



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

503-434-7311

www.mcminnvilleoregon.gov

DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A ZONE CHANGE ON THE SOUTHERN PORTION OF THE PROPERTY AT 2121 NE 27TH STREET.


- DOCKET:** ZC 2-17 (Zone Change)
- REQUEST:** The applicant is proposing to rezone the southern portion of an existing parcel and lot of record from an existing mixed zoning of EF-40 (Exclusive Farm Use – 40-acre Minimum), R-1 (Single Family Residential), and C-3 (General Commercial) to only C-3. The parcel has recently been given approval to be partitioned (MP 7-16) into two parcels. The proposed amendment would result in the proposed Parcel 2 from the partition request being zoned C-3.
- LOCATION:** The subject site is located at 2121 NE 27th Street and is more specifically described as Tax Lot 5002, Section 16AA, T. 4 S., R. 4 W., W.M.
- ZONING:** The subject site's current zoning is a mixture of EF-40 (Exclusive Farm Use – 40-acre Minimum), R-1 (Single Family Residential), and C-3 (General Commercial).
- APPLICANT:** Creekside Homes, LLC, on behalf of Jae & Ayliah Chon
- STAFF:** Chuck Darnell, Associate Planner
- HEARINGS BODY:** McMinnville Planning Commission
- DATE & TIME:** March 16, 2017. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.
- HEARINGS BODY:** McMinnville City Council
- DATE & TIME:** April 25, 2017. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.
- COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; and Northwest Natural Gas. Their comments are provided in this exhibit.

DECISION AND CONDITIONS OF APPROVAL

DECISION

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the zone change (ZC 2-17) to the McMinnville City Council **subject to the conditions of approval provided in this document.**

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DECISION: APPROVAL WITH CONDITIONS
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City Council: 
Scott Hill, Mayor of McMinnville

Date: 5/1/17

Planning Commission: 
Roger Hall, Chair of the McMinnville Planning Commission

Date: March 16, 2017

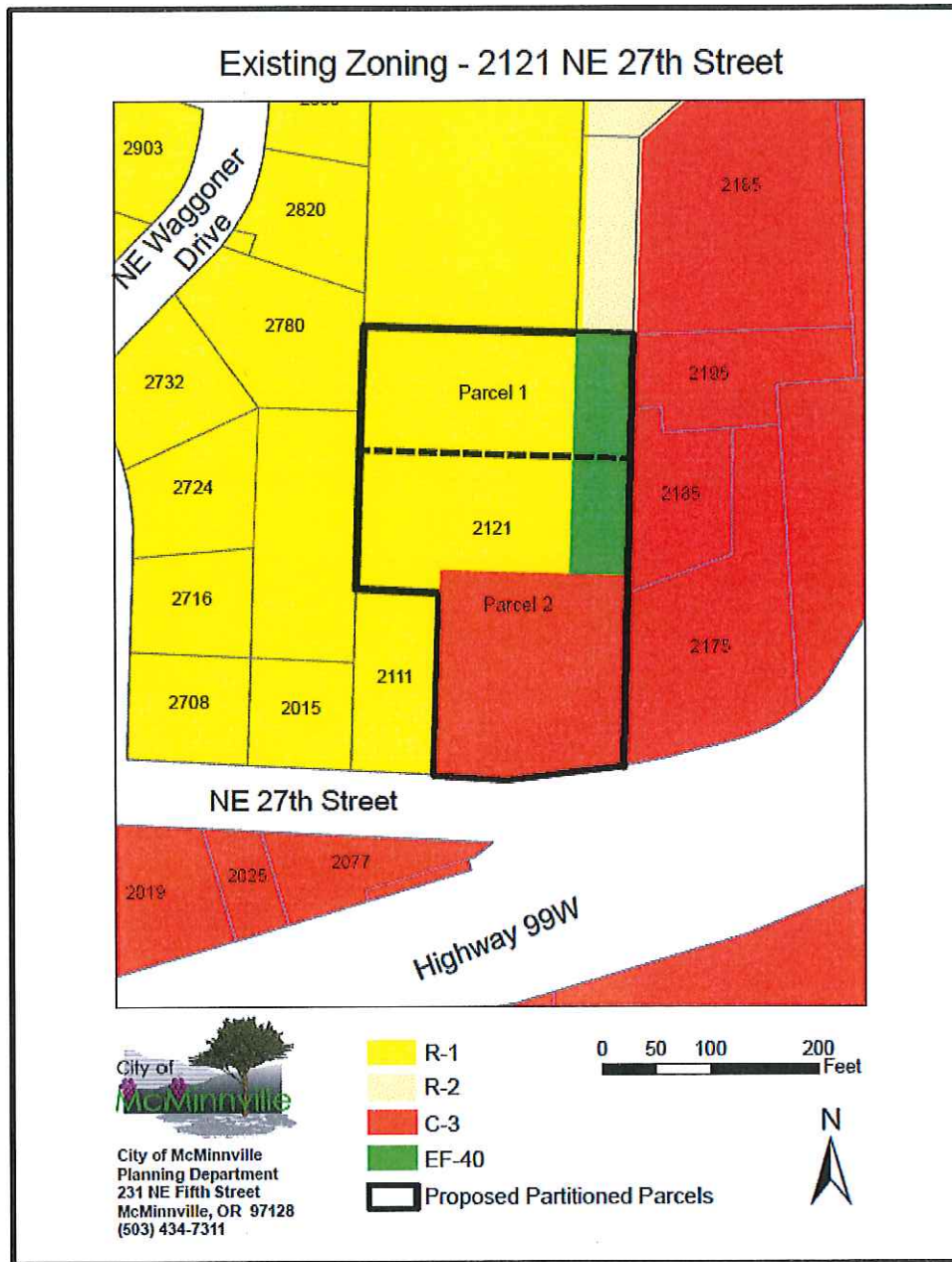
Planning Department: 
Heather Richards, Planning Director

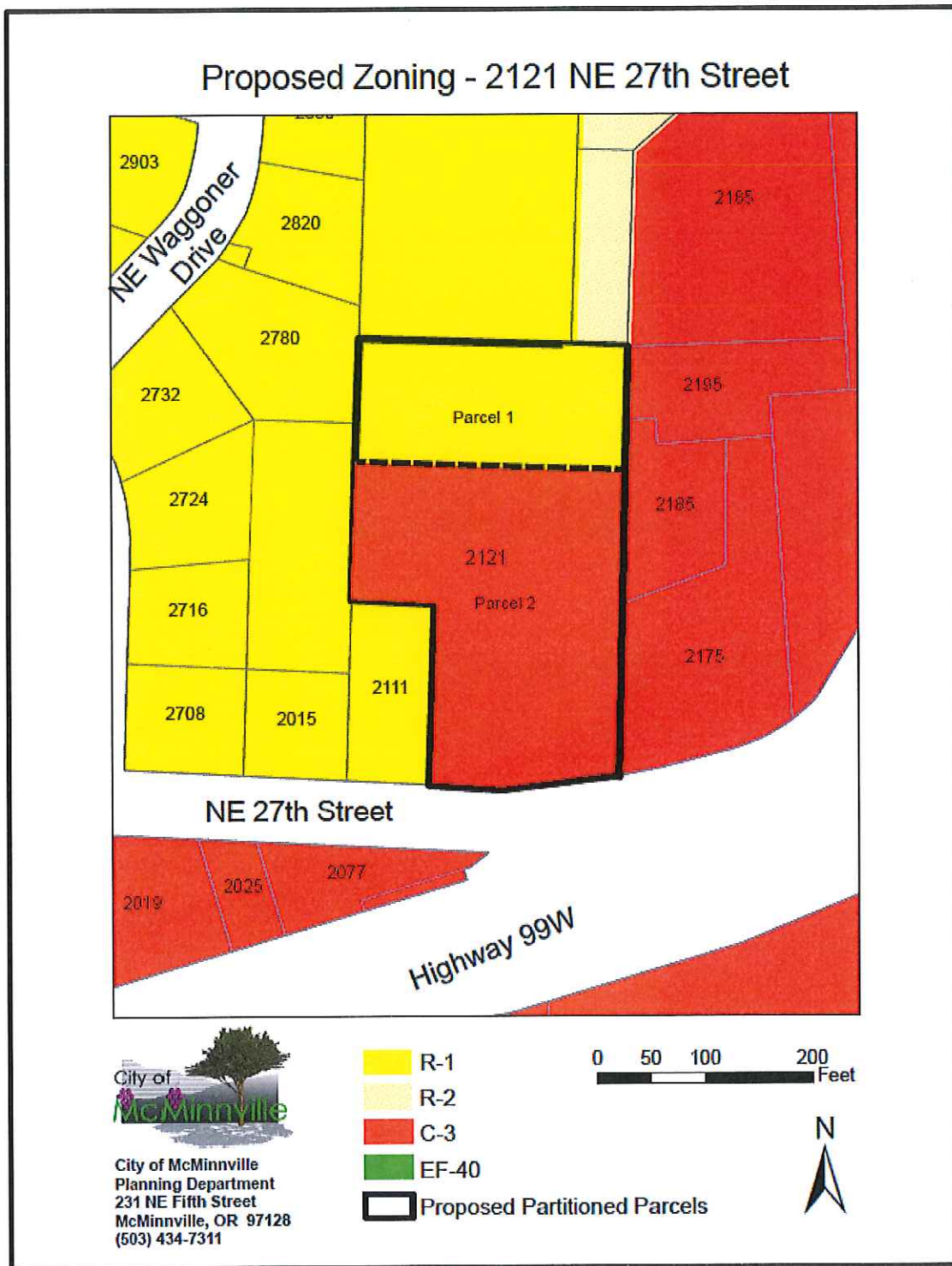
Date: 4/18/17

Application Summary:

The applicant is proposing to rezone the southern portion of an existing parcel and lot of record from an existing mixed zoning of EF-40 (Exclusive Farm Use – 40-acre Minimum), R-1 (Single Family Residential), and C-3 (General Commercial) to only C-3. The parcel has recently been given approval to be partitioned (MP 7-16) into two parcels. The proposed amendment would result in the proposed Parcel 2 from the partition request being zoned C-3.

The existing and proposed zoning of the subject site are shown below:





CONDITIONS OF APPROVAL

The following conditions of approval shall be required:

ZC 2-17 is approved subject to the following conditions:

1. That the property shall be partitioned as approved by the City of McMinnville on January 13, 2017, and as proposed in Docket MP 7-16. The final partition plat shall be submitted to the City for review and approval prior to being recorded with Yamhill County. The property owner shall complete all conditions of approval as required by the City in the approval of the tentative minor partition application (MP 7-16).
2. That the proposed Parcel 2 from the partition request (MP 7-16) be rezoned to C-3 General Commercial.
3. That the rezoning be contingent on the Comprehensive Plan Map amendment request (CPA 1-17) being approved by the McMinnville City Council.
4. Prior to any future building permits being issued for the northern parcel to be zoned R-1 Single Family Residential, the applicant shall install landscaping on the west property line of the southern parcel, to be zoned C-3 General Commercial, to provide for additional screening and buffering between the commercial activities and the surrounding residential uses, as required by Comprehensive Plan Policy 32.00. At such time, the applicant shall submit a landscape plan to be reviewed and approved by the Landscape Review Committee subject to the provisions in Chapter 17.57 (Landscaping) of the McMinnville Zoning Ordinance.

ATTACHMENTS

1. ZC 2-17 Application and Attachments

COMMENTS

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Frontier Communications, Comcast, Northwest Natural Gas. The following comments had been received:

McMinnville Engineering Department

We have reviewed proposed CPA 1-17, ZC 1-17, and ZC 2-17, and do not have any comments. We recently reviewed proposed MP 7-16 for these properties, and would note that the infrastructure requirements associated with that approval have not been completed, and the partition plat has not been recorded.

FINDINGS OF FACT

1. Creekside Homes, LLC is proposing to rezone the southern portion of an existing parcel and lot of record from an existing mixed zoning of EF-40 (Exclusive Farm Use – 40-acre Minimum), R-1 (Single Family Residential), and C-3 (General Commercial) to only C-3. The parcel has recently been given approval to be partitioned (MP 7-16) into two parcels. The proposed amendment would result in the proposed Parcel 2 from the partition request being zoned C-3. The subject site is located at 2121 NE 27th Street and is more specifically described as Tax Lot 5002, Section 16AA, T. 4 S., R. 4 W., W.M.

2. The site is currently zoned EF-40 (Exclusive Farm Use – 40-acre Minimum), R-1 (Single Family Residential), and C-3 (General Commercial), and is designated as Residential and Commercial on the McMinnville Comprehensive Plan Map, 1980. The applicant has also concurrently applied for a designation of the entire site as only Commercial on the Comprehensive Plan Map (CPA 1-17).
3. Sanitary sewer and municipal water and power can serve the site. The municipal water reclamation facility has sufficient capacity to accommodate expected waste flows resulting from development of the property.
4. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation, Oregon Division of State Lands, and Oregon Department of Fish and Wildlife. No comments in opposition have been provided.
5. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.
6. The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

GOAL IV 2: TO ENCOURAGE THE CONTINUED GROWTH OF MCMINNVILLE AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.

Policy 21.03: The City shall support existing businesses and industries and the establishment of locally owned, managed, or controlled businesses.

Finding: Goal IV 2 and Policy 21.03 are satisfied by this proposal as the existing commercial business located on the southern parcel, which is proposed to be rezoned as entirely C-3 General Commercial on the official Zoning map, is an existing and long-established business in McMinnville. The business is also locally owned, and the business (and property) owners actually intend to construct a single family home on the northern parcel, which is proposed to be rezoned to R-1 Single Family Residential on the Zoning map, to serve as their primary residence.

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

Policy 22.00: The maximum and most efficient use of existing commercially designated lands will be encouraged as will the revitalization and reuse of existing commercial properties.

Finding: Goal IV 3 and Policy 22.00 are satisfied in that the majority of the southern parcel is zoned C-3 General Commercial on the official Zoning map. The proposed rezoning of the entire southern parcel to C-3 General Commercial will appropriately provide commercial designation on the Zoning map to accommodate existing commercial development and will allow for maximum and most efficient use of existing commercially designated lands.

Policy 25.00: Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.

Finding: The existing commercial use on the southern parcel is already served by city services, and adequate utilities exist to service additional commercial development if ever needed. The existing commercial use as a restaurant and pub is not an overly intense commercial use, as it does not generate significant traffic or noise, which makes the commercial use compatible with the surrounding land uses. However, the commercial use as a restaurant and pub will generate some traffic and noise, so staff is recommending that additional landscaping be installed on the site to provide for more screening and buffering, which will minimize potential conflicts with adjacent land uses. Therefore, Policy 25.00 is met.

Policy 27.00: Neighborhood commercial uses will be allowed in residential areas. These commercial uses will consist only of neighborhood oriented businesses and will be located on collector or arterial streets. More intensive, large commercial uses will not be considered compatible with or be allowed in neighborhood commercial centers.

Finding: Policy 27.00 is met as while the particular area in which the subject site is located is not specifically designated as a neighborhood commercial center, the site is adjacent to residential zones and uses. The existing commercial use on the subject site, a restaurant, is not a large, intensive commercial use, and could be considered to be a commercial use that provides services to the immediate surrounding neighborhood. Additionally, the commercial use fronts and is oriented towards NE 27th Street, and access to the business is provided from that street. The surrounding residential properties are all accessed from other surrounding local residential streets.

Policy 32.00: Where necessary, landscaping and/or other visual and sound barriers shall be required to screen commercial activities from residential areas.

Finding: The existing commercial use on the southern parcel is not a large, intense commercial use, but it is adjacent to residential zones and uses. To be more compatible with the existing surrounding uses, staff is suggesting that a condition of approval be included to require landscaping to be provided on the north and west property lines of the southern parcel to provide for additional screening and buffering between the commercial activities and the surrounding residential uses, as is allowed by Comprehensive Plan Policy 32.00.

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.

Policy 147.00: The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas. The City shall also continue to coordinate with McMinnville Water and Light in making land use decisions.

Policy 151.00: The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:

- 1. Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, are available or can be made available, to fulfill peak demands and insure fire flow requirements and to meet emergency situation needs.*
- 2. Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluents.*
- 3. Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.*
- 4. Federal, state, and local water and waste water quality standards can be adhered to.*
- 5. Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.*

Finding: Goal VII 1 and Policies 136.00, 142.00, 143.00.20, 144.00, 147.00 and 151 (1)-(5) are satisfied by the request as adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas and in making land-use decisions.

Policy 155.00: The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.

Finding: Policy 155.00 is satisfied in that emergency services departments have reviewed this request and raise no concerns with providing police and fire protection to the subject area.

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.

Finding: Goal VII 3 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

7. The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

C-3 General Commercial Zone:

17.33.010 Permitted Uses. In a C-3 zone, the following uses and their accessory uses are permitted:

1. All uses and conditional uses permitted in the C-1 and C-2 zones, except those listed in Section 17.33.020.

C-2 Travel Commercial Zone:

17.30.010 Permitted Uses. In a C-2 zone, the following uses and their accessory uses are permitted:

- F. Restaurant

Finding: The portion of the subject site that will be rezoned to C-3 General Commercial is currently used as a restaurant, and the applicant is proposing to continue to operate that business. The existing and proposed future use of the site as a restaurant will be permitted.

Review Criteria:

17.74.020 Review Criteria. An amendment to the official zoning map may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

- A. The proposed amendment is consistent with the goals and policies of the comprehensive plan;
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;
- C. Utilities and services can be efficiently provided to service the proposed uses or other potential uses in the proposed zoning district.

Finding: The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, as is described in greater detail above.

The property owner's request to partition the subject site and existing lot of record was approved by the City in 2016, with a condition of approval that the property owner rezone the portion of the property that retains its county zoning prior to the City releasing any building permits for the site. Section 17.09.050 (Annexed areas) of the McMinnville Zoning Ordinance states that "a County zoned area annexed to the City shall remain in the County zone classification and shall not be allowed any building permits until the zone is changed to a city zone". While the property owner is not proposing to complete any construction on the southern portion of the subject site at the time of this application, the proposed amendment would remove county zoning from the northeast corner of the proposed southern parcel. This portion of the site still retains an EF-40 (Exclusive Farm Use – 40-acre Minimum) zoning classification from when it was annexed into the city. The request would bring that portion of the site into a city zone, and would decrease the number of zoning districts that apply to the single parcel.

The southern portion of the site, as described above, has been functioning as a commercial establishment for many years. The existing use of the subject site as a commercial actually extends outside of the portion of the site that is shown on the Zoning Map as C-3 General Commercial. The main developed portion of the southern parcel is the actual restaurant building, which fronts onto NE 27th Street, but the parking lot for the building does extend to the north and west outside of the C-3 areas as shown on the zoning map. There is no record of when the use enlarged to this size, and it may have existed in its current footprint as long as a commercial use was conducted at the site.

Based on that existing use and the pattern of development in the area, staff believes that the request is orderly and timely. The request would rezone the entire southern parcel to a single zoning district, removing a county zoning, reducing the number of zoning districts on one parcel from three to only one, and would more accurately represent the existing and historical use of the southern portion of the subject site.

The southern parcel is primarily zoned C-3 General Commercial, so the request wouldn't change the overall development of the area. The property immediately to the west and south along NE 27th Street and Highway 99W is all zoned and used as C-3 General Commercial as well. Therefore, the proposed rezoning is consistent with the development and use of the surrounding area.

Utilities and services currently exist and are provided for the existing commercial use on the southern portion of the subject site. As part of the minor partition process, the access to the southern property from NE 27th Street, along with the sidewalk, will be required to be improved to meet current Public Right-of-Way Accessibility Guidelines (PROWAG) standards.

CD:sjs