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May 2, 2017

Baker Creek Development, LLC
Attn: Morgan Will
485 S. State Street
Lake Oswego, OR 970345

RE: AP 1-17 of the

Dear Mr. Will:

This is to advise you that, at a meeting of the McMinnville City Council on Tuesday, April 25, 2017 and Wednesday April 26, 2017, your application (AP 1-17) appealing the Planning Commission's denial of ZC 1-16/ZC 2-16/S 3-16 was presented and carefully studied. The subject property is located south of Baker Creek Road and east of Hill Road and is more specifically described as Tax Lots 200, 203 and 205, Section 18, T. 4 S., R. 4 W., W.M.

Applications ZC 1-16/ZC 2-16/S 3-16 are summarized as follows:

Zone Change - R-1 to R-1PD and EF-80 to R-1PD (ZC 1-16):

The applicant is proposing a zone change comprised of two elements, one of which would rezone approximately 17.23 acres of land from R-1 (Single-Family Residential) to R-1 PD (Single-Family Residential Planned Development). The remaining portion of the zone change request would rezone approximately 13.61 acres of land from EF-80 (Exclusive Farm Land – 80-Acre Minimum) to R-1 PD. These zone changes are proposed, essentially, to apply a common zone to the area proposed for single-family residential development.

Planned Development Amendment – Amendment of ORD No. 4626 (ZC 2-16):

The applicant is proposing to amend the existing planned development ordinance that currently governs a portion of the area proposed for residential development in a number of ways including: 1) Expansion of the boundary of the existing planned development to include the approximately 30.83 acres that are the subject of the zone change requests noted above; 2) lot size averaging over the area proposed to be governed by Ord. No. 4626; 3) a reduction in the front yard setback for certain lots from 20 to 15 feet; 4) a reduction in the side yard setback for certain lots from 10 feet to either 7.5 feet, 5 feet, or 3 feet; and, 5) a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet.

Tentative Subdivision (S 3-16):

The applicant is requesting approval of a tentative phased subdivision plan on approximately 40.55 acres of land that, if approved, would provide for the construction of 208 single-family homes the construction of 70 multiple-family dwellings on one lot yielding a total of 278 proposed residential dwelling units.

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Based on the material submitted and the testimony received, the City Council voted to **APPROVE** your appeal request (AP 1-17). Attached is your land-use decision with the Findings of Fact and Conditions of Approval for your records.

We have also outlined the conditions of approval below:

ZC 1-16 AND ZC 2-16: ZONE CHANGE AND PLANNED DEVELOPMENT AMENDMENT – CONDITIONS OF APPROVAL ZC 1-16 and ZC 2-16 are approved subject to the following conditions:

1. That the Baker Creek tentative subdivision plan shall be placed on file with the Planning Department and become a part of the zone and binding on the owner and developer.

The developer will be responsible for requesting approval of the Planning Commission for any major change in the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the City Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by the Planning Director may be made only to the Planning Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the commissioners

2. That per the applicant's proposal, the 3.8 acres of land zoned C-3 PD shall be limited to a multi-family unit complex of no more than 70 dwelling units and any supportive services deemed appropriate to serve the multi-family complex. Site plans and building elevations for the proposed multi-family units must be submitted to and approved by the Planning Director prior to the issuance of any building permits for said units. The multiple-family buildings shall be no more than 35 feet in height and must be nonlinear in design and parking lots must be broken up by landscaping. Prior to the release of building permits, a landscape plan for a minimum of 25 percent of the multiple-family site shall be provided to the Landscape Review Committee for review and approval. In addition, useable open space and a 20-foot wide easement containing a 10-foot wide paved pedestrian connection from Haun Drive to Baker Creek Road to be located within the east edge of this site shall be provided within the development, and streetside landscaping shall be emphasized.
3. That the minimum lot sizes, widths, building envelope widths and yard setbacks for single-family residential lots shall be as follows according to the following lot types identified by the applicant on the Overall Subdivision Plan:

A. SFD-70 Lots

9,000 square foot minimum lot size
Minimum Lot Width of 70 feet
Minimum Building Envelope Width of 50 feet
Setbacks:
Front Yard – 20 feet
Distance to Garage Front – 20 feet
Rear Yard – 20 feet
Interior Side Yard – 10 feet
Exterior Side Yard – 20 feet

B. SFD-65 Lots

6,463 square foot minimum lot size
Minimum Lot Width of 65 feet
Minimum Building Envelope Width of 50 feet
Setbacks:
Front Yard – 20 feet
Distance to Garage Front – 20 feet
Rear Yard – 20 feet
Interior Side Yard – 7.5 feet
Exterior Side Yard – 20 feet

C. SFD-60 Lots

5,683 square foot minimum lot size
Minimum Lot Width of 60 feet
Minimum Building Envelope Width of 50 feet
Setbacks:
Front Yard – 15 feet
Distance to Garage Front – 20 feet
Rear Yard – 20 feet
Interior Side Yard – 5 feet
Exterior Side Yard – 20 feet

D. SFD-40 Lots – Permitted Exclusively in BCW

4,000 square foot minimum lot size
Minimum Lot Width of 40 feet
Minimum Building Envelope Width of 30 feet
Setbacks:
Front Yard – 15 feet
Distance to Garage Front – 20 feet
Rear Yard – 20 feet
Interior Side Yard – 5 feet
Exterior Side Yard – 15 feet

E. SFD-32 Lots – Permitted Exclusively in BCW

3,200 square foot minimum lot size
Minimum Lot Width of 32 feet
Minimum Building Envelope Width of 26 feet
Setbacks:
Front Yard – 15 feet
Distance to Garage Front – 20 feet
Rear Yard – 20 feet
Interior Side Yard – 3 feet
Exterior Side Yard – 15 feet

4. That one private Mini-Park/Playground a minimum of 7,500 square feet in size be provided at the southwest quadrant of the proposed intersection of Haun Drive and Matteo Drive in the BCW portion of the development and shown as Tract D on the applicant's Exhibit G, Drawing PL-1. This Mini-Park/Playground shall be improved with commercial grade play equipment featuring at least ten different play elements for ages 2 - 12, benches and at least two picnic tables as approved by the Planning Director, and be maintained by the Homeowners Association. In addition, the open space identified as Tract B in BCW shall be

provided at a minimum size of 10,097 square feet and shall be located at the western end of the block bounded by 21st Street to the south, Montgomery Drive to the west and 22nd Street to the north and is shown on the applicant's Exhibit G, Drawing PL-2. The open space identified as Tract C in BCW shall be provided at a minimum size of 11,393 square feet and shall be located at the northern end of the block bounded by Matteo Drive to the west, Haun Drive to the north and Yohn Ranch Drive to the east and is shown on the applicant's Exhibit G, Drawing PL-1. Additionally Tract C and Tract D of BCW, and Active Space A of BCE shall be landscaped with turf. Appropriate benches, trashcans and picnic tables need to be provide and reviewed by the Landscape Review Committee as part of the Landscape Plan. All detention areas and passive open spaces shall be landscaped and reviewed by the Landscape Review Committee as part of the Landscape Plan as well.

The applicant shall submit copies of the proposed restrictive covenants prepared for the development prior to the final plat approval including, in part, details for Tracts B, C, and D noted above including a fence design that shall be of a style which provides visual relief, interest and long-term durability. That documents creating a Homeowner's Association for the subdivision and assigning to it maintenance responsibilities of any common ownership features must be submitted to and approved by the Planning Director. In order to assure that the Homeowners Association maintains and repairs any needed improvements, including fencing, play equipment, picnic tables, landscaping of common areas and the planter strips between the subdivision fence line and the public streets, the Covenants, Conditions, and Restrictions (CC&Rs) shall explicitly require the Homeowner's Association to provide notice to the City prior to amending the CC&Rs, and that all such amendments shall be subject to approval by the Planning Director. Additionally, the CC&Rs shall prohibit the Homeowner's Association from disbanding without the consent of the Planning Director. The CC&R's shall be reviewed by and subject to City approval prior to final plat approval.

5. That, prior to issuance of residential building permits, the applicant shall submit a residential Architectural Pattern Book to the Planning Director for review and approval. The purpose of the Architectural Pattern Book is to provide an illustrative guide for residential design in the Baker Creek development. This book will contain architectural elevations, details, materials and colors of each building type. The dominant building style for residences in the area identified in the Baker Creek subdivision tentative plan can be best described as Northwest Craftsman or English Cottage style dwelling. In order to protect property values, front entries will need to be clearly defined, garages will need to either be on the same plane as the front entry or recessed from the front entry, at least three material types will need to be used on the front elevations, driveways should be adjacent to each other to enhance opportunities for front yards and landscaping, and a variety of color schemes should be used throughout the development that are distinctly different from each other but enhance each other.

At a minimum, the Architectural Pattern Book shall contain sections addressing:

- a) Style and Massing
- b) Quality and Type of Exterior Materials
- c) Front Porches / Entry Areas
- d) Roof Design and Materials
- e) Exterior Doors and Windows
- f) Garage Door Types
- g) Exterior Lighting
- h) Sample Exterior Colors

This land-use approval does not deem the elevations provided in Exhibit M, as approved, as they are merely examples of potential architectural styles.

6. In order to eliminate a cookie-cutter stylization of the neighborhood, no same home design shall be built in adjacency to another, including both sides of the street.
7. That, as the Shadden Claim 1st and 2nd Addition residential subdivisions were constructed according to the conditions stipulated in Ord. No. 4626, those same applicable conditions are incorporated in this approval and remain in full force and effect for those two completed subdivision phases:
 - A. That the conceptual plan for that portion of the subject site not included in the tentative subdivision plan shall not be binding on the City.
 - B. That the minimum interior side yard setback shall be 7.5 feet.
 - C. That duplexes shall be allowed on corner lots 134, 136, and 140 with a minimum lot size of 8,000 square feet.
 - D. That the exterior side yard setback for lots 68, 69, 96, 108, 109, 120, 134, 136, and 140 shall be a minimum of 15 feet.
8. That Planned Development Ordinance No. 4626 is repealed in its entirety.

S 3-16: TENTATIVE PHASED SUBDIVISION – CONDITIONS OF APPROVAL

Based on the materials submitted by the applicant, the findings of fact, and the conclusionary findings for approval, **S 3-16** is **approved** subject to the following conditions:

9. That the subdivision approval does not take effect until and unless the companion zone change requests (ZC 1-16 and ZC 2-16) are approved by the City Council.
10. The final plat shall include the dedication of additional right-of-way, totaling 48' east of centerline, along the subdivision's Hill Road frontage.
11. The final plat shall include the dedication of additional right-of-way, totaling 48' south of centerline, along the subdivision's Baker Creek Road frontage.
12. The final plat shall include prohibitions against direct access to Hill Road and to Baker Creek Road for any individual lot.
13. With the exception of Shadden Drive, the interior streets shall be improved with a 28-foot wide paved section, 5-foot wide curbside planting strips, and 5-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way, as required by the McMinnville Land Division Ordinance for local residential streets.
14. Shadden Drive shall be constructed to a 36-foot-wide paved section with curb and gutter, planter strips, and sidewalks within a 60-foot right-of-way.
15. Street grades and profiles shall be designed and constructed to meet the adopted Land Division Ordinance standards and the requirements contained in the Public Right-of-Way Accessibility Guidelines (PROWAG). Additionally, corner curb ramps shall be constructed to meet PROWAG requirements.
16. The applicant shall coordinate the location of clustered mailboxes with the Postmaster, and the location of any clustered mailboxes shall meet the accessibility requirements of PROWAG and the State of Oregon Structural Specialty Code.

17. The applicant shall install a barricade at the southern terminus of proposed Montgomery Avenue consistent with City standards. The barricades shall include signage with text stating: "This Street is planned for extension to serve future development."
18. On-street parking will be restricted at all street intersections, in conformance with the requirements of the City's Land Development Ordinance.
19. The City Public Works Department will install, at the applicant's expense, the necessary street signage (including stop signs, no parking signage, and street name signage), curb painting, and striping (including stop bars) associated with the development. The applicant shall reimburse the City for the signage and markings prior to the City's approval of the final plat.
20. The applicant shall submit cross sections for the public street system to be constructed. Cross sections shall depict utility location, street improvement elevation and grade, park strips, sidewalk location, and sidewalk elevation and grade. Said cross sections shall be submitted to the City Engineer for review and approval prior to submittal of the final plat. All such submittals must comply with the requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.
21. A detailed, engineered sanitary sewage collection plan, which incorporates the requirements of the City's adopted Conveyance System Master Plan, must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved sanitary sewage plan must be reflected on the final plat.
22. A detailed, engineered storm drainage plan, which satisfies the requirements of the City's Storm Drainage Master Plan must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
23. If the final storm drainage plan incorporates the use of backyard collection systems and easements, such systems must be private rather than public, and private maintenance agreements for them must be approved by the City prior to the City's approval of the final plat. The maintenance agreements shall include requirements that drainage channels / facilities within the storm drainage easements shall be kept in their designed condition, and that no fill or other construction activities (including the construction of fences) will be allowed within those areas.
24. Prior to the construction of any private storm facilities, the applicant shall obtain the necessary permits from the City's Building Division.
25. The proposed detention facility tracts shall be private rather than public, and private maintenance agreements for them must be approved by the City prior to the City's approval of the final plat. The maintenance agreements shall include requirements that drainage channels / facilities within the detention facilities shall be kept in their designed condition, and that no fill or other construction activities (including the construction of fences) will be allowed within those areas.
26. That the applicant shall provide twenty-five percent (25%) of the single-family lots (52 of the proposed 208 single-family lots) for sale to the general public for a period of six months following recording of the final plat.
27. Prior to recording the subdivision plat, that applicant shall provide to the Planning Director a wetland quality assessment for the areas identified as wetlands on the tentative subdivision plan. Those areas are identified as affecting tentative lots 46, 47, 57 and 58 of BCE and the Tract A Open Space as identified on the applicant's Exhibit H-2, Drawing C-3. The applicant

- shall either protect or mitigate the wetland(s) as necessary. If wetlands are identified and required to be protected on tentative lots 46, 47, 57 and/or 58 of BCE, the applicant shall provide verification that a reasonable building envelope remains on each affected lot.
28. The final subdivision plans shall incorporate access provisions, and corresponding easements, for the maintenance by the City of all public storm facilities, including any proposed overflow weirs.
 29. The final plat shall include 10-foot utility easements along both sides of all public rights-of-way for the placement and maintenance of required utilities.
 30. The final plat shall include use, ownership, and maintenance rights and responsibilities for all easements and tracts.
 31. The applicant shall secure from the Oregon Department of Environmental Quality (DEQ) any applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.
 32. The applicant shall secure all required state and federal permits, including, if applicable, those related to wetland fill and impacts, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
 33. 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.
 34. The required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.
 35. The applicant shall submit a draft copy of the subdivision plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two copies of the final subdivision 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.
 36. Park fees shall be paid for each housing unit at the time of building permit application as required by McMinnville Ordinance 4282, as amended.
 37. The applicant shall submit copies of the proposed restrictive covenants prepared for the development prior to the final plat approval. The covenants shall define a standard fence design for those properties which back onto Hill Road, onto Baker Creek Road, onto the storm water detention tracts, onto the recreational open spaces (Tracts B, C and D depicted on the applicant's Exhibit G, Drawings PL-1 and PL-2), and onto the pedestrian accessway facilities between Snowberry Street/McGarey Drive and between Shadden Drive/Victoria Drive. The fence design shall be of a style which provides visual relief, interest and long-term durability. In addition, the covenants shall require that the areas within wetland easements shall be kept in natural condition, to the extent practicable.

38. That documents creating a Homeowner's Association for the subdivision and assigning to it maintenance responsibilities of any common ownership features must be submitted to and approved by the Planning Director. In order to assure that the Homeowners Association maintains and repairs any needed improvements, including landscaping of common areas and the planter strips between the subdivision fence line and the public streets, the Covenants, Conditions, and Restrictions (CC&Rs) shall explicitly require the Homeowner's Association to provide notice to the City prior to amending the CC&Rs, and that all such amendments shall be subject to approval by the Planning Director. Additionally, the CC&Rs shall prohibit the Homeowner's Association from disbanding without the consent of the Planning Director. The CC&R's shall be reviewed by and subject to City approval prior to final plat approval.
39. The applicant shall submit plans for all pedestrian accessways including between Snowberry Street/McGarey Drive, between Shadden Drive/Victoria Drive, between Haun Drive/Baker Creek Road, and between Montgomery Avenue and Hill Road. The accessways shall be improved by the applicant with a minimum 10-foot wide concrete surface unless otherwise approved by the Planning Director. The pedestrian pathways located in the BCW portion of the development shall be located within 20-foot wide easements. Plans shall also depict landscaping along both sides of the pathways except where crossing wetland areas identified as requiring habitat protection or where adjacent to open active space as approved by the Planning Director. Plans shall also depict underground irrigation adjacent to both sides of all pathways. Improvement plans shall be forwarded for review and approval by the McMinnville Landscape Review Committee prior to commencing improvements of the accessway. All required improvements to the pedestrian accessways shall be completed by the applicant prior to filing of the final plat.
40. That adjacent pairing of driveways shall be required to create on-street parking opportunities of increased lengths.
41. That the applicant plant street trees within curbside planting strips in accordance with a street tree plan to be prepared by the applicant and submitted to the Landscape Review Committee for their review and approval. The street tree plan shall identify the locations of all street lights, fire hydrants, utility vaults, transformers, and other public and private utilities. The placement of those utilities shall be strategic to allow for as many street trees to be planted within the subdivisions as possible. Street tree specifications will be provided by the City of McMinnville for Hill Road and Baker Creek Road. All other street trees shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and be spaced as appropriate for the selected species and as may be required for the location of above ground utility vaults, transformers, light poles, and hydrants. In planting areas that may be constrained, additional consideration shall be given to the tree species and other planting techniques, as determined by the Landscape Review Committee, may be required to allow for the planting of street trees without compromising adjacent infrastructure. All street trees shall be of good quality and shall conform to American Standard for Nursery Stock (ANSI Z60.1). The Planning Director reserves the right to reject any plant material which does not meet this standard.
 - A. Trees shall be provided with root barrier protection in order to minimize infrastructure and tree root conflicts. The barrier shall be placed on the building side of the tree and the curb side of the tree. The root barrier protection shall be placed in 10-foot lengths, centered on the tree, and to a depth of eighteen (18) inches. In addition, all trees shall be provided with deep watering tubes to promote deep root growth.

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- B. Each year the applicant shall install street trees, from November 1 to March 1, adjacent to those properties on which a structure has been constructed and received final occupancy. This planting schedule shall continue until all platted lots have been planted with street trees. This provision does not apply to the multi-family lot.
 - C. It shall be the applicant's responsibility to relocate 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
42. That, if the property owner wishes a one-year extension of the City Council approval of this tentative plan under the provisions of Section 16 of Ordinance No. 3702, a request for such extension must be filed in writing with the Planning Department a minimum of 30 days prior to the expiration date of this approval.
43. That plat phasing is approved as depicted in the applicant's submittal listed as Exhibit F-5 in the applicant's submittal and generally described as:
- a. Phase 1 – All land south of and including the lots located adjacent to the north edge of 23rd Street (not to include the C-3 PD zoned land) of Baker Creek West (BCW).
 - b. Phase 2 – All land east of and including the lots located adjacent to the west edge of Shadden Drive of Baker Creek East (BCE).
 - c. Phase 3 – The northern balance of BCW inclusive of the C-3 PD zoned land.
 - d. Phase 4 – The western balance of BCE.

This four-phase development plan shall be valid for a period of five years from the date of this approval. The developer shall be responsible for requesting approval of the Planning Commission for any major change of the details of the adopted plan. Minor changes to the details of the adopted plan may be approved by the Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by the Planning Director may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.

44. That street names shall be submitted to the Planning Director for review and approval prior to submittal of the final plat.

Pursuant to the Zoning Ordinance of the City of McMinnville, an application approved by the City Council may be appealed to the Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal within 21 (twenty-one) days of the date of this letter. If no Intent to Appeal is filed with LUBA on or before May 23, 2017, the decision of the City Council will be final.

If you have any questions regarding this matter, please feel free to contact me at (503) 434-7311.

Sincerely,



Heather Richards, PCED
Planning Director

HR:sjs

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c: Angela Carnahan, DLCD
Mark Davis
Casey Dawson
Kirk Duncan
Roger Goodwin
Jeff & Tracey Hayes
David Hann
JW Millegan
Patty O'Leary
Gordon Root
David & Carol StLouis
Andrew Stamp
Larry Yoder
Mike Bisset, City Engineer
Heather Richards, Planning Director, City of McMinnville

Attachment: *Ordinance No. 5021, Findings of the McMinnville City Council for Baker Creek Development, LLC, for Approval (AP 1-16) of an appeal of the Planning Commission denial of ZC 1-16/ZC 2-16/S 3-16 for the Baker Creek Development, LLC, proposal.*