiring sidewalks and street trees per the approved street tree plan.

Subsection U is not applicable, no gate is proposed.

17.53.103 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.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** No new streets are proposed. There are no opportunities to establish new blocks through additional street connections.

B. Size. *No block shall be more than 400 feet in length between street corner lines or have a block perimeter greater than 1,600 feet 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.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** No new streets are proposed. There are no opportunities to establish new blocks through additional street connections.

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 10 (ten) 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 10 (ten) feet in width shall be required along all rights-of-way. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The governing body of a city or county may not place additional restrictions or conditions on a utility easement granted under this chapter.*
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, channeled, 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 10 (ten) 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. (Ord. 4922, §4B, 2010)*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** Existing utility easements and an emergency access easement were previously established as needed at the time of the Norwegian Wood plat. There is no opportunity for additional pedestrian easements to reduce the block lengths.

17.53.105 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 lot 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 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.*
- 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.*
- 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.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITIONS.** The proposed lots are consistent with the zoning requirements for the permitted uses. The lots are buildable subject to compliance with the grading provisions of Section 17.53.110 as a condition of approval. The lots comply with the access requirements. No new through lots are created. Side lot lines are generally perpendicular to the street, and no flag lots are created.

17.53.110 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 (1½) feet horizontally to one (1) foot vertically.*
- B. *Fill slopes shall not exceed two (2) feet horizontally to one (1) 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.*

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- 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.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITIONS.** There a grade increase of approximately 30 feet from the front to the back of the lots. As a condition of approval, the grading, including cut and fill slopes shall comply with the standards of this section, and per the conditions of the original Norwegian Wood Subdivision, the fill shall be reviewed by the Building and Engineering Divisions for suitability for the intended development. In addition, the property includes areas mapped by DOGAMI as moderate and high landslide susceptibility, so any grading and site development are required to be based on a geotechnical report as a condition of approval.

17.53.120 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.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** No special building setback lines are proposed. Development of Parcel 3 will need to be located outside of the emergency access easement area.

17.53.130 Large Lot Subdivision. *In subdividing tracts into large lots which at some future time are likely to be re-subdivided, 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.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The proposed partition doesn’t include large lots which are likely to be further divided.

17.53.140 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 17.53.075(A)(10).*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The proposed partition doesn’t include left-over land.

## **Chapter 17.12. R-1 Single-Family Residential Zone.**

17.12.030 Lot size. *In an R-1 zone the lot area shall not be less than nine thousand square feet, except as provided in Sections 17.12.010(C) and 17.12.020(O) of this title. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

17.12.040 Yard requirements. *In an R-1 zone each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:*

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- A. A front yard shall not be less than twenty feet;
- B. A rear yard shall not be less than twenty feet;
- C. A side yard shall not be less than ten feet, except an exterior side yard shall not be less than twenty feet. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The intended residential use is a permitted use in the R-1 zone, and the lots are sized and configured such that they are buildable in compliance with the required yards.

### **Chapter 17.06. Definitions and Chapter 17.58. Trees**

17.06.045 Tree Related Definitions. For the purpose of Trees (Chapter 17.58), the following definitions shall apply.

*Tree – Any woody plant having a trunk five inches or more in diameter 4.5 feet above ground level at the base of the trunk. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.*

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

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

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** Chapter 17.58 is applicable based on the definition in Section 17.060.045 and the applicability provisions in Section 17.58.020(D). Therefore, the provisions of 17.58.040 and 050 below are applicable.

### 17.58.040 Tree Removal/Replacement

- A. *The removal or major pruning of a tree, if applicable under Section 17.58.020, shall require City approval, unless specifically designated as exempt by this ordinance. Persons wishing to remove or prune such trees shall file an application for a permit with the McMinnville Planning Department. The applicant shall include information describing the location, type, and size of the subject tree or trees, and the reasons for the desired action, and the costs associated with tree removal, replacement, and repair of any other public infrastructure impacted by the tree removal or major pruning. Requests for tree removal or pruning of trees outside of the Downtown Tree Zone shall be forwarded to the McMinnville Landscape Review Committee for a decision within 30 (thirty) days of submittal. Requests for tree removal within the Downtown Tree Zone shall be submitted to the McMinnville Planning Department. Such requests shall be acted upon as soon as practicable, with consideration given to public safety, value of the tree to the public, and work schedules. The Planning Director or their designee should attempt to make decisions on such requests within five calendar days of submittal. The Landscape Review Committee or Planning Director, as appropriate, may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. A decision of the committee or Director may*

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*be appealed to the Planning Commission if written notice of the appeal is filed with the Planning Department within 15 (fifteen) days of the committee's or Director's decision. A decision made by the Planning Director in response to a request to remove an unsafe tree, or a tree causing repeated and excessive damage to sidewalks or other public or private improvements or structures shall be final, unless appealed by the applicant; no other party shall have standing to appeal.*

[...]

- D. *Approval of a request to remove a tree may be conditioned upon replacement of the tree with another tree approved by the city, or a requirement to pay to the city an amount sufficient to fund the planting and establishment by the city of a tree, or trees, of similar value. The value of the existing tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. Every attempt should be made to plant replacement trees in the same general location as the tree being removed. In the event that a replacement tree cannot be planted in the same general location, a condition of approval may be required to allow for the replacement tree to be planted in another location in the City as part of the City's annual tree planting program.*

[...]

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

- A. *The tree is unsafe, dead, or diseased as determined by a Certified Arborist.*  
 B. *The tree is in conflict with public improvements.*  
 C. *The proposed removal or pruning is part of an approved development project, a public improvement project where no alternative is available, or is part of a street tree improvement program.*  
 D. *Verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).*

**APPLICANT'S RESPONSE: NONE.**

**FINDING: SATISFIED WITH CONDITIONS.** There may be trees on the property, not shown on the tentative plan, which meet the definition in Section 17.06.045 and which are subject to Chapter 17.58 under Section 17.58.020(D). The applicant shall indicate if such trees are present and whether any trees are proposed for removal as part of the development. If any of the trees are proposed for removal, the applicant shall apply for an obtain approval for tree removal and replacement as provided for in Section 17.58.040(D).

As a condition of approval, at the time sidewalks are installed, root barrier shall be installed in accordance with City standards. In addition, if the street trees which were previously planted along the frontage will be impacted by installation of sidewalk and/or root barrier, then any removal and/or replacement shall be done in compliance with the tree removal and replacement provisions of this ordinance and the applicable street tree standards.

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*Attachments:*

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