



Planning Department
 231 NE Fifth Street • McMinnville, OR 97128
 (503) 434-7311 Office • (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Office Use Only:	
File No.	<u>AP 1-17</u>
Date Received	<u>3-13-17</u>
Fee	<u>600.00</u>
Receipt No.	<u>17m0015</u>
Received by	<u>SP</u>

Appeal Application

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other _____
 Provided testimony prior to this appeal.

Applicant Name Baker Creek Development, LLC Phone 503-305-7647
 Contact Name Morgan Will, Project Manager Phone SAA
 (If different than above)
 Address 485 S. State Street
 City, State, Zip Lake Oswego, OR 97034
 Contact Email morgan@staffordlandcompany.com

Original Application Information

File No.: EC1-16/2C2-16/5-3-16 Review Body: Planning Commission
 Decision: Denied Date of Decision: verbal: 2/10/17 Written 2/24/2017
 Date Decision Mailed: 2/24/2017 Appeal Date Deadline: 3/13/2017
 Description of Original Application Request: Baker Creek Development, Zone Change portion of site from Remnant county, EFU/AG zoning to urban residential zone, zone entire site w/ PD Overlay amending existing PD approval for a portion of the site to add land, increase housing units, add open space, and approve subdivision plan - See also staff report at Exhibit A.

Appeal of a decision made by the following review body is requested:

- PLANNING DIRECTOR (See Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance for further information.)
- PLANNING COMMISSION (See Section 17.72.180 (Appeal from Ruling of Planning Commission) of the Zoning Ordinance for further information.)


Please state in detail the basis for and issues raised in this appeal. You must identify the criteria and findings that you are appealing. Attach additional sheets as necessary.

Lined area for providing details of the appeal.

In addition to this completed application, the applicant must provide the following:

Payment of the applicable review fee, which can be found on the Planning Department web page.

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


Appellant's Signature

3/10/2017
Date

Please state in detail the basis for and issues raised in this appeal. You must identify the criteria and findings that you are appealing. Attach additional sheets as necessary. See additional sheets.

Lined area for providing details of the appeal.

In addition to this completed application, the applicant must provide the following:

- Payment of the applicable review fee, which can be found on the Planning Department web page.

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

Morgan Will, Project Manager Date
Appellant's Signature Baker Creek Development, LLC

DATE: March 13, 2017
TO: Planning Department
FROM: Morgan Will, Project Manager
SUBJECT: Appeal of Planning Commission Decision of Denial Noticed February 24, 2017: Baker Creek Development ZC 1-16/ZC 2-16/S 3-16

I. Overview.

At its February 16, 2017 public hearing, the McMinnville Planning Commission voted to deny the applicant's proposed "Baker Creek" Development, file No. ZC 1-16/ZC 2-16/S 3-16. The Planning Commission's findings are set forth in a letter from Planning Director Heather Richards, PCED, dated February 24, 2017. Exhibit A. In its deliberations, some Commissioners expressed concerns about the need for more open space, additional off-street parking, as well as concerns about the multifamily residential development.

The applicant is appealing the above-cited decision to the City Council and is requesting a "de novo" hearing to raise new issues and evidence, to submit modified site plans and proposals, and to review the proposal based on the approval criteria and findings of fact as provided by in the applicant's material and in the Staff Report. In response to the concerns raised by the Planning Commission, the applicant has proposed additional open space tracts in Baker Creek West. The applicant also will submit more documentation demonstrating compliance with parking standards. The applicant will also propose more multifamily density on the 3.8 tract. These plans will be submitted to the Planning Department by March 20, 2017.

The applicant reserves its rights under a *de novo* review to submit new evidence and argument, and to raise new issues to the City Council. The applicant seeks a decision of approval. If needed to avoid a denial, the applicant requests the City Council utilize Section 17.51.030(D) and request the applicant to make any revision the Council deems to be required or desired, as well as adding any additional reasonable conditions as may be prudent and desirable.

II. Analysis.

Section 17.72.180 of the McMinnville Zone Ordinance ("MZO") governs appeals from the Planning Commission. It provides as follows:

17.72.180 Appeal from Ruling of Planning Commission. An action or ruling of the Planning Commission pursuant to this title may be appealed to the City Council within 15 (fifteen) calendar days of the date the written notice of the decision is mailed. Written notice of the appeal shall be filed with the City Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review specifying that they were party to the initial proceedings. If the appeal is not taken within the 15 (fifteen) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall

hold a public hearing on the appeal. Notice of a City Council hearing on an appeal of a decision of the Planning Commission shall take the form of that provided for the initial application before the Planning Commission.

Compliance with Section 17.72.180 is demonstrated below:

The Decision Sought to be Reviewed: The verbal decision of the Planning Commission from their meeting dated February 16, 2017 is memorialized in a Letter from Planning Director Heather Richards, PCED, dated February 24, 2017. This letter is the decision required by MZO 17.72.130(C)(3). A copy of the decision under appeal is included as an Exhibit thereto.

Date of the Decision: The verbal decision of the Planning Commission was set forth in writing on February 24, 2017.

Statement of Interest from the Person Seeking Review: The appellants, Baker Creek Development LLC and Morgan Will, are the applicants for the underlying land use application that resulted in the decision under appeal. Baker Creek Development LLC and Morgan Will participated in the land use hearing proceeding before the Planning Commission via their appearance and by submitting verbal and written testimony into the record.

The appeals form requires the appellant to provide a detailed explanation in of the basis for the appeal and issues raised in this appeal by the Applicant. The Applicant identifies herein the criteria and findings that are being appealed.

The Notice of Decision mailed on February 24, 2017 states the Planning Commission based its decision to deny the Baker Creek Development applications for zone change, planned development and subdivision, which were under concurrent review, based on the following findings:

- 1) Purpose of McMinnville Zoning Ordinance Section 17.51.010 Planned Development Overlay was not met.
- 2) Procedure of the McMinnville Zoning Ordinance Section 17.51.030 (C)(1) was not met because the above purpose was not met.
- 3) Land Division Standards of McMinnville Zoning Ordinance Section 17.53.040 are not waived, altered or changed without first approval of the application for Planned Development.

The applicant hereby asserts as follows:

- 1) The Planning Commission erred in its determination that the application does not meet Section 17.51.010 Purpose for a Planned Development Overlay by failing to recognize substantial evidential material in the record to support that the Purpose is met by the proposal with conditions.

As an initial matter, Section 17.51.010 does not set forth mandatory approval standards which can form the basis of denial of an application for a PUD. At best, Section 17.51.010 sets forth non-mandatory considerations.

Nonetheless, the applicant further disputes the Planning Commission's conclusion that the application does not:

- facilitate a desirable aesthetic and efficient use of open space;
- create sufficient private open space,
- use a creative approach in land development; and
- demonstrate special objectives which the proposal will satisfy.

As a result of the errors in its findings, the Planning Commission further erred by finding MZO 17.53.040 to be inapplicable to this proposal.

The Planned Development Overlay Section 17.51.010 Purpose is addressed in the Staff Report on Page 36 of Exhibit A. The Staff findings show this section is met by information in the record. Staff findings support approval, and propose conditions of approval to enact the findings.

- 2) The Planning Commission erred in its determination that the applicant did not meet Section 17.51.0030 (C)(1) by failing to recognize substantial evidential material in the record, including the findings prepared in the Staff Report following their review, which support that the Purpose is met by the proposal with conditions.

McMinnville Zoning Ordinance states:

"17.51.030 Procedure. The following procedures shall be observed when a planned development proposal is submitted for consideration:

...

C. The Commission shall consider the preliminary development plan at a meeting at which time the findings of persons reviewing the proposal shall also be considered. In reviewing the plan, the Commission shall need to determine that:

1. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;" (Emphasis added):

The actual short list of ways the proposal will depart from the standard regulation requirements are listed in the Applicant's narrative on Page 33. The development objectives and physical conditions that warrant approval are described in the Applicant's narrative Exhibit 'C' beginning on Page 3 under Site Development Concept. They are further addressed under supportive findings and conclusions beginning on Page 28 of the Applicant's narrative where Section 17.74.070 is shown to be met.

The Planned Development Overlay Section 17.51.030 (C)(1) is addressed in the Staff Report on Page 37 of Exhibit A. The Staff findings show this section is met by information in the record. Staff findings support approval, and propose conditions of approval to enact the findings.

- 3) The Application will meet the Land Division Standards of 17.53.040 upon approval of the Planned Development Overlay.
- 4) The Planning Commission further erred in application of the Procedure for a planned development proposal review, specifically 17.51.030 (D), 17.51.030 (E), and 17.51.030 (F).

- a. Section 17.51.030 (D) states the Commission may return the plan to the applicant for revision. It is clear by the Planning Commission's verbal deliberations and comments during the public hearing on February 16, 2017 that the intent was to return the plan to the applicant for revision, as allowed by this code, yet the Commission being unaware of how to implement this code provision moved forward with a vote for denial of S 3-16. The intent is clear in the motion:
 - Quote #1: Commission Member Martin Chroust-Masin makes the motion: "Based on the information provided...I recommend motion approval of zone change ZC 1-16/ZC 2-16 to McMinnville City Council and deny the application at this time and possibly bring it before us reworked in the future."
 - Quote #2: The motion received a 2nd by Commission Member Lori Schanche.
 - Quote #3: The Planning Commission Chair comments after the vote: "I think what is appropriate in light of the testimony...comments from the Commissioners is that the applicant be encouraged to rework the proposal."
 - Quote #4: A Planning Commission Member states: "I would concur in that."
 - Quote #5: The Planning Commission Chair also states: "I'm thinking silently here, that decision can also be appealed to the City Council? Is the applicant aware of that? This...our decision can also be appealed to the City Council if you choose to do so."The Commission did not request direction from City Staff on how to return the plan to the applicant for revisions.
 - i. The Staff Report does not address Section 17.51.030 (D) because the Staff were recommending approval and find that all the provisions of 17.51.030(C) were met, as reflected in the Staff Report on Page 37 of Exhibit A.
- b. Section 17.51.030 (E) states the Commission may attach conditions to carry out the purpose. Therefore, if the Commission felt the proposal did not meet the Purpose, as is stated in the Notice of Decision, then the procedure in this section allows the Commission to attach conditions to carry out the Purpose. The Commission did not use this procedure, nor ask Staff for direction on how to apply reasonable conditions.
 - i. The Staff Report does not address Section 17. 51.030 (E) because, as stated above, the Report finds the Purpose is met (Page 36 of Exhibit A, Findings for 17.51.010).
- c. Section 17.51.030 (F) states the Commission shall follow the procedure for considering an amendment in Chapter 17.72 before making a decision, and the Applicant finds the Commission did not follow that procedure. Specifically, Section 17.72.080 (B) states quasi-judicial "decisions made as a result of such hearings must be based upon testimony submitted and supported by Findings of Fact." The findings of fact in the Staff Report state the approval criteria are met. The Planning Commission made its decision for denial unsupported by findings of fact. Also, in Section 17.72.090, in the table's right hand column there is the reference to the approval criteria for a Planned Development Amendment. The Commission did not reference the approval criteria of Section 17.74.070 in its deliberations or decision, even though it is addressed in the Staff Report on Pages 38-39 of Exhibit A.
 - i. The Staff Report does not directly address Section 17.51.030 (F), however Staff does follow the procedure. Its recommendation for approval are based on findings of fact, as required by Section 17.72.080 (B), and the Staff Report does address approval criteria in Section 17.74.070 on Page 38-39 of Exhibit A, finding all criteria are met.

Some of the topics discussed by the Planning Commission during its deliberations included open space, parking, walkways, and multi-family. All of these topics are addressed in the record:

Open Space

Additional open space will be proposed for BCW. Open space is shown and addressed in the Applicant's exhibits and narrative. See Page 13 of Exhibit 'C-1', the Supplemental Narrative provided December 14, 2016 (Attachment 21 to the 2/16/17 Staff Report), and the Rebuttal Narrative provided February 6, 2017 (Attachment 33 to the 2/16/17 Staff Report) and associated attached tables and graphics. The Staff Report addresses Open Space on Page 22 of Exhibit A under Findings for Volume I (Background Element), Page 26 of Exhibit A under Findings for Goal V 2: Policy 74, 75, & 76, and on Page 33 of Exhibit A under Findings for Goal VII 3: Policy 163, as well as on Page 11 in the General Discussion portion of the Staff Report, and Page 20 of Exhibit A under comments from the City's Parks Department.

Parking

The Applicant's narrative Exhibit 'C-1' addresses off-street parking policies, describing two car garages, on Page 19 and 20, and shows two car garage driveways and on-street parking in Exhibit G-1 (from Attachment 3 listed on Page 17 of the Staff Report's Exhibit A). The Staff Report addresses parking on Page 35 of Exhibit A under Findings of Fact for 17.60.060(A)(4-5), and on Page 14 of the report under General Discussion.

Walkways

Walkability information can be found on Page 12-16, 19, 25, & 30 of the Applicant's narrative Exhibit C, the Supplemental Narrative provided December 14, 2016 (Attachment 21 to the 2/16/17 Staff Report), and the Rebuttal Narrative provided February 6, 2017 (Attachment 33 to the 2/16/17 Staff Report) and associated attached tables and graphics, and in the Staff Report on Page 24 under Findings for Goal V 2: Policy 71.01, 71.09, 71.10 & 71.13, on Pages 26-27 under Findings for Goal V 2: Policy 78, 81 & 92.02, and on Page 30 under Findings for Goal VI 1: Policies 130, 132 & 132.15.

Multi-family

Additional Multi-family density will be proposed. Multi-family density is also discussed in multiple parts of the Applicant's narrative, namely on Pages 1, 16, 19, 29 & 30, and in the Staff Report, and Exhibit A thereto, in multiple locations. Some of the existing information will be updated.



231 NE Fifth Street • McMinnville, Oregon 97128 • www.mcminnvilleoregon.gov

February 24, 2017

Morgan Will
Baker Creek Development, LLC
485 South State Street
Lake Oswego, OR 97304

RE: ZC 1-16/ZC 2-19/S 3-16 (Tax Lots 200, 203, and 205, Section 18, T. 4 S., R. 4 W., W.M., located south of Baker Creek Road and east of Hill Road))

Dear Mr. Will:

This letter is to advise you that, at a meeting of the McMinnville Planning Commission on Thursday, February 16, 2017, your applications: ZC 1-16, for approval of a zone change from EF- 80 (Exclusive Farm Use – 80-Acre Minimum) to R-1 PD (Single-Family Residential Planned Development) on approximately 13.6 acres of land; ZC 2-16, a zone change from R-1 to R-1 PD on approximately 17.23 acres of land, and to amend Planned Development Ordinance No. 4626 to encompass an additional 30.83 acres of land and to allow variation in lot sizes and setback requirements to include: a reduction in the front yard setback for certain lots from 20 to 15 feet; a reduction in the side yard setback for certain lots from 10 feet to either 5 feet or 3 feet; and, a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet; and S 3-16, a tentative residential subdivision plan on approximately 40.55 acres of land were considered by the McMinnville Planning Commission.

Based on the material submitted by the applicant, the testimony received, and material provided by the Planning Department, the Planning Commission voted unanimously to recommend **DENIAL** of your requests (ZC 1-16/ZC 2-16/S 3-16) to the McMinnville City Council.

The Planning Commission determined that your application failed to meet the purpose of a Planned Development as described in Section 17.51.010 of the McMinnville Zoning Ordinance. Specifically, the Commission found that the proposal failed to facilitate a desirable aesthetic and efficient use of open space, to create sufficient private common open spaces, to use a creative approach in land development, and to demonstrate special objectives which the proposal would satisfy. Therefore, the Commission determined that the proposal did not meet the necessary criteria in Section 17.51.030 (C)(1) and did not warrant a departure from the standard regulation requirements.

Due to this determination, the Planning Commission found that Section 17.53.040 of the code did not apply to this proposal, which states "that the subdivision of land in accordance with the planned development section of the City of McMinnville Zoning Ordinance (No. 3380, as revised) may result in the terms and requirements of this chapter (Land Division Standards)

being waived, altered, or otherwise changed as determined by action of the Planning Commission and approved by the City Council," and that the subdivision plan needed to comply to the McMinnville Zoning Ordinance, Section 17.12.040, which it does not comply.

Pursuant to the Zoning Ordinance of the City of McMinnville, Section 17.72.130(5)(b), the decision of the Planning Commission to recommend denial of the application is final unless an appeal of the Planning Commission's decision is filed - "If the decision of the Planning Commission recommends that the application be denied, or the proposal rejected, no further proceedings shall be held by either the Planning Commission or City Council, unless an appeal of the Commission's decision is filed."

Per Section 17.72.180 of the Zoning Ordinance of the City of McMinnville, "an action or ruling of the Planning Commission may be appealed to the City Council within 15 calendar days of the date the written notice is mailed. The appeal shall be filed with the Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review specifying that they were party to the initial proceedings."

If no appeal is filed with the Planning Department on or before March 13, 2017, the Planning Commission's decision is final.

If you have any questions or comments, you may reach me at (503) 434-7311.

Sincerely,



Heather Richards, PCED
Planning Director

HR:sjs

c: McMinnville Planning Commission
Manuel Abt
Renee Carr
Susan Dirks and Kent Stevens
Peter & Linda Enticknap
Sandra Ferguson
Ray Fields
Roger Goodwin
Corissa Holmes
Ronald & Sally Hyde
Patty O'Leary
Gordon Root, Stafford Land Company
David StLouis
Gene & Deanna White
John Hutt
The Hayes Family
Don Larson



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

MEMORANDUM

DATE: February 15, 2017
TO: McMinnville Planning Commissioners
FROM: Heather Richards, Planning Director
SUBJECT: Amended Meeting Agenda for the Planning Commission Meeting February 16, 2017, and Staff Report and Land-Use Decision for Baker Creek Development

Staff amended the Meeting Agenda for the Planning Commission Meeting February 16, 2017, and made a couple of amendments to the Staff Report and Land-Use Decision for Baker Creek Development that was issued on February 7, 2017. Those amendments are reflected in the attached documents and are outlined below. Some are editorial housekeeping and one is a clarification associated with a condition of approval.

Amended Agenda: Changed Baker Creek Development agenda item from a public hearing to an action item for the purposes of public clarification of the status of the application review. Historically, the city has retained the title of public hearing for the project's agenda item even after the public hearing has been closed. However, this is misleading as the Planning Commission will not be conducting a public hearing at the meeting since the public hearing portion of the deliberation and evaluation of the project was closed.

Staff Report: Amended the discussion of the Conditions of Approval amendments on pages 25-27.

Condition of Approval #2 – Added language to clarify that the C-3 PD acreage would be limited to multi-family development.

Condition of Approval #4. Eliminated the last bold strikeout sentence. This was part of an internal review and editing process and is not reflective of language that the Planning Commission had originally seen in previous documents. The current version accurately reflects the language that was deleted and added from previous versions of this condition of approval that had been entered into the public record.

Condition of Approval #43. Eliminated the bold strikeout sub-set of described phases. This was part of an internal review and editing process and is not reflective of language that the Planning Commission had originally seen in previous documents. The current version

Attachments:

Amended Planning Commission Agenda

Amended Staff Report for Baker Creek Development, ZC 1-16, ZC 2-16, S 3-16

Amended Land-Use Decision for Baker Creek Development, ZC 1-16, ZC 2-16, S 3-16

Memorandum

Date: February 15, 2017

Re: Amendment PC Agenda, Staff Report and Land-Use Decision for Baker Creek Development

Page 2

accurately reflects the language that was deleted and added from previous versions of this condition of approval that had been entered into the public record.

Land-Use Decision: Amended Condition of Approval #2 amendments on page 10.

Condition of Approval #2 – Added language to clarify that the C-3 PD acreage would be limited to multi-family development.



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

Planning Commission
McMinnville Civic Hall, 200 NE 2nd Street
February 16, 2017
6:30 p.m.

Commission Members	Agenda Items
Roger Hall, Chair	1. Call to Order
Zack Geary, Vice-Chair	2. Citizen Comments
Martin Chroust-Masin	3. Approval of Minutes: January 19, 2017 (<i>Exhibit 1</i>)
Charles Hillestad	4. Action Items
Jack Morgan	A. <u>Zone Change, Planned Development Amendment, & Subdivision (ZC 1-16, ZC 2-16 & S 3-16)</u> (<i>Exhibit 2</i>)
Nanette Pirisky	<i>Public Hearing was conducted on January 19, 2017. At that meeting the public hearing was closed but the record was held open for written testimony until February 2, 2017.</i>
Lori Schanche	Request: Approval of a zone change from EF- 80 (Exclusive Farm Use – 80-Acre Minimum) to R-1 PD (Single-Family Residential Planned Development) on approximately 13.6 acres of land, a zone change from R-1 to R-1 PD on approximately 17.23 acres of land, and to amend Planned Development Ordinance No. 4626 to encompass an additional 30.83 acres of land and to allow variation in lot sizes and setback requirements to include: a reduction in the front yard setback for certain lots from 20 to 15 feet; a reduction in the side yard setback for certain lots from 10 feet to either 5 feet or 3 feet; and, a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet. Concurrently, the applicant is requesting approval of a tentative residential subdivision plan on approximately 40.55 acres of land that, if approved, would provide for the construction of 213 single-family homes and the construction of 65 multiple-family dwellings on one lot.
Erica Thomas	Location: 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.
John Tidge	Applicant: Baker Creek Development, LLC

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 24 hours in advance by contacting the City Manager (503) 434-7405 – 1-800-735-1232 for voice, or TDY 1-800-735-2900.

*Please note that these documents are also on the City's website, www.mcminnvilleoregon.gov. You may also request a copy from the Planning Department.

5. Old/New Business

- Work Session: Proposed Zoning Ordinance Text Amendments, Landscape Review and Trees (*Exhibit 3*)
- Work Session: Long-Range Strategic Planning (*Presentation at Meeting*)

6. Commissioner/Committee Member Comments

7. Staff Comments

8. Adjournment



Amended February 15, 2017

**City of McMinnville
Planning Department**
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

EXHIBIT 2 - STAFF REPORT

DATE: February 16, 2017
TO: McMinnville Planning Commission
FROM: Ron Pomeroy, Principal Planner
SUBJECT: ZC 1-16/ZC 2-16/S 3-16 (Baker Creek Development).
Additional written testimony, rebuttal testimony, and staff comments.

Report in Brief:

This is the consideration of Baker Creek Development, LLC's application requesting approval for a Zone Change (ZC 1-16), Planned Development Amendment (ZC 2-16) and Tentative Subdivision Approval (S 3-16) as part of the existing Shadden Claim residential master plan located south of Baker Creek Road and east of Hill Road.

More specifically, Baker Creek Development, LLC, is requesting approval of a zone change from EF-80 (Exclusive Farm Use – 80-Acre Minimum) to R-1 PD (Single-Family Residential Planned Development) on approximately 13.61 acres of land, a zone change from R-1 to R-1 PD on approximately 17.23 acres of land, and to amend Planned Development Ordinance No. 4626 to encompass an additional 30.83 acres of land and to allow variation in lot sizes and setback requirements to include: a reduction in the front yard setback for certain lots from 20 to 15 feet; a reduction in the side yard setback for certain lots from 10 feet to either 5 feet or 3 feet; and, a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet. A table provided below summarizes the requested setback adjustments. Concurrently, the applicant is requesting approval of a tentative phased residential subdivision plan on approximately 40.55 acres of land that, if approved, would provide for the construction of 213 single-family homes and the construction of 65 multiple-family dwellings on one lot.

The subject site 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.

Exhibit A to this staff report contains the Decision, Conditions of Approval, Findings of Fact, Comments, Attachments, and Conclusionary Findings.

The Planning Commission conducted a public hearing on January 19, 2017. At that meeting, the Planning Commission elected to close the public hearing but keep the written record open until 5:00 pm, February 2, 2017. The applicant provided their rebuttal on Monday, February 6, 2017, and elected to dismiss the rest of their rebuttal period. This staff report will outline the basic information associated with the land-use applications in the background section (pages 2 - 16) and then provide a synopsis of the testimony and rebuttal received as well as any changes made to the conditions of approval in the discussion section (pages 17 – 28) of this staff report.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

Requested Setback Adjustments

Lot Type	Setbacks	Minimum Building Envelope Width	Number of Lots	Percent of Total Lots
R-1 Lots	Front - 20 feet Rear - 20 feet Interior Side - 10 feet Exterior Side Yard - 20 feet	50 feet	19	8.2%
R-2 Adjusted	Front - 20 feet Rear - 20 feet Interior Side - 7.5 feet Exterior Side Yard - 20 feet	50 feet	29	13.6%
R-3 Adjusted	Front - 20 feet Rear - 20 feet Interior Side - 5 feet Exterior Side Yard - 20 feet	50 feet	35	16.4%
R-3 Modified	Front - 15 feet Rear - 20 feet Interior Side - 5 feet Exterior Side Yard - 15 feet	30 feet	75	35.2%
R-4 Modified	Front - 15 feet Rear - 20 feet Interior Side - 3 feet Exterior Side Yard - 15 feet	26 feet	55	25.8%

Background:

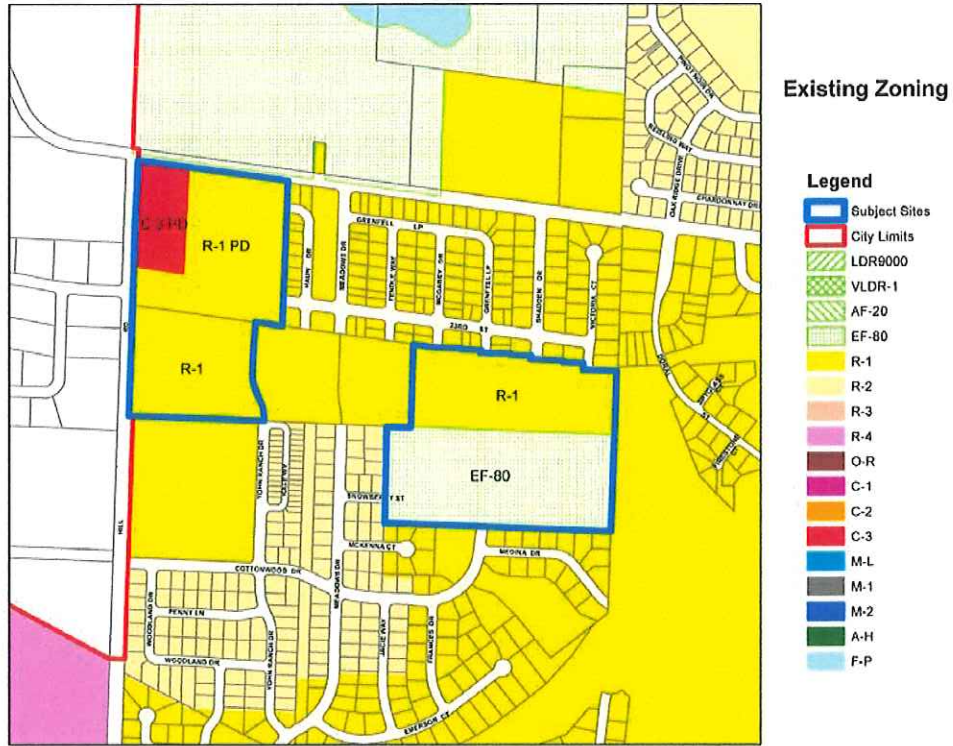
Description of Request:

- The applicant has submitted a proposal comprised of three land use requests: a zone change request, a planned development amendment request, and a tentative residential subdivision plan. A brief description of each request follows:
 1. 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 13.6 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.

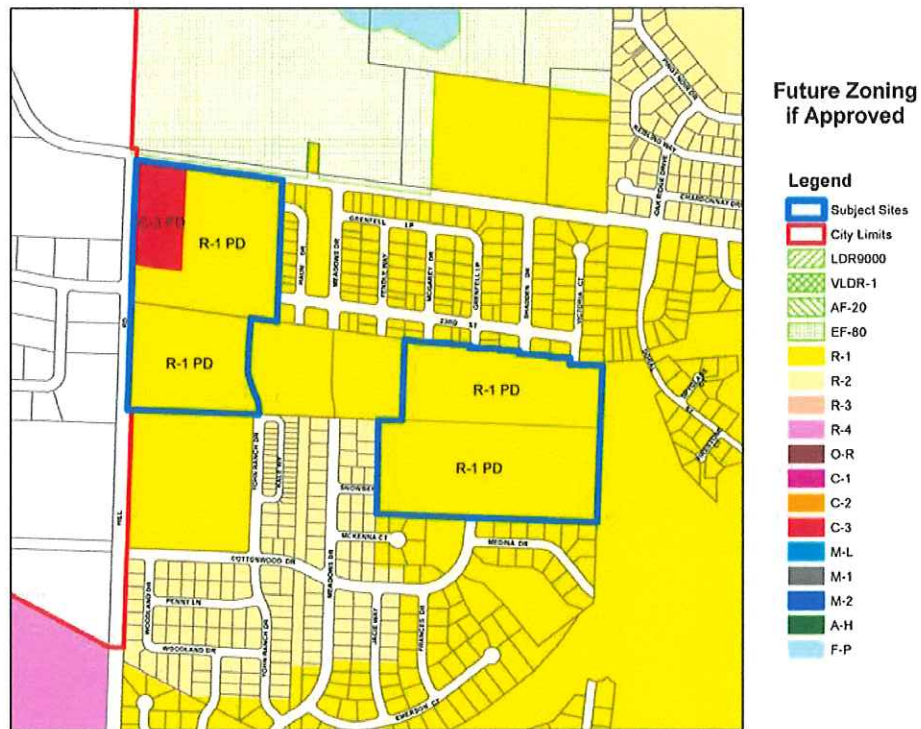
Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

Current Zoning



Future Zoning if approved



Attachments:

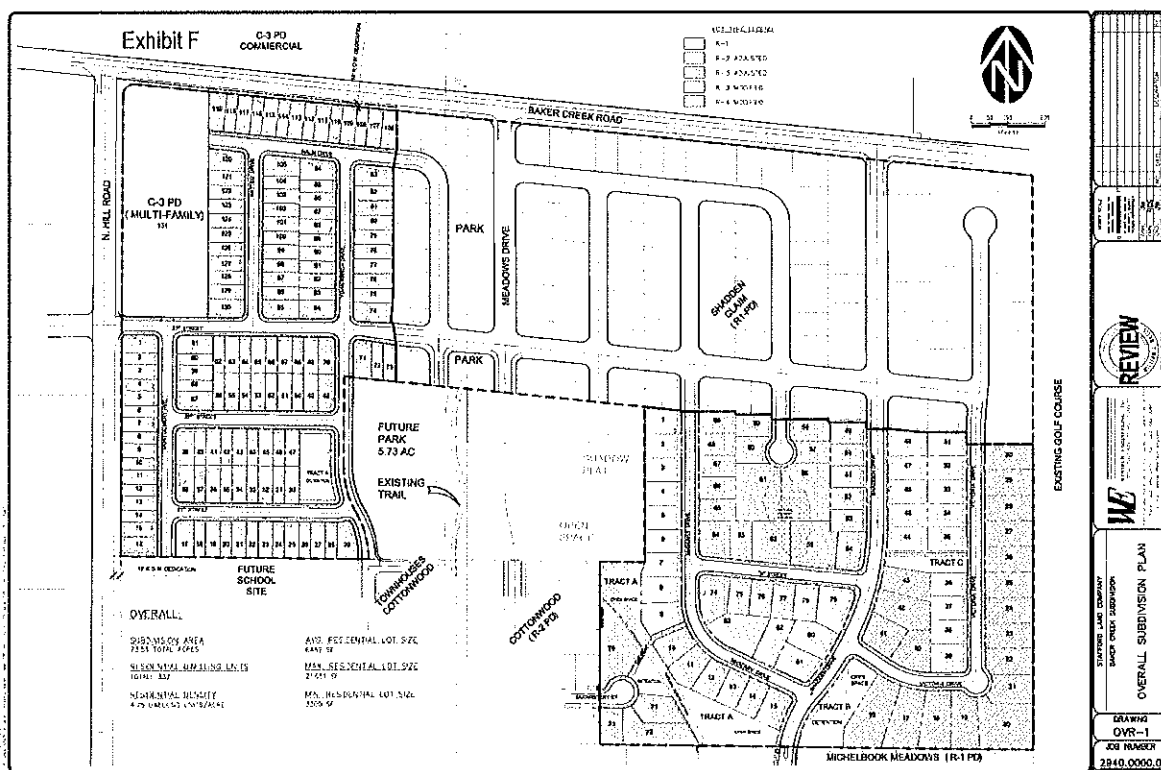
ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

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

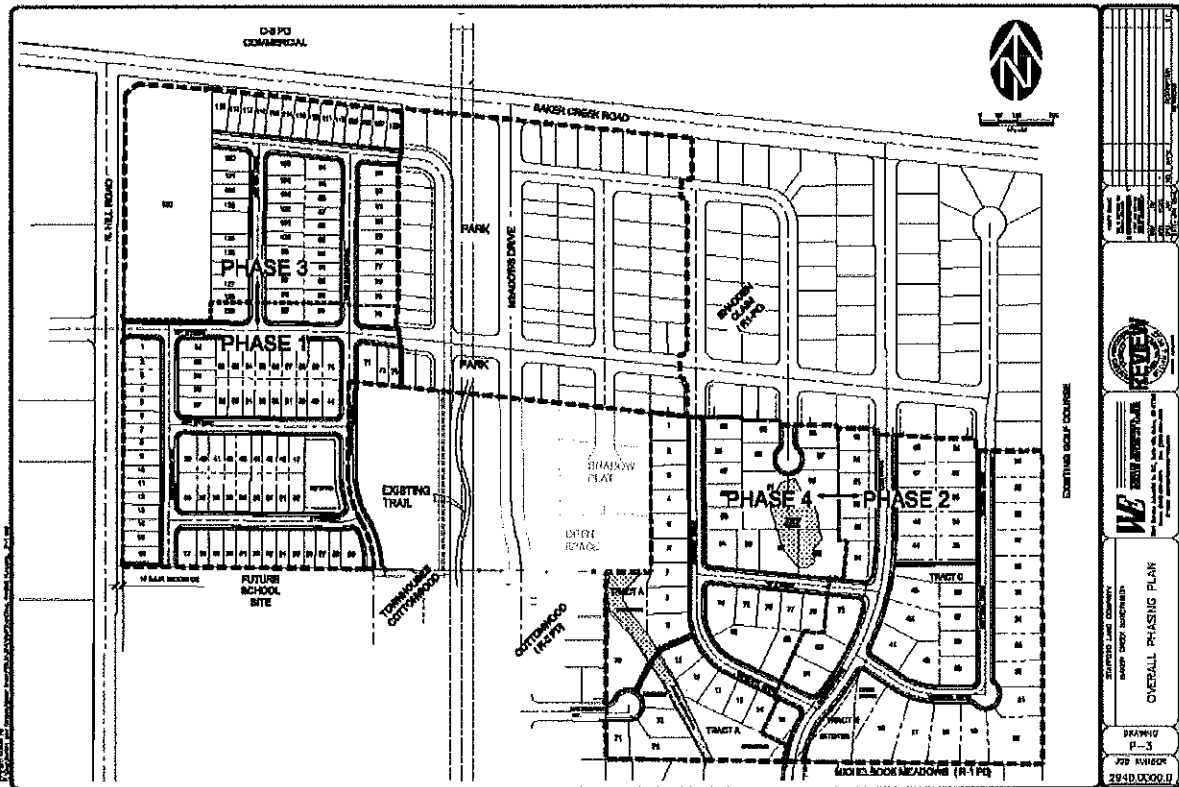
The applicant is proposing to amend the existing planned development ordinance that currently governs a portion of the area proposed for residential development in a number of ways including: 1) Expansion of the boundary of the existing planned development to include the approximately 30.83 acres that 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 5 feet or 3 feet; and, 5) a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet.

3. **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 213 single-family homes on lots ranging in size from 3,200 to 21,051 square feet in size and one multiple-family lot approximately 3.8 acres in size to accommodate 65 multiple-family dwellings. In addition, four open space tracts are proposed as well as three storm water detention sites.



Per attachments 34, 35 and 36, the project will be developed in four phases. The development plan for phase one would include all land south of and including the northern row of lots adjacent to the north edge of 23rd Street (not to include the C-3 PD zoned land) of Baker Creek West (BCW). Phase two is proposed to include all land east of and including the western row of lots located along the west edge of Shadden Drive of Baker Creek East (BCE). Phase 3 is proposed to include the northern balance of BCW inclusive of the C-3 PD zoned land. Phase 4 is proposed to include the western balance of BCE. In testimony provided by the applicant on February 6, 2017, (Attachment 34) states "So in four years from land use approval we would likely be done with all phases of site construction of public improvements and platting." A graphic depicting the proposed four-phase development plan is provided below.



- While rationale was not provided, the applicant’s narrative puts forward a number of new terms not commonly found in McMinnville’s land use parlance. For the Commission’s benefit, those terms most frequently referenced by the applicant relate to types of proposed lots and their practical definitions are provided below:
 - Adjusted Lots – Lots with reduced side yard setbacks; either 3-feet or 5-feet in width
 - Modified Lots – Lots proposed to be either 32-feet wide or 40-feet wide

Observations:

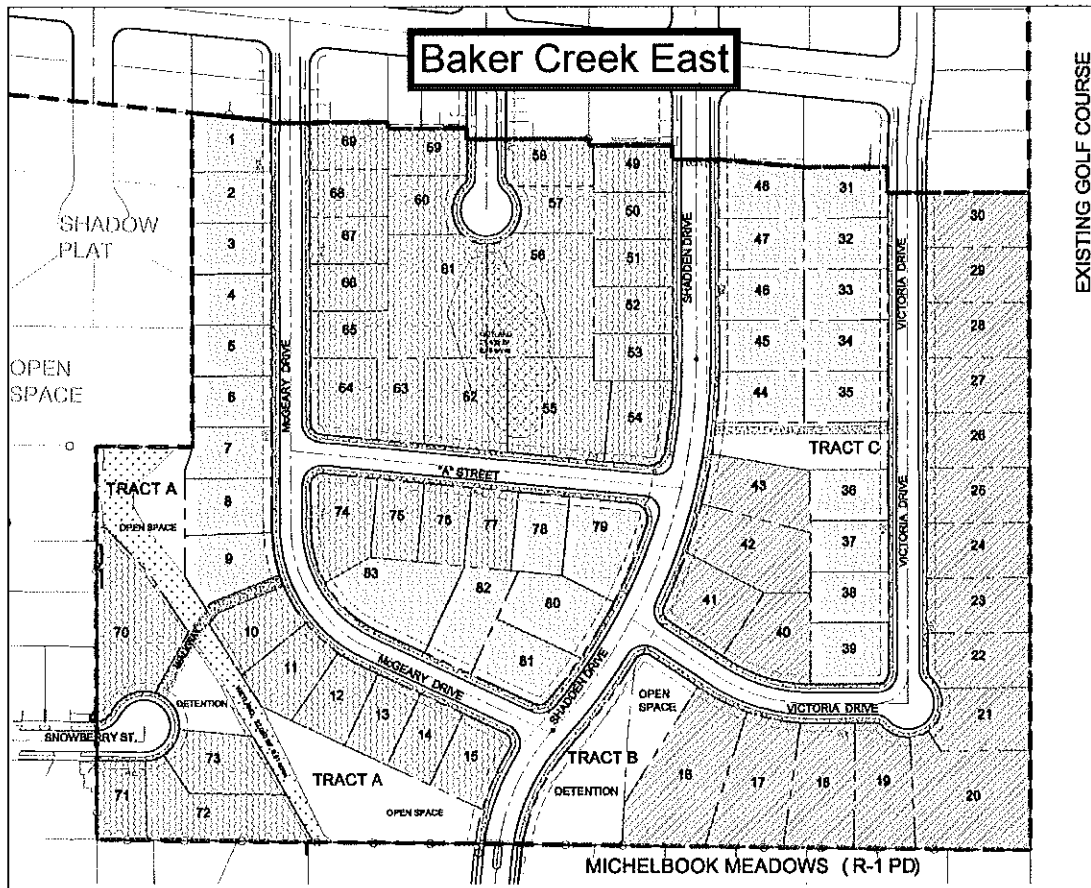
The applicant has provided a detailed narrative and numerous exhibits to support the submitted land use requests. To aid the Commission in review of this material, it is beneficial to initially consider the Baker Creek East (BCE) and Baker Creek West (BCW) portions of this proposal separately. This will allow staff to discuss the design of these two distinct portions of the proposal independently in order to provide additional clarity to the various elements of the proposal. Following this, the discussion of the residential density and Planned Development aspects of the proposal will address the project in total.

Baker Creek East (BCE)

- The applicant proposes the platting of 83 single-family residential lots ranging from 5,536 square feet to 21,051 square feet in size on 23-acres of land yielding an average lot size of approximately 8,567 square feet.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings



- The 83 single-family lots are proposed to be one of three styles and are referenced by the applicant as R-1, R-2 Adjusted, and R-3 Adjusted. As noted above and on page 28 of Attachment 3(c), the R-1 lots would meet all minimum requirements of the R-1 zone. Of the 83 proposed single-family lots in BCE, 19 are identified by the applicant as R-1 (23% of the proposed lots in BCE). The applicant states that the proposed R-1 lots would provide a minimum building envelope width of 50 feet. The average lot size of the R-1 lots is approximately 10,927 square feet in size. For comparison, this average lot size exceeds the minimum 9,000 square foot lot size required in the R-1 (Single-Family Residential) zone.

The applicant's submittal also provides that the R-2 Adjusted lots are those lots proposed to be at least 6,463 square feet in size with 7.5-foot side yard setbacks and a minimum lot width of 65 feet. Of the 83 proposed single-family lots in BCE, 29 are identified by the applicant as R-2 Adjusted (35% of the proposed lots in BCE). The applicant states that the proposed R-2 Adjusted lots would provide a minimum building envelope width of 50 feet. The average lot size of the R-2 Adjusted lots is approximately 7,445 square feet in size. For comparison, this average lot size more closely compares to, and is some 445 square feet larger than, the 7,000 square foot minimum lot size required in the R-2 (Single-Family Residential) zone.

On page 28 of Attachment 3(c) the applicant also states that the R-3 Adjusted lots are those lots proposed to be at least 5,536 square feet in size with 5-foot side yard setbacks and having a minimum lot width of 60 feet. Staff notes that the R-3 Adjusted lots having a larger average lot size than that of the R-2 Adjusted lots is mostly due to four of the R-3 Adjusted lots containing a sizable amount of undevelopable wetland area within their boundaries; see lots 55, 56, 61 and 62 on

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

Attachment 3(g) in addition to the uniquely configured lots 70 and 72. Of the 83 proposed single-family lots in BCE, 35 are identified by the applicant as R-3 Adjusted (42% of the proposed lots in BCE). The applicant's narrative also states that the proposed R-3 Adjusted lots would provide a minimum building envelope width of 50 feet. The average lot size of the R-3 Adjusted lots is approximately 8,215 square feet in size. For comparison, this average lot size is between the minimum required lot sizes of standard R-1 and R-2 zoned lots.

The average lot size of all residential lots in BCE, combined, is approximately 8,567 square feet in size; about 785 square feet smaller than a minimum sized standard R-1 zoned lot. Due to open space, on-site storm water detention tracts and identified wetland areas, the average residential density 3.61 dwelling units per net acre which is less than the 4.8 dwelling units per net acre that is the maximum residential dwelling unit density for R-1 zoned land; a net acre of land consists of 43,560 square feet of residentially designated buildable land after excluding future rights-of-way for streets.

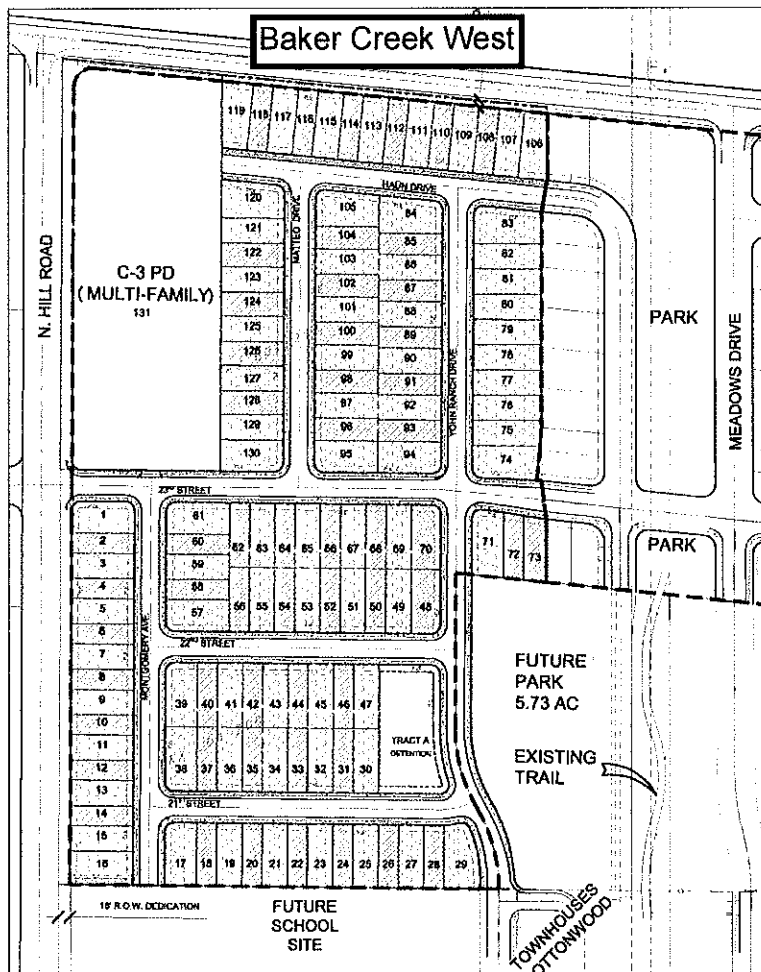
Access to BCE is proposed to be provided by the southerly extensions of NW Victoria Drive, Shadden Drive, McGeary Drive and Mahala Way, the easterly extension of Snowberry Street and the creation of a new east-west local street proposed to connect McGeary Drive to Shadden Drive and is identified as "A" Street in the applicant's submittal. Mahala Way and Snowberry Street are proposed to terminate with cul-de-sacs within this portion of the development. All streets would be public streets within BCE and are proposed to be constructed to local residential street standards (28-foot wide paved section within a 50-foot right-of-way to include five-foot wide sidewalks and five-foot wide curbside planter strips) with the exception of Shadden Drive which will be developed with a 36-foot wide paved section within a 60-foot right-of-way. In addition, the applicant also proposes three open space tracts and two on-site storm water detention areas. A 15-foot wide pedestrian walkway is proposed to cross near the midsection of the Tract "A" open space area providing a pedestrian connection between the Snowberry Court cul-de-sac and McGeary Drive; Tract "A" also includes a linear wetland area along its western edge. Similarly, Tract "C" also provides a 15-foot wide pedestrian path along its northern edge to connect NW Shadden Drive with NW Victoria Drive. Please refer to Attachments 3(q)-(t) for additional detail.

Baker Creek West (BCW)

- The applicant proposes the platting of 130 single-family residential lots ranging from 3,200 square feet to 6,009 square feet in size with an average lot size of approximately 3,952 square feet; about 1,048 square feet (or 21%) smaller than a minimum sized R-4 single family lot which is 5,000 square feet. Also proposed is a future multiple-family development on a 3.8-acre lot (Lot number 131).

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings



The 130 single-family lots are proposed to be one of two styles referenced by the applicant as R-3 Modified and R-4 Modified. As noted above and on page 29 of Attachment 3(c), the R-3 Modified lots are those lots proposed to be at least 4,000 square feet in size with 5-foot side yard setbacks and a minimum lot width of 40-feet. Of the 130 proposed single-family lots in BCW, 75 are identified by the applicant as R-3 Modified (58% of the proposed lots in BCW). The applicant states that the proposed R-3 Modified lots would provide a minimum building envelope width of 30 feet. The average lot size of the R-3 Modified lots is approximately 4,358 square feet in size. For comparison, this average lot size is about 1,642 square feet smaller than the 6,000 square foot minimum lot size for a standard single-family lot in the R-3 (medium density) zone and 624 square feet smaller than the 5,000 square foot minimum lot size for a standard single-family lot in the R-4 (Multiple-Family Residential) zone.

On page 29 of Attachment 3(c) the applicant also states that the R-4 Modified lots are those lots proposed to be at least 3,200 square feet in size with 3-foot side yard setbacks and having a minimum lot width of 32-feet. Of the 130 proposed single-family lots in BCW, 55 are identified by the applicant as R-4 Modified (42% of the proposed lots in BCW). The applicant's narrative also states that the proposed R-4 Modified lots would provide a minimum building envelope width of 26 feet. The average lot size of the R-4 Modified lots is approximately 3,398 square feet in size. For comparison, this average lot size is about 1,602 square feet smaller than the 5,000 square foot minimum lot size for a standard single-family lot in the R-4 (Multiple-Family Residential) zone; or approximately 68% of the size of a 5,000 square foot lot.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

Access to BCW would be provided by the westerly extensions of NW Haun Drive and NW 23 Street and the northerly extension NW Yohn Ranch Drive. New north-south oriented local streets identified by the applicant as Matteo Drive and Montgomery Avenue as well as the creation of new east-west oriented local streets identified by the applicant as NW 21st and NW 22nd Streets are also proposed. NW Haun Drive is proposed to provide access to the northeastern portion of the multiple-family site while NW Montgomery Drive is proposed to provide future access to the northwest portion of the future school site located south of the proposed subdivision. All streets within BCW are proposed to be public streets are constructed to local residential street standards (28-foot wide paved section within a 50-foot right-of-way to include five-foot wide sidewalks and five-foot wide curbside planter strips). The applicant also proposes one on-site storm water detention area to be located west of NW Yohn Ranch Drive. Please refer to Attachments 3(h)-(p) for additional detail.

Also included in the BCW portion of the site is a 3.8-acre lot identified by the applicant as Phase 3 of this proposal and shown on Attachment 36. This site is zoned C-3 PD (General Commercial, Planned Development) and currently designated for multiple-family development by Ord. No. 4626. It is instructive to note that a companion subdivision tentative plan was also approved by the Commission in 1996 as part of the land use proposal that resulted in the adoption of Ord. No. 4626. That subdivision approval (S 2-96) limited the multiple-family site to a maximum residential density of 20 units per acre. A portion of this subdivision plan was constructed as Shadden Claim 1st and 2nd Additions, but the balance of the tentative plan approval has long since expired. This is relevant context in that the condition of approval of S 2-96 (Subdivision proposal for VJ2 Development approved by the Planning Commission on May 9, 1996) wherein condition of approval number 19 limiting density on the multiple-family site to a maximum density of 20-units per acre has also expired. Although, while that previous condition would have allowed construction of 76 residential units on that site, the applicant proposes construction of only 65 multiple-family units in this current proposal; a reduction of 11 proposed units from the previous approval limit.

General Discussion of Overall Development Proposal

- Essentially, the applicant is requesting approval to modify a twenty-year old partially developed Planned Development tentative subdivision plan with a new tentative subdivision plan on a larger geographic footprint. The following observations are grouped into distinct topics to aid the Commission in its review.

PRELIMINARY NOTES

- Section 17.53.105(A) of the McMinnville Zoning Ordinance states that "the depth of lot shall not ordinarily exceed two times the average width." Of the 130 proposed lots in BCW, all except for perhaps 14 of the lots exceed this standard. While the operative phrase in this standard is "shall not *ordinarily* exceed," staff would contend that, with some 116 of the lots (89% of BCW and 50% of the total development site) exceeding this standard it is, in fact, ordinarily exceeded in the western portion of this proposal. That said, the applicant is proposing an expansion and modification of the existing Planned Development and through this process it is possible for the City to support accommodation of this lot design should the overall development concept successfully meet or exceed the applicable land use policies and approval criteria of a planned development.
- The lots identified as R-1 by the applicant and proposed for BCE meet all applicable minimum requirements for standard R-1 zoned lots with one exception; Lot 22 is shown to be 8,944 square feet in size whereas the minimum lot size for a standard R-1 zoned lot is 9,000 square feet. Staff understands that this was an oversight by the applicant and, in the context of the full application, is inconsequential as the entire development site is proposed for lot size averaging as part of the Planned Development Amendment application.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

- The applicant identifies a total of 58 lots (residences) for the combined Shadden Claim 1st and 2nd Addition subdivisions. While 58 lots were platted, the McMinnville Building Department has accepted a covenant agreement (CA 1-02) for lots identified as 97A and 97B on the recorded 2nd Addition plat and located at the southwest quadrant of the intersection of NW 23rd Street and NW Haun Drive. This agreement essentially holds the two lots together as one and allowed development of the lots with one single-family residence without regard to the common lot line shared by Lots 97A and 97B. The result of the action is that while 58 lots were legally platted by these two subdivisions, only 57 single-family residences were constructed. The effect of this is that, while the applicant's supplemental narrative dated November 4, 2016, notes a total of 336 total residential dwelling units for the expanded planned development area, the number of dwelling units is slightly less at 335 units.
- It was previously stated that wetlands are preliminarily noted on lots 55, 56, 61 and 62 (Attachment 3(g)) of BCE. Prior to platting, a wetland quality assessment will be required to determine if preservation of this area is necessary. If so, a wetland delineation may be required prior to platting to ensure protection and that a usable building footprint remains on each of the affected lots as addressed in recommended condition of approval number 26.

RESIDENTIAL DENSITY

- Due to concerns related to sanitary sewer drainage basin flow capacities, the City Council acted in 1979 to limit the average residential density of McMinnville's west side (west of Hwy 99W, Adams Street, and South Baker Street) to a maximum of six dwelling units per net acre. This residential density limitation remains relevant and in force. Residential densities exceeding the six dwelling units per acre maximum were typically reviewed and approved as part of larger development proposals with overall densities averaging six dwelling units or less over the project site. This west side density limitation is also memorialized in Comprehensive Plan Policy 71.01.

In this current application, the applicant is proposing the platting of 213 single-family residential lots and one 3.8-acre multiple-family residential lot to contain 65 dwelling units on a combined area total of approximately 44.35 acres of land. It is important to note however, that while the applicant has identified the multiple-family site as Lot 131 and Phase 2 of the proposed subdivision tentative plan, the residential density of this site is considered separately from Phase I of the proposed subdivision for the following reasons.

In 1991, the McMinnville City Council voted to legislatively change the comprehensive plan designation of this site, which was five-acres in size at the time, from Residential to Commercial and to change the site's zoning designation from R-1 (Single-Family Residential) to C-3 PD (General Commercial Planned Development (Ord. No. 4506)). Subsequently, the 1996 Council approval of Ord. No. 4626 reduced the size of this C-3 PD designated site from five-acres to 3.8 acres. This ordinance also identified these 3.8 acres as a multiple-family phase of the subdivision (S 2-96) that was approved by the Planning Commission the prior month. The tentative phased subdivision plan that was reviewed and approved by the Planning Commission, and subsequently provided to the Council prior to the approval of the companion ordinance (Ord. No. 4626), addresses the density of the single-family portion of the tentative plan separately from the multiple-family site. Similarly, the staff report makes no attempt to address residential dwelling unit density as a calculation relative to the overall development site inclusive of the multiple-family component. Additionally, the associated public meeting minutes do not demonstrate an interest, intent or action to consider the single-family and multiple-family portions of the proposal together as one combined residential density calculation. The land use review history regarding residential density calculations did not, and did not intend to, include the multiple-family component of this development area. Further, the Council's 1991 designation of five-acres at this location as C-3 PD

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

allowed for multiple-family development with no unique limitation relative to residential density. Also, as previously indicated the 20-unit per acre residential limitation noted in the S 2-96 approval expired in 1997 as no approval extensions were subsequently requested by the applicant or granted by the City.

- The applicant is now requesting approval to modify Ord. No. 4626 by increasing the size of the planned development area and receive approval for a new tentative residential subdivision plan for the currently undeveloped portion of that site (see Attachment 3(g)). A key factor in considering this request is the resulting residential density.

Material provided by the applicant, dated November 4, 2016 (see Attachment 4), provides a table showing a residential density calculation for the entire expanded Ord. No. 4626 area including the subject site (both single-family and multiple-family areas) and the Shadden Claim, and Shadden Claim 1st and 2nd Addition residential subdivisions. This table indicates that the total area referenced in the residential density calculation is 57.48 acres. The proposed number of dwelling units plus the existing dwelling units in this area is reported as 336 units. This yields an overall residential density of 5.85 dwelling units per acre which is slightly less than the maximum allowable residential density of 6 dwelling units per acre for McMinnville's west side. While this calculation is part of the required density analysis, it is not the whole story. The other important and necessary question regarding density is how the proposed residential density complies with the density allowance of the underlying zones of the proposal (R-1 and C-3).

- As previously noted, Comprehensive Plan Policy 71.01 limits residential density on the west side of McMinnville to an average of six dwelling units per acre. The proposal requests approval of a residential density of 6.38 dwelling units per acre for the single-family portion of the development. Inclusion of the multiple-family portion of the site yields an overall net density of 7.39 dwelling units per acre. The ability to exceed the average of six dwelling units per acre is provided by Policy 79.00 which states in part "The density allowed for residential developments shall be contingent on the zoning classification, the topographical features of the property, and the capacities and availability of public services including but not limited to sewer and water. [...] Densities greater than those allowed by the zoning classification may be allowed through the planned development process or where specifically provided in the zoning ordinance or by plan policy."

OPEN SPACE

- As part of the subdivision application form, the applicant indicates that 115,000 square feet (2.64 acres) of park(s)/open space will be provided to serve this development. For clarity, the open spaces the applicant proposes to provide are as follows:
 - Tract "A" - BCW – 22,192 square feet – Storm Water Detention – Attachments 3(i) and (j)
 - Tract "A" - BCE – 58,365 square feet – Open Space (an undetermined portion is identified as Wetlands) – Attachment 3(q)
 - Tract "B" - BCE – 25,193 square feet – Storm Water Detention (an undefined portion of which is identified as Open Space) – Attachments 3(q) and (r)
 - Unlabeled Detention Area - BCE – Square footage not provided – Attachment 3(q)
 - Tract "C" - BCE – 12,130 square feet – Open Space – Attachment 3(r)

Together, these spaces yield somewhere between approximately 12,130 and 74,500 square feet (between 0.28 and 1.7 acres) of open space depending on how much of the areas noted above are identified as either wetlands or storm water detention areas. The resulting balance of the proposed tracts are either wetland or storm water detention areas with the majority being utilized for storm water detention purposes. Additionally, staff observes that the open space portion of Tract "A" within BCE does not abut a public sidewalk and is separated from other access by an area the applicant identifies as wetland.

 Attachments:

It is instructive to note that there is no open space proposed in the BCW portion of the proposal. Rather there is one storm water detention area proposed to be located across Yohn Ranch Drive from the planned public park. In the BCE portion of the proposal it appears that four open space areas are proposed as noted above. The size of three of those spaces however is quite small (estimated to be around 6,500 square feet on average) with one of them being located next to a storm water detention area and the other abutting an established and fence wetland area that is part of the platted Michelbook Meadows residential subdivision.

The applicant's November 4, 2016, supplemental narrative indicates that, in the expanded Planned Development area (BCW, BCE and Shadden Claim 1st and 2nd Additions) there would be a combined 3.69 acres of open space provided for the entire 57.63 acre site; or about 6.4 percent of the total site. However, if the wetland/storm water detention areas are removed from this acreage figure, between 2.25 and 3.23 open space acres, depending on the actual size of the storm water detention facilities, would be provided for the total 57.63 acre site. It is also interesting to note that the 1.98 acres of open space provided as part of the Shadden Claim 2nd Addition subdivision was dedicated to the City in lieu of park System Development Charges (SDCs) and today exists under public ownership as part of the Westside Bicycle and Pedestrian Linear Path. If we were to remove this publically dedicated open space from the total, there remains an allocation of between 0.28 and 1.7 acres of open space for this development proposal.

- The Planning Commission is well aware of the benefits of McMinnville's Westside Linear Park that provide a bicycle and pedestrian system to serve the west side of McMinnville. The northern segment of this greenway continues generally from West 2nd Street northward to Baker Creek Road within, or adjacent to, an existing Bonneville Power Administration (BPA) easement and extends between the BCE and BCW portions of this proposed development. The City recently purchased approximately five-acres of land for development of a future barrier-free neighborhood park located adjacent to the planned extension of Yohn Ranch Drive which forms the west boundary of the park (a distance of about 510 feet). Staff understands that the McMinnville Parks and Recreation Department has been involved in continuing discussions with the applicant to work in a mutually supportive way to coordinate the proposed neighborhood streetscape and elevations with the City's desired parkscape to enable both projects to successfully advance along that street interface. The general location of this developing city park can be seen on Attachment 3(g).

While this planned city park will provided additional needed recreational opportunities and active open space for the public in this part of town, it is important for the Commission to remember that this park is not, and cannot be, relied upon by the applicant in helping to meet their obligation to provide active open spaces for the proposed development as will be addressed further in the Findings portion of this report; this is in similar fashion to vehicle parking stalls located in public parking lots not being relied upon to meet private parking requirements.

STORM WATER DETENTION AREAS

- In comments provided below by the McMinnville Engineering Department, the proposed plans indicate that site storm drainage will be collected and conveyed to several storm detention facilities. Of particular note, it appears that the detention and wetland areas identified as Tract "A" of BCE would likely follow the area topography and drain toward the wetland area identified as Tract "A" of the Michelbook Meadows subdivision adjacent to and south of BCE. In this case, additional flow would be directed through that system. The proposed storm water facilities shall be sized in accordance with the City's Storm Drainage Master Plan, and maintenance of the vegetation and landscaping within the detention areas shall be the responsibility of the Home Owner's Association (HOA). The developer shall submit a maintenance plan for the detention areas to the City for review and approval prior to the recording of the subdivision plat. Conditions of approval are provided by the Engineering department relative to storm water systems and requirements to ensure adequate flow conveyance through the subject site and into surrounding systems.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

PEDESTRIAN CONNECTIONS

- Pedestrian connections in the form of public sidewalks are required as part of public street design standards adopted in the McMinnville Transportation System Plan (TSP, 2010). As noted below, public sidewalks will be required along both sides of all public streets should the proposed tentative subdivision plan be approved. This is an appropriate requirement for much of the development that occurs locally. However when a planned development is proposed an additional level of importance is placed on pedestrian connections.

To point, Comprehensive Plan Policy 77.00 states “the internal traffic system in planned developments shall be designed to promote safe and efficient traffic flow and give full consideration to providing pedestrian and bicycle pathways.” The pedestrian pathways mentioned here are in addition the public sidewalks mentioned above. Toward this, the applicant notes that 15-foot wide paved pedestrian pathways providing mid-block connections are proposed at Tracts “A” and “C” in BCE (connecting Snowberry Court and McGeary Drive, and Shadden Drive and Victoria Drive, respectively). A similar pathway is also shown within a private easement to be recorded along the southern edge of lot 16 in BCW (see Attachments 3(g), 3(j), 3(s) and 3(t)). The applicant also points out in their November 4, 2016, supplemental narrative that an additional pedestrian connection not shown on the earlier submittal is proposed within and along the eastern edge of the multiple-family lot, adjacent to lot 119 of BCW. This additional pedestrian walkway would connect Haun Drive to Baker Creek Road.

It is clear to staff that the main function of these proposed pedestrian walkways is to provide mid-block connections and thereby enhance pedestrian circulation throughout the neighborhood. The intended purpose of providing these connections within planned development areas however is to tie destination points together. In staff’s opinion, this is not occurring within or adjacent to this proposed development. That is not to say that these connections are being avoided by the applicant, rather that neighborhood destination points are just not part of this proposal. Consequently, the only feature to connect to is actually the next street one block away. Another view of this topic is that within the proposed 40.55-acre tentative subdivision plan, there are four proposed pedestrian walkways and they all connect street to street. The only exception to this is found in Tract “C” in BCE that proposes to provide accessible active open space adjacent to the private walkway for a distance of approximately 218 feet and a width of about 45-feet at the east end narrowing to approximately 25 at the western edge; about 7,630 square feet or approximately 0.18 acres. While the pedestrian connections shown in the proposal are appreciated and will provide some benefit to future residents, staff notes that had active usable neighborhood amenities been provided as part of this proposal (i.e., tot lots, covered picnic spaces, etc.), these connections would provide meaningful walkable access to more than just the next street over.

STREETSCAPE

Architectural Street Appeal

- The examples of proposed types of residential front facades provided by the applicant reflect a general garage dominance in the design. These residential examples (Attachment 3(y)) show a general design approach where the garage dominates the front of the house or protrudes forward of the front door which then deemphasizes the importance of the front door and relegates it, at best, to a secondary priority.

It is important to recall that this subdivision review is occurring within the context of a planned development review. While development and density flexibility is potentially achievable through this

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

process, additional amenities or features of the development are necessary components of the proposal to justify approval of the request. In this instance, staff does not find evidence in the applicant's submittal that would result in variation in the housing style to create an aesthetically pleasing residential community. Rather, given the examples provided, staff is concerned that the resulting housing design would be garage dominant and lack architectural interest sufficient to achieve designs primarily related to the pedestrian experience. To achieve residential façade designs sufficient to aid in justifying the requested planned development request, staff has drafted a condition of approval requiring that the applicant provide a pattern book of development styles and features to enhance the curb appeal and reduce the potential adjacent duplication of styles to aid in achieving variety and pedestrian orientation to the planned residences.

On-Street Parking

- A typical residential streetscape in McMinnville provides opportunity for on-street parking for additional neighborhood vehicles as well as those of visitors. On average, single-family residential development in McMinnville typically results in a linear distance of around 40-feet between driveway aprons allowing for adequate on-street parking opportunities. Driveway locations often alternate between the right and left sides of residential lots allowing for driveways to be "paired" providing an alternating streetscape throughout the block. At the practical level however, on-street parking opportunities remain a function of lot width; the narrower the lot, the higher percentage of its street frontage will be utilized for the property's driveway apron leaving less street frontage for vehicle parking.

There are local examples of single-family residential development in McMinnville with reduced on-street parking. For example: the Townhomes residential development located along the west side of NW Cypress Street in the Cypress Hills subdivision; and, the Townhomes residential development located along the west side of NW Meadows Drive in the Barclay Heights First Addition subdivision. While on-street parking opportunities are greatly reduced along the street frontage of these lots, ample on-street parking opportunities exist directly across the street from most of these residences due to nearby residences gaining access from other adjacent streets.

The majority of lot widths proposed for the BCW portion of the applicant's submittal generally range from 32 to 40 feet in width. Assuming a one-car garage and single-wide driveway for each of these lots allows, at best, the ability to park one on-street vehicle in front of each residence. The color examples of similar style development for 26 and 30-foot wide dwellings provided by the applicant (Attachment 3(y)) demonstrate the limited on-street parking opportunities for neighborhoods such as the proposed BCW. While the applicant's obligation in this regard is to provide two off-street paved parking spaces for each single-family residence, the City's street standards provide widths to accommodate additional on-street parking for the balance of uses within a typical neighborhood. While the private residential parking standard can be met by the proposal, it is important to note that the proposed design of BCW will eliminate much of the public on-street parking opportunity typically provided by City street design standards. Toward a partial remedy, a condition of approval has been provided to require the adjacent pairing of driveways to create on-street parking opportunities of increased lengths to provide for increase parking opportunities.

Street Trees

- The McMinnville Zoning Ordinance requires that a street trees planting plan be submitted to and reviewed by the Landscape Review Committee as a condition of approval for residential subdivision development. The standards require street tree spacing of between 20 (twenty) and 40 (forty) feet apart dependent on the mature branching width of the approved tree(s). Given the limited street tree planting opportunities provided by the lotting pattern proposed in BCW, the City's opportunity of

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

effect the desired tree cover and tree-lined streets will be less than optimal. It is understood that this may be some of the “give and take” mechanism of the Planned Development process, but staff is not clearly seeing an added aesthetic benefit to balance the likely reduction in street tree planting opportunities. That said, the pairing of driveways would provide the opportunity for better space for street trees, which would greatly improve the aesthetic quality of the neighborhood.

REFERRALS

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. As of the date this report was written, the following comments had been received:

McMinnville Engineering Department

STREETS

The McMinnville Engineering Department has provided comments relative to the applicant's proposed transportation and street design as follows:

- The western portion of the proposed subdivision is located adjacent to and south of NE Baker Creek Road, adjacent to the Shadden Claim Second Addition subdivision. Baker Creek Road is classified as a minor arterial in the City's adopted Transportation System Plan (TSP). Per the City's adopted Land Division Ordinance, the cross-section for a minor arterial street includes a total of 46' of pavement (curb to curb width), with two travel lanes, a center turn lane, on-street bicycle lanes, planter strips and sidewalks, within a total of 96' of right-of-way.
- Baker Creek Road adjacent to the proposed subdivision is currently improved with a total of 25' of pavement south of centerline, a planter strip with street trees, and a sidewalk. Thus, no additional improvements to Baker Creek Road will be necessary as part of the subdivision.
- The right-of-way width for Baker Creek Road adjacent to the subdivision is only 30' south of centerline. Thus, the developer shall dedicate an additional 18' of right-of-way for Baker Creek Road along the subdivision's frontage so that the right-of-way totals 48' south of centerline.
- The western portion of the proposed subdivision is also located adjacent to and east of NE Hill Road. Hill Road is classified as a minor arterial in the City's adopted Transportation System Plan (TSP). As noted above, as per the City's adopted Land Division Ordinance, the cross-section for a minor arterial street includes a total of 46' of pavement (curb to curb width), with two travel lanes, a center turn lane, on-street bicycle lanes, planter strips and sidewalks, within a total of 96' of right-of-way.
- Hill Road adjacent to the proposed subdivision will be improved by the City as part of the voter approved 2014 Transportation Bond. Thus, no additional improvements to Hill Road will be necessary as part of the subdivision.
- The right-of-way width for Hill Road adjacent to the subdivision is only 30' east of centerline. Thus, the developer shall dedicate an additional 18' of right-of-way for Hill Road along the subdivision's frontage so that the right-of-way totals 48' east of centerline.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

- No direct access from the proposed subdivision lots will be allowed to Hill Road or to Baker Creek Road.
- As proposed, all of the interior streets, except Shadden Drive, in the subdivision will be constructed to the Local Residential street standard included in the City's Land Division Ordinance, including a 28-foot-wide paved section with curb and gutter, five-foot-wide curbside park strips, and five-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way.
- The proposed cul-de-sacs at the east end of Snowberry Street and the south end of Mahala Way shall be constructed to meet the requirements of the McMinnville Fire Department.
- As proposed, Shadden Drive will be extended to the south to connect to Cottonwood Drive. The proposed improvements will match the existing width of Shadden Drive, including a 36-foot-wide paved section with curb and gutter, planter strips, and sidewalks within a 60-foot right-of-way.
- Street profiles were not included with the subdivision application materials. Staff would note that the street grades and profiles shall be designed 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 designed to meet PROWAG requirements (diagonal ramps are not allowed). Additionally, parking will be restricted at all street intersections, in conformance with the Land Division Ordinance standards.

SANITARY SEWER

The McMinnville Engineering Department has provided comments related to the sanitary sewer system as follows:

- The proposed plans indicate that existing sanitary mainlines will be extended throughout the proposed development to serve all proposed lots. The sanitary sewer mainlines shall be designed to facilitate the extension of service to adjacent properties within the City's Urban Growth Boundary, as appropriate.

STORM DRAINAGE

The McMinnville Engineering Department has provided comments related to the storm drainage system as follows:

- The existing topography of the site is such that most of the site area naturally drains to the east or to the southeast.
- The proposed plans indicate that site storm drainage will be collected and conveyed to several storm detention facilities. The facilities shall be sized in accordance with the City's Storm Drainage Master Plan, and maintenance of the vegetation and landscaping within the detention areas shall be the responsibility of the Home Owner's Association (HOA). The developer shall submit a maintenance plan for the detention areas to the City for review and approval prior to the recording of the subdivision plat.
- The City will maintain all public storm facilities within the proposed detention tracts. The final subdivision plans shall incorporate access for maintenance to all public storm facilities, including any proposed overflow weirs.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

McMinnville Water & Light

An extension agreement is required for provision of water and electric services to the site which shall include: Development fees, engineered/approved drawings, etc. Contact McMinnville Water & Light for details.

McMinnville Parks Department

In an email provided on February 9, 2017, the McMinnville Parks Director stated that because the City purchased and now owns and maintains the Roma Sitton greenway (landscaped greenway previously developed by VJ-2 Development within the BPA easement between 23rd and Baker Creek Rd.) as well as the additional easement property (now landscaped) within the Shadden neighborhood south of 23rd, the agreement for continued maintenance of greenway/park spaces by VJ-2 or the homeowners association is no longer pertinent. Therefore it probably should be removed from the record as discussed with Ron Pomeroy this morning.

Discussion:

At their meeting on January 19, 2017, the Planning Commission closed the public hearing but kept the written record open until 5:00 pm, February 2, 2017.

Written Testimony received by the McMinnville Planning Department between Friday, January 20, 2017 and 5:00 p.m., Thursday, February 2, 2017.

- Email – Susan Dirks, January 20, 2017 (Attachment 25)
- Letter – Patty O’Leary, dated January 23, 2017, and received by the Planning Department via email on January 23, 2017 and hand delivered on January 27, 2017 (Attachment 26)
- Letter – David and Carol StLouis, dated January 26, 2017, and received by the Planning Department on January 26, 2017 (Attachment 27)
- Letter – Gene and Deanna White, dated January 25, 2017, and received by the Planning Department on January 27, 2017 (Attachment 28)
- Email – Ray Fields, January 30, 2017 (Attachment 29)
- Letter – Patty O’Leary, dated January 30, 2017, and received by the Planning Department on January 30, 2017 (Attachment 30)
- Letter – The Hayes Family, dated February 2, 2017, and received by the Planning Department on February 2, 2017 (Attachment 31)
- Letter – Renee Carr, undated, and received by the Planning Department on February 2, 2017 (Attachment 32)

The Applicant, Baker Creek Development, LLC, had seven days to prepare a rebuttal to the written testimony received after the Planning Commission closed the public hearing. They provided that rebuttal via email after 5:00 pm on February 6, 2017, and elected to waive the rest of their seven-day rebuttal period.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

Applicant's written response testimony provided on February 6, 2017.

- Email – Morgan Will, Stafford Land Company, LLC, dated February 6, 2017, and received by the Planning Department on February 7, 2017 (Attachment 33).

Applicant's written response testimony provided on February 7, 2017.

- Email – Morgan Will, Stafford Land Company, LLC, dated February 7, 2017, and received by the Planning Department on February 7, 2017 (Attachment 34).
- Email – Morgan Will, Stafford Land Company, LLC, dated February 7, 2017, and received by the Planning Department on February 7, 2017 (Attachment 35).
- Email – Morgan Will, Stafford Land Company, LLC, dated February 7, 2017, and received by the Planning Department on February 7, 2017 (Attachment 36).

Summary of Public Written Testimony Comments:

Much of the written testimony received since this proposal's January 19, 2017, public hearing is similar to that previously submitted and addressed on pages 17 through 27 of the January 19, 2017, staff report. However, there remain a few recurrent themes and some new opinion which staff will address that may prove beneficial for the Commission in their deliberation.

Public Safety, Police and Crime:

- The Hayes Family (Attachment 31) asserts that the McMinnville Planning Department staff has performed in a dismissive and irresponsible manner specific to the McMinnville Police Department. This issue was raised in previous testimony and a response was provided on page 3 of the January 19, 2017, supplemental staff memo with additional information detailing the City's process to invite inter-departmental participation on land use reviews also provided on page 21 of the January 19, 2017, Staff Report. However, in the recent letter submitted by the Hayes Family (Attachment 31) they state that their "questions and concerns were not truly addressed by your department's reply."

Response: Land-use decisions, by law, need to be made based upon specific criteria and principles that are in the Oregon Revised Statutes governing the state land-use program, the local comprehensive plan and policies and the local zoning ordinance. These governing principles and criteria are developed through a public process and adopted by the City Council. Any land-use approval or denial needs to be based upon whether or not the land-use application complies with these adopted covenants. With that said, the City of McMinnville makes a concerted effort to engage all interested partners and city departments for comments when reviewing land-use applications. Even if a department's comments are not relevant to the governing criteria for the land-use decision they are provided with the land-use staff report as part of the public record so that the planning commission and city council can evaluate any concerns or trends that are emerging that are not being captured with the existing McMinnville Comprehensive Plan polices and goals, and the Zoning Ordinance. A complete copy of the Baker Creek Development proposal, including all maps, diagrams and text, was provided to the McMinnville Police Department for their review on September 29, 2017, followed by a 29 day review and comment period ending on October 28, 2017. While standard inter-departmental comment periods are 10 (ten) days, City departments were each provided 29 days in this instance to provide as much time as possible to review the material and reach their determinations. The Police Department did not provide any comments or concerns associated with this land-use application.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

- Other public safety related concerns generally either draw a relationship between renters and an increased incidence of crime, or claim a relationship between higher residential density/smaller lots and an increased incidence of crime. In no case was statistical actionable evidence provided in this record to substantiate either of these opinions. With the lack of factual data being entered into the record to support these concerns, and with no comment from the McMinnville Police Department raising these or similar issues, there is no legal basis for the Planning Commission to deny the land-use applications based upon these opinions and feelings. Additionally, the City's Zoning Ordinance does not determine whether a house built in the city is used as a rental property or is owner-occupied. Land-use decisions are specific to how the land is divided and developed and not a subjective application of social justice ideology.

Planned Development and Density Averaging:

Written testimony provided by a number of parties that relate, in part, to matters of residential density and, specifically, the density on only a portion of the proposed planned development area (Attachments 25, 27 and 30).

Specifically, in Attachment 25, Susan Dirks states, in part:

"I understand that the approval process and the rules governing changes to the Comprehensive Plan permit the applicant to calculate the average density per acre for two separate tracts and to apply that average to the entire project. But the result is mathematical sleight-of-hand and does not reflect reality. Once constructed, the houses and apartments in the Baker Creek West (BCW) tract will still have a density higher than 7 units per acre."

In Attachment 27, David and Carol StLouis state, in part:

"We don't believe anyone is saying that future development should not occur at a higher density. However the magnitude of the proposed medium density BCW single-family development and its 32-foot lots and six-foot setbacks appears to go far beyond what the city needs in terms of higher density and affordable housing on the west side."

Also,

"The proposed BCW development is clearly an urban development in the midst of an existing suburban development [..]"

In Attachment 30, Patty O'Leary states, in part:

"And the BCW section of the development is what is creating the most concern with the density concessions that have been requested."

Since the applicant's land-use application is utilizing McMinnville's Comprehensive Plan policies and Planned Development Zoning Ordinance to meet density criteria, it may be beneficial to provide a brief discussion of McMinnville Planned Development zoning designation as a land use tool and its relevance to this application.

- Section 17.51.010 of the McMinnville Zoning Ordinance states, in part:

"The purpose of a Planned Development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the provisions of the zoning ordinance."

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

In a neighborhood that has been granted Planned Development approval by the City Council, it is common to expect and find that numerous elements of that neighborhood will be different than a development required to strictly adhere to all of the base requirements of that zone. Typical modifications that have been approved through McMinnville's Planned Development process (of which there are over 325) include variations to, or elimination of, setbacks, increases or decreases of allowable building heights, reductions in minimum lot sizes, permitting uses not otherwise allowed in the base zone, limitation of hours of operation, and architectural design requirements. However, one of the most common uses of the Planned Development process is for the Council to be able to allow density averaging. The Council's ability to allow the averaging of residential densities provides a means to achieve a mix of housing types and densities that would otherwise not be achieved in a given area. The McMinnville Comprehensive Plan is clear in its policies to encourage a mixture of housing types in neighborhoods so that McMinnville can provide a number of different types of housing for residents. A Planned Development allows City Council to consider a mix of housing types in a neighborhood that are integrated and connected with key elements such as pathways and open spaces. Most of the apartment complexes constructed on McMinnville's west side exist in single-family residential zones as part of a Planned Development project.

Density averaging through the Planned Development process works and complies with density requirements as long as the Planned Development site remains considered as a whole. For example, if a Planned Development area was 20-acres in size and received approval for 120 dwelling units, they may be constructed as any configuration of townhouses, apartments or single-family homes. But, if townhomes or apartments were constructed and someone looked only at that part of the development, the density would be too high and they would not be approved on their own. Regarding density, the Planned Development process requires that you look at the entire Planned Development area as a whole and not disconnect its pieces. Separating a Planned Development area into distinct pieces to consider density dismantles the land use tool and runs counter to its purpose.

Baker Creek Development, LLC has requested to amend an existing Planned Development by expanding its boundaries, and be allowed to apply density averaging within that area to construct housing of different types, at different price points, and on lots of different sizes in. This request fits within the purpose statement of a Planned Development overlay and implements the associated Comprehensive Plan Policies that guide medium and higher residential density locations in McMinnville. Detailed analysis of the Planned Development review criteria as well as associated Comprehensive Plan Policies and Zoning standards and requirements are provided in the January 19, 2017, Staff Report on pages 9 – 16, and on pages 9 – 29 of Exhibit A, the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings document ZC 1-16/ZC 2-16/S 3-16 – Baker Creek Development Expansion.

Clarification of Historic Land Use Actions Relative to the Subject Site:

- There remains confusion regarding the multiple Planning Commission and City Council land use actions associated with the subject site that occurred over the last twenty-six years (since 1991). A number of those approvals were nullified through failed voter annexation requests and have no bearing on the current proposal and will not be addressed here. Portions of this 26-year history are discussed in recent testimony provided by Ms. O'Leary (Attachment 26) and are addressed by staff below to provide clarity:
 - Ms. O'Leary's testimony provides a graphic with a hand drawn arrow and notation indicating that tax lot 200 is located south of the commercially designated land area (identified with the number

Attachments:

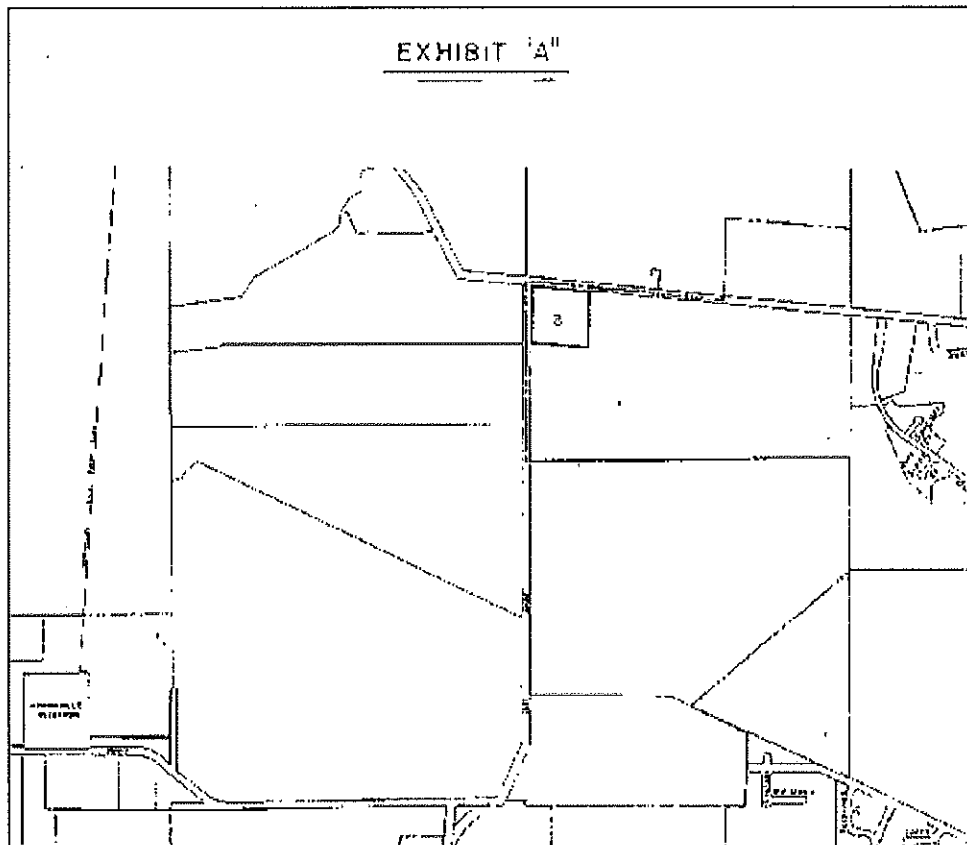
ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

"3)." This graphic demonstrates Ms. O'Leary's position that the Council's commercially designated corner is not part of tax lot 200. The effect of this opinion is that Ordinance 4626 (adopted in 1996) then does not apply to the commercially designated portion of the applicant's site. Ms. O'Leary then offers that perhaps staff has made a "leap" (Attachment 26, page 3) to apply a C-3 PD designation to this corner acreage based on a Conditional Use provision that would allow multiple-family development in the General Commercial zone to exceed the standard height limitation if the development is located in the downtown core defined as that area bounded by First Street, Fifth Street, Adams Street and Johnson Street (McMinnville Zoning Ordinance Section 17.33.030(F)(5)); this same provision is also found in Section 17.21.020(L) of the R-4 Multiple-Family zone.

- o Additional information is provided regarding different building heights allowed for commercial development in the C-3 zone, and by Ordinances 4128 (adopted in 1981), 3380 (adopted in 1968) and 4506 (adopted in 1991) as referenced on page 3 of Attachment 26. This testimony submittals ends with the statement:

"It would be a shame if we end up with a residential equivalent of the dump through inaccurate planning interpretations."

- o Ordinance 4506 was approved by the City Council in 1991 for the purpose of modifying the Comprehensive Plan map and Zoning map relative to 85 (eighty five) specific locations within the McMinnville city limits. Some of those locations were entire platted parcels (or lots) while some were merely portions of platted parcels or lots. Section 2 of Ordinance 4506 states that "parcel" 3 was rezoned from AH PD (Agricultural Holding Planned Development) to C-3 PD (General Commercial Planned Development. A graphic from Ordinance 4506 depicting the configuration and location of "parcel 3" at the southeast quadrant of the intersection of NW Hill and Baker Creek Roads is provided below.



Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

- Section 1 of Ordinance 4506 (adopted December 10, 1991) states “That the City’s Comprehensive Plan Map shall be amended as follows:” Subsection (a) of Section 1, “That parcels 1, 2, and 3 as shown on Exhibit “A,” which is attached hereto and incorporated herein by this reference, be amended from a residential designation to a commercial designation.” This means that the land area identified with the number 3 (as can be seen on the graphic provided above) was designated as Commercial on the City’s Comprehensive Plan Map by the Council’s approval of Ordinance 4506. McMinnville’s current Comprehensive Plan Map continues to identify that same area as Commercial.

Continuing on to Section 2 of Ordinance 4506 it is states “That parcels 1, 2, and 3 as shown on Exhibit “A” are hereby rezoned from AH PD (Agricultural Holding Planned Development) to C-3 PD (General Commercial Planned Development). From R-1 PD (Single-Family Planned Development) to C-3 PD (General Commercial Planned Development). And from R-1 (Single-Family Residential) to C-3 PD (General Commercial Planned Development), respectively, subject to the following conditions:”. This means that the same area identified as parcel 3 was designated as C-3 PD (General Commercial Planned Development) on the City’s Zoning Map by the Council’s approval of Ordinance 4506.

Regarding the conditions stipulated by Section 2 of Ordinance 4506, there are nine (9) subsections addressing a range of concerns including hours of commercial operation, temporary display and sales of merchandise, commercial signage and, perhaps most pertinent to the Baker Creek Development land use application, subsection (d) states: “No building shall exceed the height of 35 feet.”

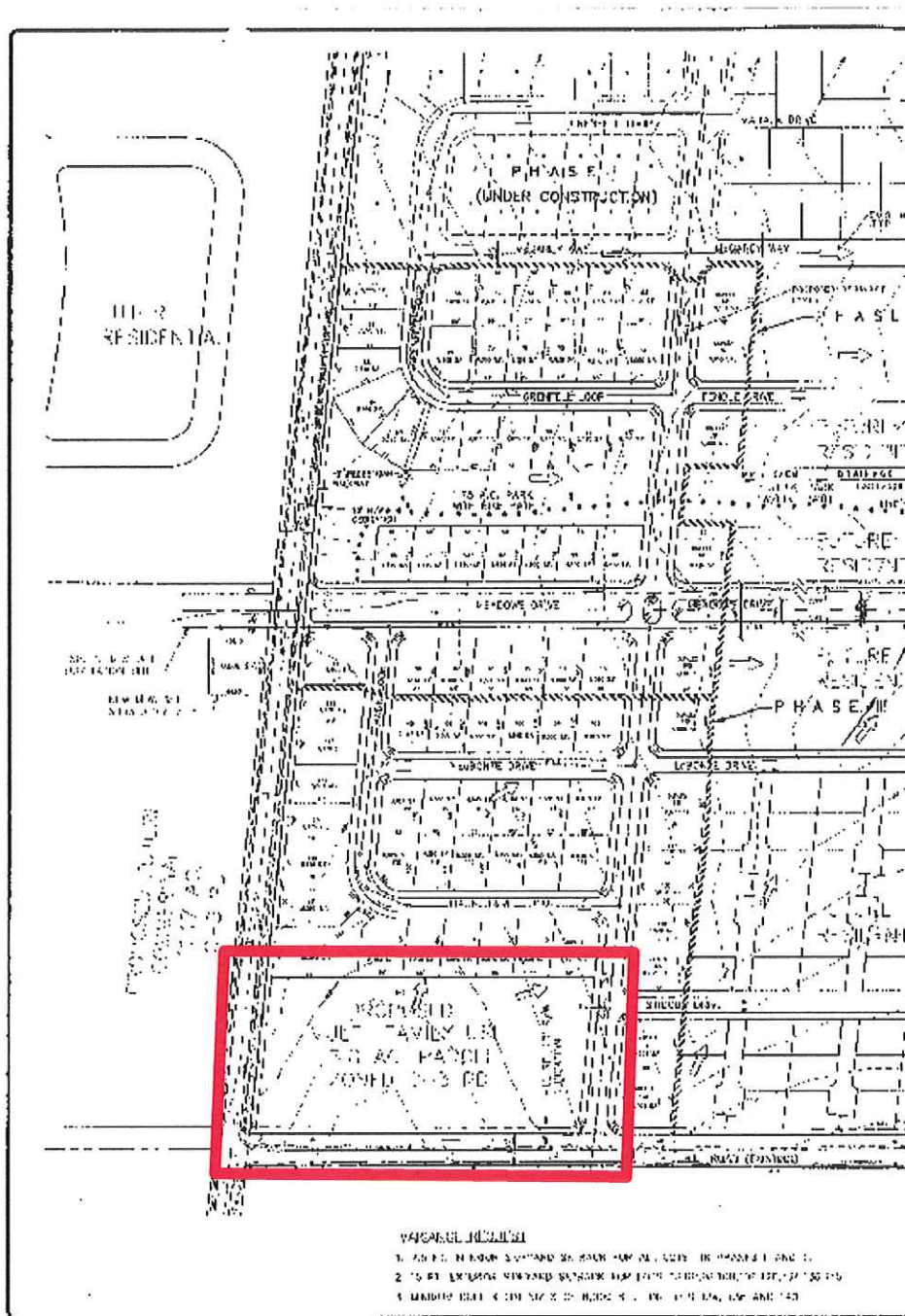
The 1991 usage of the word “parcel” in Ordinance 4506 is a misnomer. The five acres graphically identified as “parcel 3” in the ordinance is not a legal property parcel but a conceptual parcel for zoning purposes with the legal parcel being the larger tax lot identified as R4418-00200 on the Yamhill County tax maps. It is instructive to note that the Council’s adoption of Ordinance 4506 approved no action to partition any of the 88 separate property locations identified in the ordinance or to adjust any associated property lines. The Council’s adoption of this ordinance created a dual zoned parcel (R4418-00200) carrying both an R-1 zone and a C-3 PD zone.

Ordinance 4626 (adopted in 1996) identifies the subject site as R4418-00200 and, in part, amended the five-acre commercially designated portion of tax lot 200 by redesignating 1.2-acres of that land to R-1 PD zoning leaving 3.8-acres of that land zoned C-3 PD. This 3.8-acre C-3 PD zoned area of land located at the corner of NW Hill and Baker Creek Roads is the same as currently exists today and is part of the development proposal currently before you.

Section 3 of Ordinance 4626 contained six (6) conditions of approval. Specific to this discussion is condition of approval number 2 which states: “That 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 an building permits for said units. The multiple-family project(s) must be nonlinear in design and parking lots must be broken up by landscaping. In addition, useable open space shall be provided within the development, and streetside landscaping shall be emphasized.” The master plan that was reviewed and approved by adoption of Ordinance 4626 identifies the location of the 3.8-acre C-3 PD site and its proposed use for multiple-family development as is identified by the graphic below; staff apologizes for the poor quality of the graphic but this is the best reproduction that could be obtained. The multiple-family portion of the approved master plan can be seen as the rectangularly shaped area located in the bottom left corner of the graphic and geographically situated at the southeast quadrant of the intersection of NW Hill and Baker Creek Roads. For additional orientation of this graphic, north is located to the left side the image.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings



With the platting of Shadden Claim 1st and 2nd Addition residential subdivisions that followed, the original parent parcel (R4418-00200) became reduced in size resulting in the 13.49-acre vacant parcel that exists today. This parcel, now referenced as R4418-00203 (tax lot 203), still retains the same 3.8-acre commercially zoned area that was created through adoption of Ordinance 4626.

Multiple-family building height

- The 35-foot building height limitation noted in Ordinance 4506 reflected the idea, as did the other design-related conditions of Section 2 of that ordinance, that this commercially designated area would be developed with commercial use(s). With the later adoption of Ordinance 4626 (in 1996) this smaller yet still commercially designated site was approved for multiple-family development but the 35-foot height limitation was not amended. Staff errantly referenced a maximum building height of 65 feet in the January 2017 Staff Report. Baker Creek Development, LLC, has since requested a maximum building height of 45 feet for the multiple family buildings to be constructed on their C-3 PD zoned land (Attachment 34). As justification for amending the 35-foot maximum building height limitation of Ordinance 4506 was not provided by the applicant, staff does not find justification for recommending an amendment to that condition. Condition of Approval number 2 regarding ZC 1-16/ZC 2-16 has been amended to reflect a maximum building height of 35 feet.

Proximity to Commercial Development

- There has been a concern voiced that there are no nearby commercial opportunities to serve this residential area. On October 8, 1996, the McMinnville City Council adopted Ordinance 4633 that designated 12.34 acres of land located at the northeast quadrant of the intersection Hill and Baker Creek Roads exclusively for commercial use. This commercial designation is located directly north of and across Baker Creek Road from the proposed BCW. This commercial designation has also been shown on the City's Comprehensive Plan Map for twenty-one years (since 1996).

Adequacy of open space

- Some of the testimony expressed concerns about the amount of open space in the planned development amendment. General observations of open spaces within this proposal were provided by staff on pages 11 and 12 of the January 19, 2017 Staff Report with specific findings provided in the land-use Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for Docket ZC 1-16/ZC 2-16/S 3-16 – Baker Creek Development Expansion.

Additionally, Condition of Approval number four requires a 6,000 minimum square foot lot to be centrally located within BCW and not located with the multiple-family site.

Should the City be Party to Private CC&Rs?

- Since the land-use decision requires open space maintenance that will need to be the responsibility of the home owner's association, the city wants to ensure that the home owner's association will not disband and abdicate their responsibility to the city. A condition of approval was written to make the city a party to the CC&R's. After this was expressed as a concern at the public hearing on January 19, 2017, staff engaged legal counsel again to review the language and the concerns expressed. Condition of Approval number 38 has been revised to reflect new language to address the concerns heard at the public hearing but still achieve the intent of the city.

Summary of Applicant's Written Rebuttal:

Baker Creek Development, LLC provided a written rebuttal to the public testimony comments that the City of McMinnville received via email on February 6, 2017, after 5:00 pm. (Attachment 33)

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

Setbacks

The applicant's rebuttal testimony draws comparisons between the currently proposed setbacks and those of some other residential subdivisions. While staff concurs with most of the comparisons, a couple of additional observations are offered. Specifically, the applicant notes that the interior minimum side yard setback for residential lots in the Shadden Claim subdivision are 7.5 feet in width, this is actually true only for lots 36 through 68. So, while the 7.5-foot interior side yard setback is accurate for those 34 lots, a minimum ten foot wide interior side yard setback applies to the remaining 32 lots. Additionally, the applicant notes that the required exterior side yard setback for corner lots in the Cottonwood subdivision is a minimum of 15-feet in width, the subdivision approval actually calls for a 20-foot minimum. Although these two statements needed to be addressed, staff contends that these differences do not substantially alter the applicant's narrative, the appropriateness of the development proposal before you, or the sense of community that would be experienced by the public should this request be approved.

Shadden Claim 2nd Addition Lot 97A

The applicant draws a comparison between the proposed 3,716 square foot Lot 73 of BCW and the two adjacent similarly sized single-family attached lots sizes in Shadden Claim 2nd Addition. The applicant's size comparison is essentially correct except that in 2002, the owner of those two platted lots in the Shadden Claim 2nd Addition residential subdivision the subject of a covenant agreement (CA 1-02) filed with the McMinnville Building Department that, from then on, considers those two lots as one for building purposes. These two lots were then developed with one single-family residential dwelling and function as one platted lot for development purposes. Again, while staff felt compelled to note this discrepancy, this does not effectively alter the merits of the proposal before you.

Amended Conditions of Approval Recommended:

Since the public hearing on January 19, 2017, staff has responded to some of the concerns raised by the public testimony and the applicant with the following recommended amendments to the Conditions of Approval.

Text to be deleted is identified with a **~~bold-strikeout~~** font and text to be added is identified with a **bold underlined** font.]

- 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 65 dwelling units and any supportive services deemed appropriate to serve the multi-family complex.** ~~That~~ 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 approximately 3.8-acres multiple-family site shall be limited to no more than 65 dwelling units.~~ The multi-family buildings shall be no more than **6535** 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 multi-family site shall be provided to the Landscape Review Committee for review and approval. In addition, useable open space and a paved pedestrian connection to Baker Creek Road located near the east edge of this site shall be provided within the development, and streetside landscaping shall be emphasized.
4. That one private Mini-Park/Playlot be provided in BCW to serve this portion of the proposed neighborhood. This Mini-Park/Playlot shall be a minimum of 6,000 square feet in size and maintained by the Homeowners Association. **This Mini-Park/Playlot shall be located between lots 123 and 124 of Baker Creek West (BCW) as shown on the applicant's phasing plan (Attachment 36).**

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

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 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.
 - ~~E. That VJ-2 Company dedicate to the City of McMinnville the parkland as designated on the tentative plan for Shadden Claim, First Addition. VJ-2 Company shall submit to the City for review and approval a detailed design plan for the development of the proposed parkland. At a minimum the park design plan shall include grading, drainage, lighting and irrigation system information, proposed landscaping, and path location and construction details. The improvement and maintenance of the parkland shall be the responsibility of VJ-2 Company and their successors in interest in the Shadden Claim development. VJ-2 Company shall enter into an agreement with the City of McMinnville setting out the terms and provisions of the improvement and maintenance responsibilities for the parkland. Said agreement shall be prepared by the City Attorney. The City shall also be authorized to improve and maintain the parkland if VJ-2 Company or its successors in interest fail to do so and to levy a lien against each and every lot within this subdivision for said costs and to record these liens in the City's Docket of Liens.~~

38. That documents creating a ~~h~~Homeowner's ~~a~~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 applicant shall make the City of McMinnville a party to 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&Rs shall be reviewed and subject to City approval prior to final plat approval.

43. That plat phasing, ~~described as the single-family residential development as Phase I and the multiple-family development as Phase II, is approved. is as depicted on the applicant's submittal listed as Attachment 36 of the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for Docket ZC 1-16/ZC 2-16/S 3-16 – Baker Creek Development Expansion and generally described as:~~
 - a. Phase 1 – All land south of and including the northern row of lots 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 western row of lots located along 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.

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

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.

Fiscal Impact:

None.

Recommendation/Suggested Motion:

ZC 1-16 and ZC 2-16

The Planning Department recommends the Commission make the following motion recommending approval of ZC 1-16 and ZC 2-16 to the City Council:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE ZC 1-16 AND ZC 2-16 SUBJECT TO THE STAFF RECOMMENDED CONDITIONS OF APPROVAL.

S 3-16

The Planning Department recommends the Commission make the following motion for approval of S 3-16:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION APPROVES S 3-16 SUBJECT TO THE STAFF RECOMMENDED CONDITIONS OF APPROVAL.

RP:sjs

Attachments:

ZC 1-16/ZC 2-16/S 3-16 Decision, Conditions of Approval, Findings of Fact, Conclusionary Findings

Amended February 15, 2017



**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 BAKER CREEK DEVELOPMENT FOR APPROVAL OF A PLANNED DEVELOPMENT AMENDMENT, ZONE CHANGE AND TENTATIVE RESIDENTIAL SUBDIVISION PLAN.

DOCKET: ZC 1-16, ZC 2-16 & S 3-16

REQUEST: The applicant has submitted a proposal comprised of three land use requests: a zone change request, a planned development amendment request, and a tentative residential subdivision plan. A brief description of each request follows:

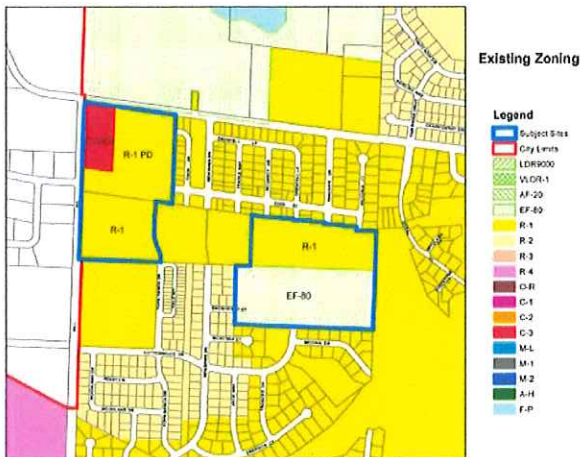
1. Zone Change - R-1 to R-1PD and EF-80 to R-1PD (ZC 1-16):
The applicant is proposing a zone change comprised of two elements, one of which would rezone approximately 17.23 acres of land from R-1 (Single-Family Residential) to R-1 PD (Single-Family Residential Planned Development). The remaining portion of the zone change request would rezone approximately 13.6 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.
2. 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 5 feet or 3 feet; and, 5) a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet.
3. 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 213 single-family homes on lots ranging in size from 3,200 to 21,051 square feet in size and one multiple-family lot approximately 3.8 acres in size to accommodate 65 multiple-family dwellings. In addition, four open space tracts are proposed as well as three storm water detention sites.

LOCATION: The subject site 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.

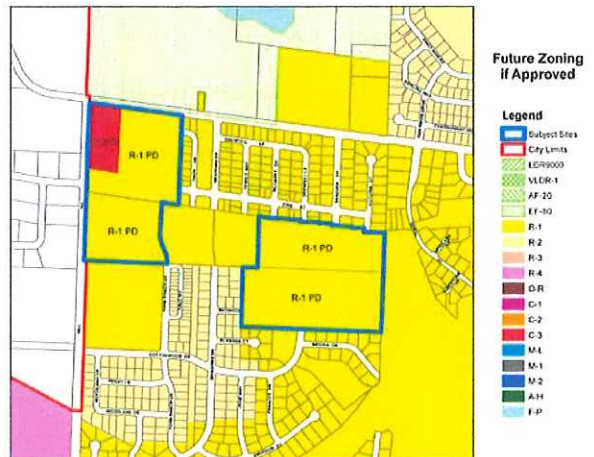


ZONING: The subject site's current zoning is C-3 PD, R-1, R-1 PD, EF-80.

Current Zoning



Requested Zoning



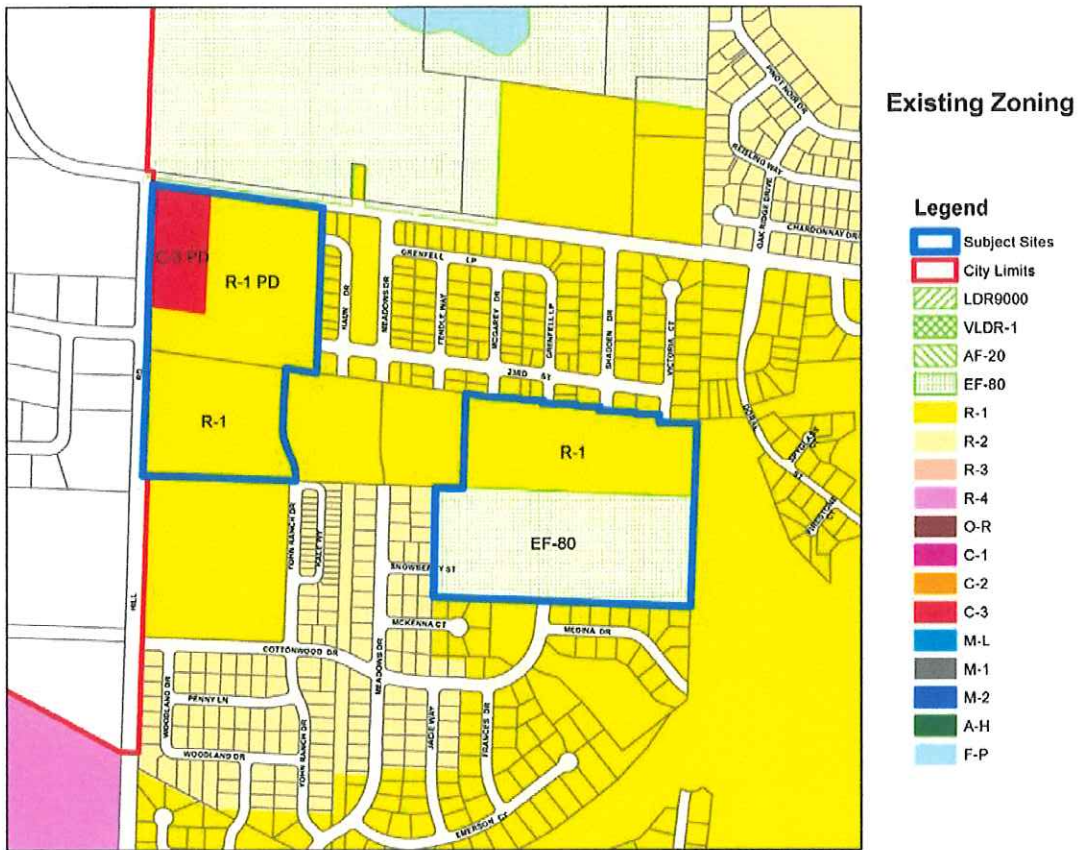
Application Summary:

- The applicant has submitted a proposal comprised of three land use requests: a zone change request, a planned development amendment request, and a tentative residential subdivision plan. A brief description of each request follows:

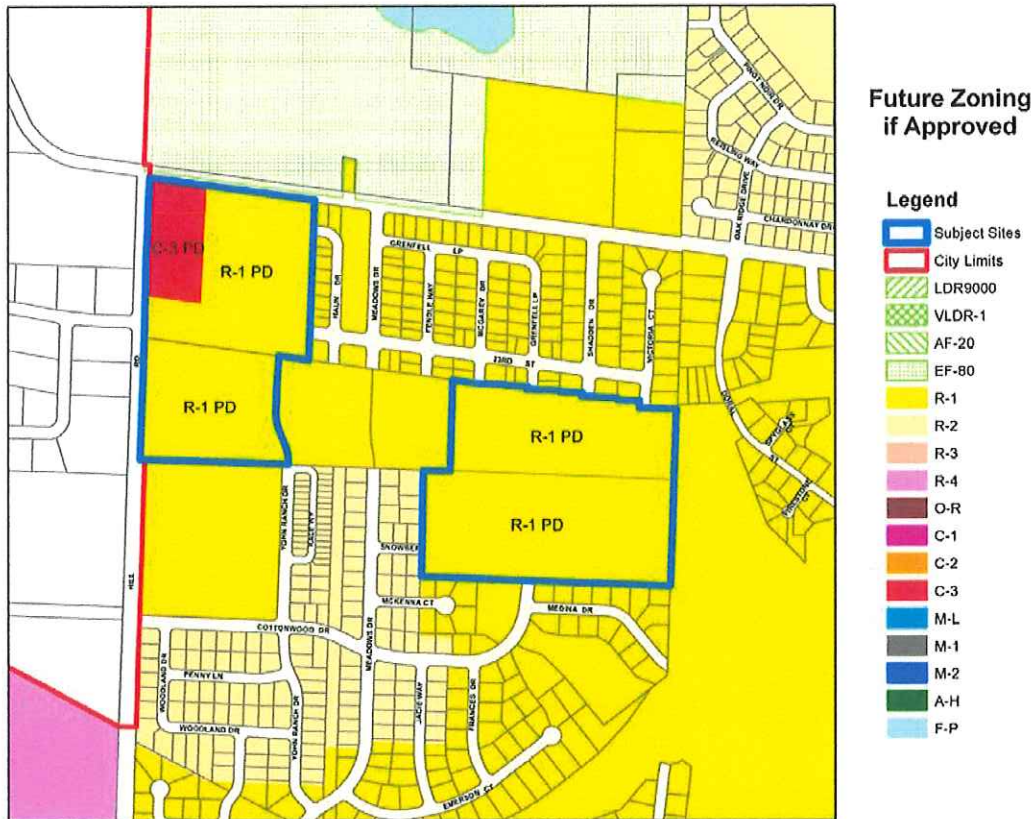
1. Zone Change - R-1 to R-1PD and EF-80 to R-1PD (ZC 1-16):

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 13.6 acres of land from EF-80 (Exclusive Farm Land – 80-Acre Minimum) to R-1 PD.

Current Zoning

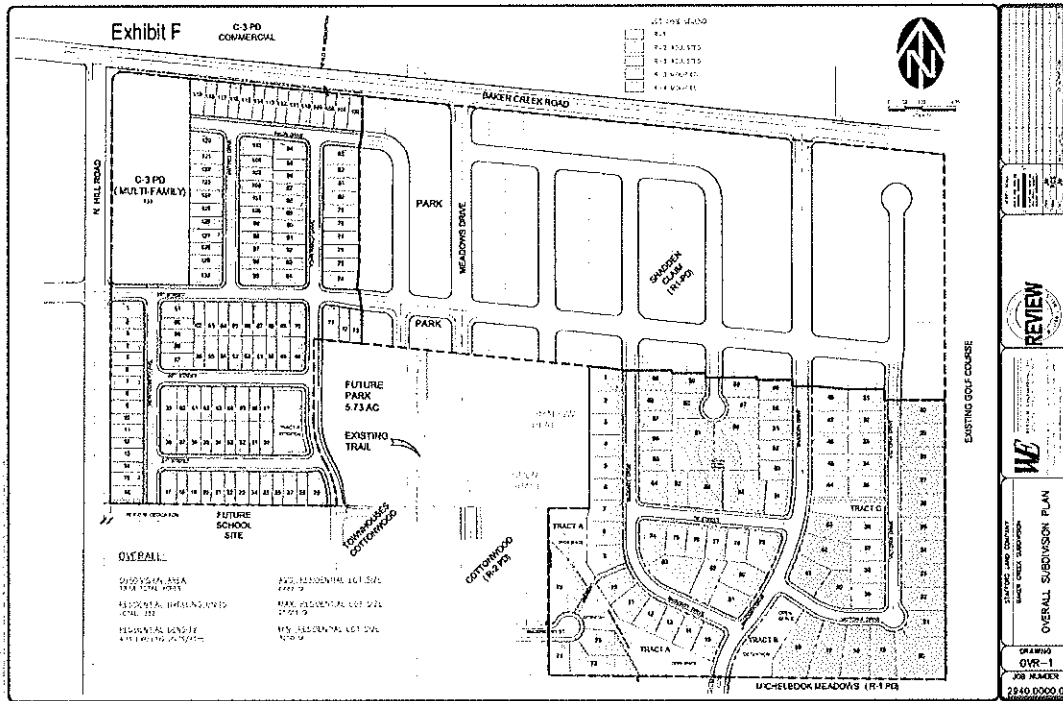


Future Zoning if approved

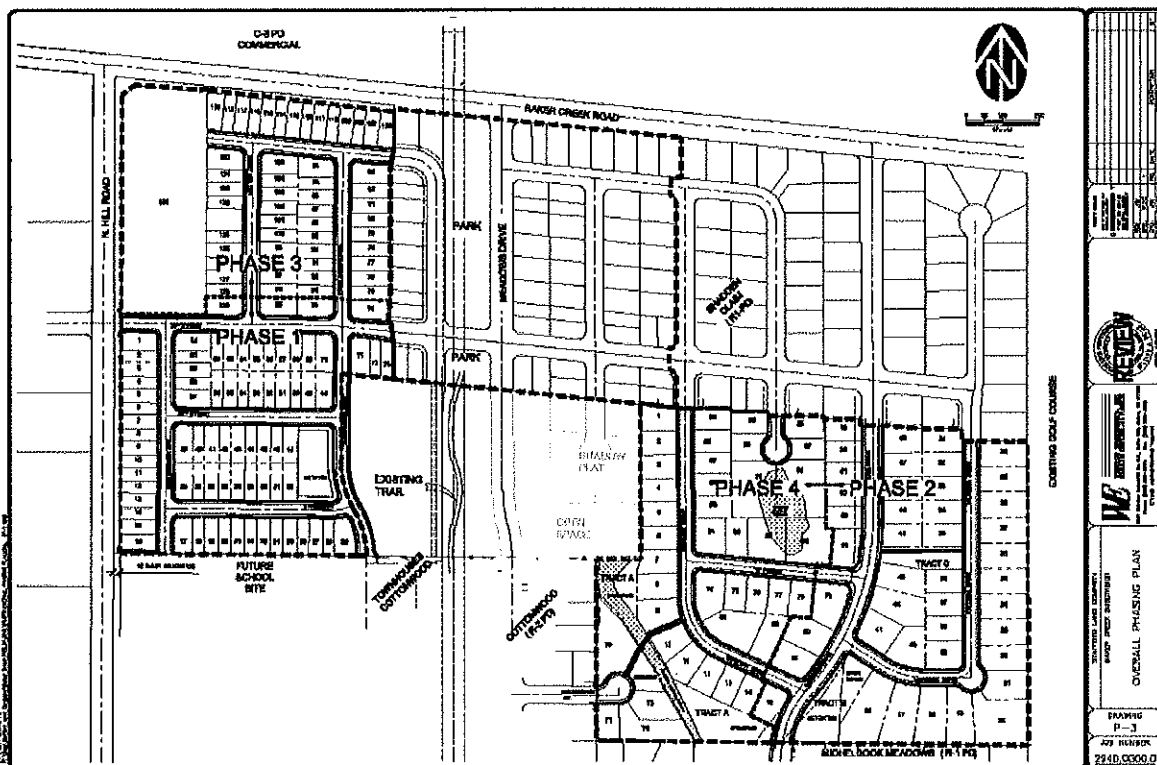


2. Planned Development Amendment – (ZC 2-16):
 The applicant is proposing to amend the planned development described in Ordinance No. 4626 that currently governs a portion of the area proposed for residential development in a number of ways including: 1) Expansion of the boundary of the existing planned 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 5 feet or 3 feet; and, 5) a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet.

3. 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 213 single-family homes on lots ranging in size from 3,200 to 21,051 square feet in size and one multiple-family lot approximately 3.8 acres in size to accommodate 65 multiple-family dwellings. In addition, four open space tracts are proposed as well as three storm water detention sites.

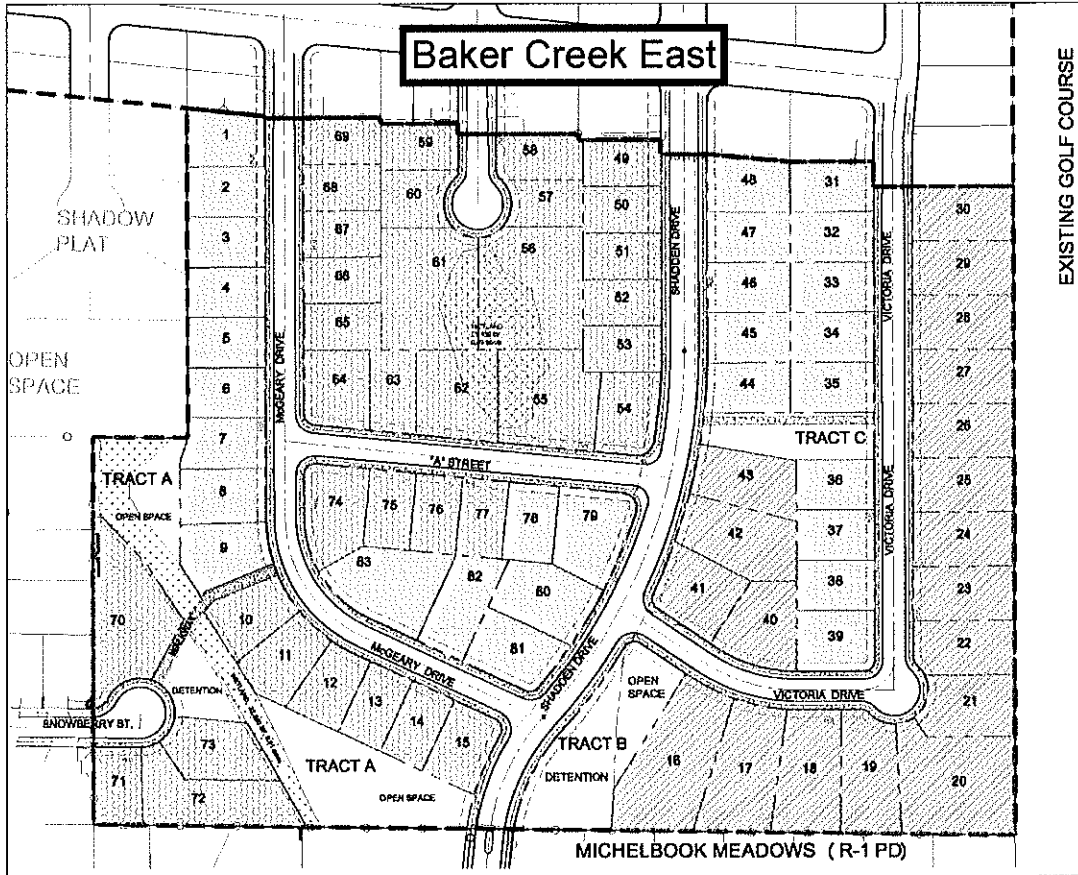


Per attachments 34, 35 and 36, the project will be developed in four phases. The development plan for phase one would include all land south of and including the northern row of lots adjacent to the north edge of 23rd Street (not to include the C-3 PD zoned land) of Baker Creek West (BCW). Phase two is proposed to include all land east of and including the western row of lots located along the west edge of Shadden Drive of Baker Creek East (BCE). Phase 3 is proposed to include the northern balance of BCW inclusive of the C-3 PD zoned land. Phase 4 is proposed to include the western balance of BCE. A graphic depicting the proposed four-phase development plan is provided below.



Baker Creek East (BCE)

The applicant proposes the platting of 83 single-family residential lots ranging from 5,536 square feet to 21,051 square feet in size on 23-acres of land yielding an average lot size of approximately 8,567 square feet.



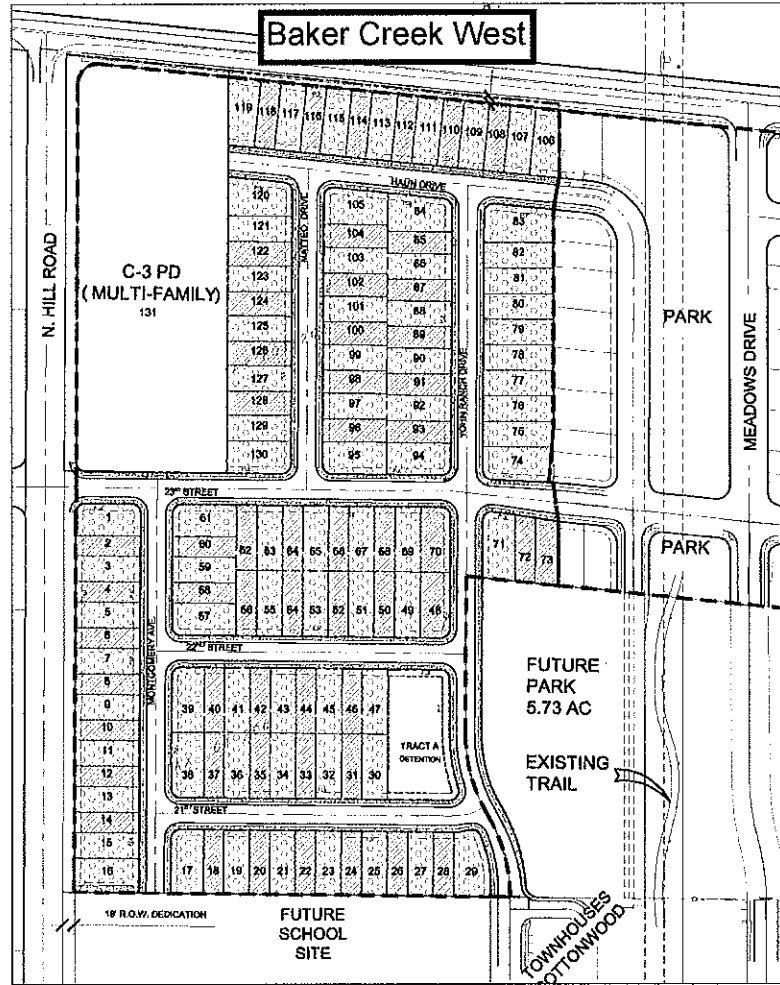
The 83 single-family lots are proposed to be one of three styles and are referenced by the applicant as R-1, R-2 Adjusted, and R-3 Adjusted. Of the 83 proposed single-family lots in BCE, 19 are identified by the applicant as R-1 (23% of the proposed lots in BCE). The applicant states that the proposed R-1 lots would provide a minimum building envelope width of 50 feet. The average lot size of the R-1 lots is approximately 10,927 square feet in size. The R-2 Adjusted lots are those lots proposed to be at least 6,463 square feet in size with 7.5-foot side yard setbacks and a minimum lot width of 65 feet. Of the 83 proposed single-family lots in BCE, 29 are identified by the applicant as R-2 Adjusted (35% of the proposed lots in BCE). The applicant states that the proposed R-2 Adjusted lots would provide a minimum building envelope width of 50 feet. The average lot size of the R-2 Adjusted lots is approximately 7,445 square feet in size. The R-3 Adjusted lots are those lots proposed to be at least 5,536 square feet in size with 5-foot side yard setbacks and having a minimum lot width of 60 feet. The R-3 Adjusted lots having a larger average lot size than that of the R-2 Adjusted lots is mostly due to four of the R-3 Adjusted lots containing a sizable amount of undevelopable wetland area within their boundaries; see lots 55, 56, 61 and 62 on Attachment 3(g) in addition to the uniquely configured lots 70 and 72. Of the 83 proposed single-family lots in BCE, 35 are identified by the applicant as R-3 Adjusted (42% of the proposed lots in BCE). The applicant's narrative also states that the proposed R-3 Adjusted lots would provide a minimum building envelope width of 50 feet. The average lot size of the R-3 Adjusted lots is approximately 8,215 square feet in size.

The average lot size of all residential lots in BCE, combined, is approximately 8,567 square feet in size. Due to open space, on-site storm water detention tracts and identified wetland areas, the average residential density is 3.61 dwelling units per net acre; a net acre of land consists of 43,560 square feet of residentially designated buildable land after excluding future rights-of-way for streets.

Access to BCE is proposed to be provided by the southerly extensions of NW Victoria Drive, Shadden Drive, McGeary Drive and Mahala Way, the easterly extension of Snowberry Street and the creation of a new east-west local street proposed to connect McGeary Drive to Shadden Drive and is identified as "A" Street in the applicant's submittal. Mahala Way and Snowberry Street are proposed to terminate with cul-de-sacs within this portion of the development. All streets would be public streets within BCE and are proposed to be constructed to local residential street standards (28-foot wide paved section within a 50-foot right-of-way to include five-foot wide sidewalks and five-foot wide curbside planter strips) with the exception of Shadden Drive which will be developed with a 36-foot wide paved section within a 60-foot right-of-way. In addition, the applicant also proposes three open space tracts and two on-site storm water detention areas. A 15-foot wide pedestrian walkway is proposed to cross near the midsection of the Tract A open space area providing a pedestrian connection between the Snowberry Court cul-de-sac and McGeary Drive; Tract A also includes a linear wetland area along its western edge. Similarly, Tract C also provides a 15-foot wide pedestrian path along its northern edge to connect NW Shadden Drive with NW Victoria Drive. Please refer to Attachments 3(q)-(t) for additional detail.

Baker Creek West (BCW)

The applicant proposes the platting of 130 single-family residential lots ranging from 3,200 square feet to 6,009 square feet in size with an average lot size of approximately 3,952 square feet; about 1,048 square feet (or 21%) smaller than a minimum sized R-4 single family lot which is 5,000 square feet. Also proposed is a future multiple-family development on a 3.8-acre lot (Lot number 131).



The 130 single-family lots are proposed to be one of two styles referenced by the applicant as R-3 Modified and R-4 Modified. The R-3 Modified lots are those lots proposed to be at least 4,000 square feet in size with 5-foot side yard setbacks and a minimum lot width of 40-feet. Of the 130 proposed single-family lots in BCW, 75 are identified by the applicant as R-3 Modified (58% of the proposed lots in BCW). The applicant states that the proposed R-3 Modified lots would provide a minimum building envelope width of 30 feet. The average lot size of the R-3 Modified lots is approximately 4,358 square feet in size. The R-4 Modified lots are those lots proposed to be at least 3,200 square feet in size with 3-foot side yard setbacks and having a minimum lot width of 32-feet. Of the 130 proposed single-family lots in BCW, 55 are identified by the applicant as R-4 Modified (42% of the proposed lots in BCW). The applicant's narrative also states that the proposed R-4 Modified lots would provide a minimum building envelope width of 26 feet. The average lot size of the R-4 Modified lots is approximately 3,398 square feet in size.

Access to BCW would be provided by the westerly extensions of NW Haun Drive and NW 23 Street and the northerly extension NW Yohn Ranch Drive. New north-south oriented local streets identified by the applicant as Matteo Drive and Montgomery Avenue as well as the creation of new east-west oriented local streets identified by the applicant as NW 21st and NW 22nd Streets are also proposed. NW Haun Drive is proposed to provide access to the northeastern portion of the multiple-family site while NW Montgomery Drive is proposed to provide future access to the northwest portion of the future school site located south of the proposed subdivision. All streets within BCW are proposed to be public streets are constructed to local residential street standards (28-foot wide paved section within a 50-foot right-of-way to include five-foot wide sidewalks and

five-foot wide curbside planter strips). The applicant also proposes one on-site storm water detention area to be located west of NW Yohn Ranch Drive. Please refer to Attachments 3(h)-(p) for additional detail.

Also included in the BCW portion of the site is a 3.8-acre lot identified by the applicant as Phase 3 of this proposal and shown on Attachment 36. This site is zoned C-3 PD (General Commercial, Planned Development) and currently designated for multiple-family development by Ord. No. 4626. While that ordinance allows construction of 76 residential units on this site, the applicant proposes construction of only 65 multiple-family units in this current proposal; a reduction of 11 proposed units from the previous approval limit.

CONDITIONS OF APPROVAL

The following conditions of approval shall be required:

**ZC 1-16 AND ZC 2-16: ZONE CHANGE AND PLANNED DEVELOPMENT AMENDMENT –
CONDITIONS OF APPROVAL**

ZC 1-16 and ZC 2-16 is approved subject to the following conditions:

1. That the Baker Creek tentative subdivision plan, as approved by the Planning Commission, 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 him 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

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 65 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 multi-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 multi-family site shall be provided to the Landscape Review Committee for review and approval. In addition, useable open space and a paved pedestrian connection to Baker Creek Road located near 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. R-1 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. R-2 Adjusted 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. R-3 Adjusted Lots

5,536 square foot minimum lot size
Minimum Lot Width of 60 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 – 5 feet
Exterior Side Yard – 20 feet

D. R-3 Modified – 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. R-4 Modified – 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/Playlot be provided in the single-family dwelling subdivision of BCW to serve this portion of the proposed neighborhood. This Mini-Park/Playlot shall be a minimum of 6,000 square feet in size and maintained by the Homeowners Association. This Mini-Park/Playlot shall be located between lots 123 and 124 of Baker Creek West (BCW) as shown on the applicant's phasing plan (Attachment 36).

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
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 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 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 information detailing the number of lots that will be made available for individual sale to builders for review and approval by the Planning Director prior to recording of the final plat. Upon approval, the referenced lots will be made available for sale to the general public for a minimum of one hundred twenty (120) days prior to building permit issuance for said lots.
 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. The applicant shall either protect or mitigate the wetland(s) as necessary. If wetlands are identified and required to be protected on tentative lots 55, 56, 61 and/or 62 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 open spaces / detention tracts, 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 area within the 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 and subject to City approval prior to final plat approval.
39. The applicant shall submit Plans for the pedestrian accessways between Snowberry Street/McGarey Drive and between Shadden Drive/Victoria Drive. The accessways shall be improved by the applicant with a minimum 10-foot wide concrete surface. Plans shall also depict landscaping and underground irrigation along both sides of the 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 to provide for increase parking opportunities.
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. 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. 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.
 - 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 Commission 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 as depicted as shown on the applicant's submittal listed as Attachment 36 of the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings for Docket ZC 1-16/ZC 2-16/S 3-16 – Baker Creek Development Expansion and generally described as:

- a. Phase 1 – All land south of and including the northern row of lots 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 western row of lots located along 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.

ATTACHMENTS:

1. McMinnville Staff Report – December 15, 2016
2. ZC 1-16/ZC 2-16/S 3-16 Applications and Fact Sheets
3. Applicant's Narrative including:
 - a. Exhibit A – Title Report including Legal Descriptions
 - b. Exhibit B – Yamhill County Tax Map
 - c. Exhibit C – Zone Change, Planned Development and Subdivision Overview & Findings
 - d. Exhibit D – Existing Zoning Map
 - e. Exhibit D-1 – Aerial Map
 - f. Exhibit E – Existing Conditions – Topographical Survey
 - g. Exhibit F – Drawing OVR-1 – Overall Subdivision Plan
 - h. Exhibit G – Drawing PL-1 – Preliminary Plat – West
 - i. Exhibit G – Drawing PL-2 – Preliminary Plat – West
 - j. Exhibit G – Drawing PL-3 – Preliminary Plat – West
 - k. Exhibit G-1 – Drawing SP-1 – Site Plan - West
 - l. Exhibit G-1 – Drawing SP-2 – Site Plan - West
 - m. Exhibit G-1 – Drawing SP-3 – Site Plan - West
 - n. Exhibit G-2 – Drawing C-1 - Utility & Drainage Plan - West
 - o. Exhibit G-2 – Drawing C-2 - Utility & Drainage Plan - West
 - p. Exhibit G-2 – Drawing C-3 - Utility & Drainage Plan - West
 - q. Exhibit H – Drawing PL-4 - Preliminary Plat - East
 - r. Exhibit H – Drawing PL-5 - Preliminary Plat - East
 - s. Exhibit H-1 – Drawing C-4 – Utility & Drainage Plan - East
 - t. Exhibit H-1 – Drawing C-5 – Utility & Drainage Plan - East
 - u. Exhibit I – Nash & Associates Architects – Cypress – Building Elevations
 - v. Exhibit J – Davis Construction, Inc., – Building Elevations
 - w. Exhibit K – Front Façade Elevation
 - x. Exhibit L – Sample Photo Elevations for 50-Foot Wide Dwellings
 - y. Exhibit M – Sample Photo Elevations for 26-Foot and 30-Foot Dwellings (11 pages)
 - z. Exhibit N – Gales Creek Terrace Preliminary Plat East & West (two pages)
 - aa. Exhibit O – Phase II & III Tentative Plan
 - bb. Exhibit P – NW Neighborhood Park Master Plan
 - cc. Bear Creek PUD – Site Plan
 - dd. South Fork – Preliminary Plat
4. Memo from Baker Creek Development, LLC to Ron Pomeroy received 9-30-2016
5. McMinnville Ord. No. 4626
6. November 4, 2016 Memo from Morgan Will received November 4, 2016
7. November 5, 2016 Letter from Sandra Ferguson received November 8, 2016
8. November 8, 2016 Letter from Ronald and Sally Hyde received November 10, 2016
9. December 7, 2016 Email from John Hutt
10. December 8, 2016 Letter from David StLouis received December 8, 2016
11. McMinnville Staff Report – November 17, 2016
12. Vicinity Sketch
13. Affidavit of Publication
14. Notification Map
15. List of property owners to whom notice was sent
16. Referrals
17. December 5, 2016 Letter from Gene and Deanna White received December 12, 2016
18. December 13, 2016 Letter from Susan Dirks and Kent Stevens received December 13, 2016
19. December 14, 2016 Letter from Peter M. and Linda C. Enticknap received December 14, 2016
20. December 14, 2016 Email from Gene White received December 14, 2016
21. December 14, 2016 Memo from Morgan Will received December 15, 2015
22. January 2, 2017 Letter from Patty O'leary received January 3, 2017

23. January 6, 2017 Email from Don Larson received January 6, 2017
24. Memorandum from Planning Department staff dated January 19, 2017
25. January 20, 2017 Email from Susan Dirks received January 20, 2017
26. January 23, 2017 Letter from Patty O'Leary received January 23, 2017, hand delivered January 27, 2017
27. January 26, 2017 Letter from David and Carol StLouis received January 26, 2017
28. January 25, 2017 Letter from Gene and Deanna White received on January 27, 2017
29. January 30, 2017 Email from Ray Fields received January 30, 2017
30. January 30, 2017 Letter from Patty O'Leary received January 30, 2017
31. February 2, 2017 Letter from The Hayes Family received February 2, 2017
32. Undated Letter from Renee Carr received January 2, 2017
33. February 6, 2017 Rebuttal Testimony Email from Baker Creek Development LLC received February 7, 2017
34. February 7, 2017 Rebuttal Testimony Clarification Email from Baker Creek Development LLC received February 7, 2017
35. February 7, 2017 Rebuttal Testimony Clarification Email from Baker Creek Development LLC received February 7, 2017
36. February 7, 2017 Rebuttal Testimony Clarification Email from Baker Creek Development LLC received February 7, 2017
37. McMinnville Staff Report to the Planning Commission, January 19, 2017

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. As of the date this report was written, the following comments had been received:

McMinnville Engineering Department

STREETS

The McMinnville Engineering Department has provided comments relative to the applicant's proposed transportation and street design as follows:

- The western portion of the proposed subdivision is located adjacent to and south of NE Baker Creek Road, adjacent to the Shadden Claim Second Addition subdivision. Baker Creek Road is classified as a minor arterial in the City's adopted Transportation System Plan (TSP). Per the City's adopted Land Division Ordinance, the cross-section for a minor arterial street includes a total of 46' of pavement (curb to curb width), with two travel lanes, a center turn lane, on-street bicycle lanes, planter strips and sidewalks, within a total of 96' of right-of-way.
- Baker Creek Road adjacent to the proposed subdivision is currently improved with a total of 25' of pavement south of centerline, a planter strip with street trees, and a sidewalk. Thus, no additional improvements to Baker Creek Road will be necessary as part of the subdivision.
- The right-of-way width for Baker Creek Road adjacent to the subdivision is only 30' south of centerline. Thus, the developer shall dedicate an additional 18' of right-of-way for Baker Creek Road along the subdivision's frontage so that the right-of-way totals 48' south of centerline.
- The western portion of the proposed subdivision is also located adjacent to and east of NE Hill Road. Hill Road is classified as a minor arterial in the City's adopted Transportation System Plan (TSP). As noted above, as per the City's adopted Land Division Ordinance, the cross-section for

a minor arterial street includes a total of 46' of pavement (curb to curb width), with two travel lanes, a center turn lane, on-street bicycle lanes, planter strips and sidewalks, within a total of 96' of right-of-way.

- Hill Road adjacent to the proposed subdivision will be improved by the City as part of the voter approved 2014 Transportation Bond. Thus, no additional improvements to Hill Road will be necessary as part of the subdivision.
- The right-of-way width for Hill Road adjacent to the subdivision is only 30' east of centerline. Thus, the developer shall dedicate an additional 18' of right-of-way for Hill Road along the subdivision's frontage so that the right-of-way totals 48' east of centerline.
- No direct access from the proposed subdivision lots will be allowed to Hill Road or to Baker Creek Road.
- As proposed, all of the interior streets, except Shadden Drive, in the subdivision will be constructed to the Local Residential street standard included in the City's Land Division Ordinance, including a 28-foot-wide paved section with curb and gutter, five-foot-wide curbside park strips, and five-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way.
- The proposed cul-de-sacs at the east end of Snowberry Street and the south end of Mahala Way shall be constructed to meet the requirements of the McMinnville Fire Department.
- As proposed, Shadden Drive will be extended to the south to connect to Cottonwood Drive. The proposed improvements will match the existing width of Shadden Drive, including a 36-foot-wide paved section with curb and gutter, planter strips, and sidewalks within a 60-foot right-of-way.
- Street profiles were not included with the subdivision application materials. Staff would note that the street grades and profiles shall be designed 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 designed to meet PROWAG requirements (diagonal ramps are not allowed). Additionally, parking will be restricted at all street intersections, in conformance with the Land Division Ordinance standards.

SANITARY SEWER

The McMinnville Engineering Department has provided comments related to the sanitary sewer system as follows:

- The proposed plans indicate that existing sanitary mainlines will be extended throughout the proposed development to serve all proposed lots. The sanitary sewer mainlines shall be designed to facilitate the extension of service to adjacent properties within the City's Urban Growth Boundary, as appropriate.

STORM DRAINAGE

The McMinnville Engineering Department has provided comments related to the storm drainage system as follows:

- The existing topography of the site is such that most of the site area naturally drains to the east or to the southeast.

- The proposed plans indicate that site storm drainage will be collected and conveyed to several storm detention facilities. The facilities shall be sized in accordance with the City's Storm Drainage Master Plan, and maintenance of the vegetation and landscaping within the detention areas shall be the responsibility of the Home Owner's Association (HOA). The developer shall submit a maintenance plan for the detention areas to the City for review and approval prior to the recording of the subdivision plat.
- The City will maintain all public storm facilities within the proposed detention tracts. The final subdivision plans shall incorporate access for maintenance to all public storm facilities, including any proposed overflow weirs.

McMinnville Water & Light

- An extension agreement is required for provision of water and electric services to the site which shall include: Development fees, engineered/approved drawings, etc. Contact McMinnville Water & Light for details.

McMinnville Parks Department

- In an email provided on February 9, 2017, the McMinnville Parks Director stated that because the City purchased and now owns and maintains the Roma Sitton greenway (landscaped greenway previously developed by VJ-2 Development within the BPA easement between 23rd and Baker Creek Rd.) as well as the additional easement property (now landscaped) within the Shadden neighborhood south of 23rd, the agreement for continued maintenance of greenway/park spaces by VJ-2 or the homeowners association is no longer pertinent. Therefore it probably should be removed from the record as discussed with Ron Pomeroy this morning.

Additional Testimony

- Notice of this request was mailed to property owners located within 1,000 feet of the subject site. As of the date this report was written, seven letters and four emails have been received (Attachments 7, 8, 9, 10, 17, 18, 19, 20, 21, 22 and 23).
- Letter - Sandra Ferguson, dated November 5, 2016, and received by the Planning Department on November 8, 2016, (Attachment 7).
- Letter – Ronald and Sally Hyde, dated November 8, 2016, and received by the Planning Department on November 10, 2016, (Attachment 8).
- Email – John Hutt, December 7, 2016, (Attachment 9).
- Letter – David StLouis, dated December 8, 2016, and received by the Planning Department on December 8, 2016, (Attachment 10).
- Letter – Gene and Deanna White, dated December 5, 2016, and received by the Planning Department on December 12, 2016, (Attachment 17).
- Letter – Susan Dirks and Kent Stevens, dated December 13, 2016, and received by the Planning Department on December 13, 2016. (Attachment 18).
- Letter – Peter M. and Linda C. Enticknap, dated December 14, 2016, and received by the Planning Department on December 14, 2016, (Attachment 19).

- Email – Gene White, December 14, 2016, (Attachment 20).
- Email – Morgan Will, Applicant, December 14, 2016, and received by the Planning Department on December 15, 2016, (Attachment 21).
- Letter – Patty O’Leary, dated January 2, 2017, and received by the Planning Department on January 3, 2017, (Attachment 22).
- Email – Doug Larson, January 6, 2017, (Attachment 23).
- The Planning Commission conducted a public hearing on January 19, 2017. At that meeting, the Planning Commission elected to close the public hearing but keep the written record open until 5:00 pm, February 2. As of the date this report was written, six letters and two emails have been received (Attachments 25, 26, 27, 28, 29, 30, 31 and 32).
- Email – Susan Dirks, dated January 20, 2017 (Attachment 25).
- Letter – Patty O’Leary, dated January 23, 2017, and received by the Planning Department via email on January 23, 2017 and hand delivered January 27, 2017, (Attachment 26).
- Letter – David and Carol StLouis, dated January 26, 2017, and received by the Planning Department on January 26, 2017, (Attachment 27).
- Letter – Gene and Deanna White, dated January 25, 2017, and received by the Planning Department on January 27, 2017, (Attachment 28).
- Email – Ray Fields, dated January 30, 2017 (Attachment 29).
- Letter – Patty O’Leary, dated January 30, 2017, and received by the Planning Department on January 30, 2017, (Attachment 30).
- Letter – The Hayes Family, dated February 2, 2017, and received by the Planning Department on February 2, 2017, (Attachment 31).
- Letter – Renee Carr, undated, and received by the Planning Department on February 2, 2017, (Attachment 32).
- As part of the continuance, the Planning Commission kept the record open to receive written rebuttal testimony from the applicant from February 3, 2017 until 5:00 p.m., February 9, 2017. As of the date this report was written, the applicant submitted four email communications of rebuttal testimony (Attachments 33, 34, 35 and 36).
- Email – Morgan Will, Baker Creek Development, dated February 6, 2017 (Attachment 33).
- Email – Morgan Will, Baker Creek Development, dated February 7, 2017 (Attachment 34).
- Email – Morgan Will, Baker Creek Development, dated February 7, 2017 (Attachment 35).
- Email – Morgan Will, Baker Creek Development, dated February 7, 2017 (Attachment 36).

FINDINGS OF FACT

1. Baker Creek Development, LLC, is requesting approval of a zone change from EF-80 (Exclusive Farm Use – 80-Acre Minimum) to R-1 PD (Single-Family Residential Planned Development) on approximately 13.61 acres of land, a zone change from R-1 to R-1 PD on approximately 17.23 acres of land, and to amend Planned Development Ordinance No. 4626 to encompass an additional 30.83 acres of land and to allow variation in lot sizes and setback requirements to include: a reduction in the front yard setback for certain lots from 20 to 15 feet; a reduction in the side yard setback for certain lots from 10 feet to either 5 feet or 3 feet; and, a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet. Concurrently, the applicant is requesting approval of a tentative phased residential subdivision plan on approximately 40.55 acres of land that, if approved, would provide for the construction of 213 single-family homes and the construction of 65 multiple-family dwellings on one lot. The subject site 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.
2. The site is currently zoned R-1 (Single-Family Residential), R-1 PD (Single-Family Residential, Planned Development), EF-80 (Exclusive Farm Use – 80-Acre Minimum) and C-3 PD (General Commercial Planned Development) and is designated as residential and commercial on the McMinnville Comprehensive Plan Map, 1980.
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. As of the date this report was written, no comments in opposition have been provided.
5. The applicant has submitted substantial findings (Attachment 3 c) in support of this application. Those findings are herein incorporated.
6. The following sections of Volume I (Background Element) of the McMinnville Comprehensive Plan are applicable to the request:

Chapter V. Housing and Residential Development – Land Use Controls – Planned Developments:

“The planned development (PD) is a method by which creative, large-scale development of land is encouraged for the collective benefit of the area’s future residents. [...] As written, the planned development provisions are intended to provide specific benefits to a development (e.g., developed parks, retention of unique natural areas, etc.) [...] It is important that the City continue to scrutinize planned development designs to insure that amenities are being provided in excess of what is normally required.

4. Future planned developments should be carefully scrutinized to insure that there are trade-offs favorable to the community when zoning ordinance requirements are varied. Those trade-offs should not just include a mixture of housing types.

Pedestrian paths (sidewalks) are required by ordinance to be constructed in all new residential developments. Bike paths, however, have only been constructed in a few selected areas. The City should encourage the development of bike paths and foot paths to activity areas, such as parks, schools, and recreation facilities, in all development designs.

2. Open space is required in all residential developments in several ways. Traditional zoning setbacks reserve a large portion of each individual lot for potential open space. Planned developments can preserve large open areas for open space by clustering development in smaller areas. [..]

6. The City should encourage the provision of bike and foot paths within residential developments to connect to public and/or private parks, or recreation facilities and to connect to any paths which currently abut the land.”

Finding: Based on materials submitted by the applicant this proposal does not meet the intent of this portion of Volume I of the Comprehensive Plan relative to park space, open space or the provision of bike paths. However, Mini-Parks/Playlots range from 2,500 square feet to one acre in size (based on Table 1 of the McMinnville Parks, Recreation, and Open Space Master Plan) and are provided at a ratio of one such park per 1,000 anticipated residents (based on Table 2 of that same plan). Based on information provided in response to question number eight (8) on the submitted subdivision application form, the applicant anticipates adding 596 residents to the single-family portion of the proposal. Adding to this the number of residents projected to reside in the 65 future multiple-family units brings the total number of residents anticipated by this proposal to 800 persons. Applying the Mini-Parks/Playlots allocation standard noted above results in a need to provide one such lot to serve the proposed development. The proposal already provides some open space opportunities within BCE, thus the one required Mini-Park/Playlot should be provided in BCW as part of the single family development portion of the subdivision to serve this portion of the proposed neighborhood. Condition of Approval #4 of the Zoning Change request has been drafted to meet this requirement. Additionally, there are off-street bicycle/pedestrian connections provided for access to the city neighborhood park being planned, the new school planned for the future and Baker Creek Road for access to a future commercial development. On this basis, the requirements of this portion of the Comprehensive Plan, Volume I have been met.

7. The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

GOAL V 1: TO PROMOTE DEVELOPMENT OF AFFORDABLE, QUALITY HOUSING FOR ALL CITY RESIDENTS.

General Housing Policies:

58.00 City land development ordinances shall provide opportunities for development of a variety of housing types and densities.

59.00 Opportunities for multiple-family and mobile home developments shall be provided in McMinnville to encourage lower-cost renter and owner-occupied housing. Such housing shall be located and developed according to the residential policies in this plan and the land development regulations of the City.

Finding: Goal V 1 and Policies 58.00 and 59.00 are met by this proposal in that a range of residential lot sizes are proposed that, in addition to the intent to construct multiple-family apartments, will provide opportunity for development of a variety of housing types and densities. The eastern portion of the development proposes lot sizes commensurate with

those of adjacent existing development. The single-family residential lots proposed for the western portion of the development provides for smaller lot sizes adjacent to Hill Road (a Minor Arterial) and property owned by the McMinnville School District identified for future school development.

GOAL V 2: TO PROMOTE A RESIDENTIAL DEVELOPMENT PATTERN THAT IS LAND-INTENSIVE AND ENERGY-EFFICIENT, THAT PROVIDES FOR AN URBAN LEVEL OF PUBLIC AND PRIVATE SERVICES, AND THAT ALLOWS UNIQUE AND INNOVATIVE DEVELOPMENT TECHNIQUES TO BE EMPLOYED IN RESIDENTIAL DESIGNS.

Policies:

68.00 The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the city center and to those areas where urban services are already available before committing alternate areas to residential use.

Westside Density Policies:

71.01 The City shall plan for development of the property located on the west side of the city that is outside of planned or existing transit corridors (1/4 mile either side of the route) to be limited to a density of six units per acre. It is recognized that it is an objective of the City to disperse multiple family units throughout the community. In order to provide higher density housing on the west side, sewer density allowances of trade-offs shall be allowed and encouraged.

71.09 Medium and High-Density Residential (R-3 and R-4) – The majority of residential lands in McMinnville are planned to develop at medium density range (4 – 8 units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses. High density residential development (8 – 30 dwelling units per net acre) uses typically include townhouses, condominiums, and apartments. The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the city center and to those areas where urban services are already available before committing alternate areas to residential use.

1. Areas that are not committed to low density development;
2. Areas that have direct access from collector or arterial streets;
3. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;
4. Areas where the existing facilities have the capacity for additional development;
5. Areas within one-quarter mile of existing or planned public transportation; and,
6. Areas that can be buffered from low density residential areas in order to maximize the privacy of established low density residential areas.

71.10 The following factors should be used to define appropriate density ranges allowed through zoning in the medium density residential areas:

1. The density of development in areas historically zoned for medium and high density development;
2. The topography and natural features of the area and the degree of possible buffering from established low density residential areas;
3. The capacity of the services;

4. The distance to existing or planned public transit;
5. The distance to neighborhood or general commercial centers; and
6. The distance from public open space.

71.13 The following factors should serve as criteria in determining areas appropriate for high-density residential development:

1. Areas which are not committed to low or medium density development;
2. Areas which can be buffered by topography, landscaping, collector or arterial streets, or intervening land uses from low density residential areas in order to maximize the privacy of established low density residential areas;
3. Areas which have direct access from a major collector or arterial street;
4. Areas which are not subject to development limitations;
5. Areas where the existing facilities have the capacity for additional development;
6. Areas within a one-half mile wide corridor centered on existing or planned public transit routes;
7. Areas within one-quarter mile from neighborhood and general commercial shopping centers; and
8. Areas adjacent to either private or public permanent open space.

Finding: Goal V 2 and Policies 71.01, 71.09, 71.10 and 71.13 are met by this proposal in that the proposal provides a range of residential single-family lot sizes in addition to multiple-family development thereby promoting an energy-efficient and land intensive development pattern. The portion of the proposal that exceeds a residential density of six units per acre, identified by the applicant as BCW, is entirely located within ¼ mile of and has direct access to Hill Road which is identified in the McMinnville Transportation System Plan as a minor arterial street and a public transit route. This proposal is not subject to topographical or other geographical limitations. Transitional and/or alternating lot sizes are proposed where adjacent to existing abutting development to provide privacy from those established neighborhoods while also creating a transition to the lot designs proposed for the balance of the proposal. Additionally, private open spaces are proposed within the tentative subdivision plan in addition to the planned development of an adjacent 5.7 acre public park to serve as an extension of the Westside Bicycle and Pedestrian Path located between the proposed BCW and BCE portions of the tentative plan.

Planned Development Policies:

- 72.00 Planned unit developments shall be encouraged as a favored form of residential development as long as social, economic, and environmental savings will accrue to the residents of the development and the city.
- 73.00 Planned residential developments which offer a variety and mix of housing types and prices shall be encouraged.
- 74.00 Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs.
- 75.00 Common open space in residential planned developments shall be designed to directly benefit the future residents of the developments. When the open space is not dedicated to or

accepted by the City, a mechanism such as a homeowners association, assessment district, or escrow fund will be required to maintain the common area.

- 76.00 Parks, recreation facilities, and community centers within planned developments shall be located in areas readily accessible to all occupants.
- 77.00 The internal traffic system in planned developments shall be designed to promote safe and efficient traffic flow and give full consideration to providing pedestrian and bicycle pathways.
- 78.00 Traffic systems within planned developments shall be designed to be compatible with the circulation patterns of adjoining properties.

Finding: Policies 72.00, 73.00, 74.00, 75.00, 76.00, 77.00 and 78.00 are met by this proposal in that, in addition to the findings provided by the applicant, the proposal encourages a social and environmental benefits by locating the higher density portion of the proposal within walking distance to the nearby commercial site (located across NW Baker Creek Road to the north), the developing public park adjacent to the subdivision along NW Yohn Ranch Drive, and adjacent the property located to the south owned by the McMinnville School District and identified for future school development. In addition to the multiple-family residences, a range of lot sizes is proposed allowing for variety in residential dwelling type, ownership and price points. Retention of natural drainage swales are proposed to be accommodated as much as practicable. In addition, small open spaces are proposed, and conditioned, to provide benefit the residents of this development. Creation of a homeowner's association to administer neighborhood covenants, codes and restrictions (CC&Rs) shall also be a condition of approval of this proposal. The proposed street design complies with current adopted City public street standards.

Residential Design Policies:

- 79.00 The density allowed for residential developments shall be contingent on the zoning classification, the topographical features of the property, and the capacities and availability of public services including but not limited to sewer and water. Where densities are determined to be less than that allowed under the zoning classification, the allowed density shall be set through adopted clear and objective code standards enumerating the reason for the limitations, or shall be applied to the specific area through a planned development overlay. Densities greater than those allowed by the zoning classification may be allowed through the planned development process or where specifically provided in the zoning ordinance or by plan policy.
- 80.00 In proposed residential developments, distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales shall be preserved wherever feasible.
- 81.00 Residential designs which incorporate pedestrian and bikeway paths to connect with activity areas such as schools, commercial facilities, parks, and other residential areas, shall be encouraged.
- 82.00 The layout of streets in residential areas shall be designed in a manner that preserves the development potential of adjacent properties if such properties are recognized for development on the McMinnville Comprehensive Plan Map.
- 83.00 The City of McMinnville shall review the design of residential developments to insure site orientation that preserves the potential for future utilization of solar energy.

Finding: Policies 79.00, 80.00, 81.00, 82.00 and 83.00 are met by this proposal in that the overall residential density, while greater than the underlying R-1 zone, can be allowed

through the review and approval of the requested planned development zoning designation. As part of this development, the natural drainage and wetland features are proposed to be preserved wherever feasible. The street layout proposes to connect with the existing street network of adjacent development and preserves the development potential of other adjacent land; i.e., the adjacent school site and land located between the BCE and BCW portions of the development. The proposed street system would provide public connections to adjacent neighborhoods and future school and park sites. Other areas within the development are proposed to be connected by pedestrian pathways increasing opportunities for pedestrian mobility. In addition, given the physical dimensions of the site, streets have been oriented to create opportunities for solar access as practicable.

Multiple-family Development Policies:

- 86.00 Dispersal of new multiple-family housing development will be encouraged throughout the residentially designated areas in the City to avoid a concentration of people, traffic congestion, and noise. The dispersal policy will not apply to areas on the fringes of the downtown "core," and surrounding Linfield College where multiple-family developments shall still be allowed in properly designated areas.
- 89.00 Zoning standards shall require that all multiple-family housing developments provide landscaped grounds.
- 90.00 Greater residential densities shall be encouraged to locate along major and minor arterials, within one-quarter mile from neighborhood and general commercial shopping centers, and within a one-half mile wide corridor centered on existing or planned public transit routes. (Ord. 4840, January 11, 2006; Ord. 4796, October 14, 2003)
- 91.00 Multiple-family housing developments, including condominiums, boarding houses, lodging houses, rooming houses but excluding campus living quarters, shall be required to access off of arterials or collectors or streets determined by the City to have sufficient traffic carrying capacities to accommodate the proposed development. (Ord. 4573, November 8, 1994)
- 92.00 High-density housing developments shall be encouraged to locate along existing or potential public transit routes.
- 92.01 High-density housing shall not be located in undesirable places such as near railroad lines, heavy industrial uses, or other potential nuisance areas unless design factors are included to buffer the development from the incompatible use. (Ord. 4796, October 14, 2003)
- 92.02 High-density housing developments shall, as far as possible, locate within reasonable walking distance to shopping, schools, and parks, or have access, if possible, to public transportation. (Ord. 4796, October 14, 2003)

Finding: Policy 86.00, 89.00, 90.00, 92.00, 92.01 and 92.02 are satisfied by this proposal in that the multiple-family portion of the proposed development is located on land already identified by the City as suitable for such development. Landscaping shall be required as a condition of approval for the multiple-family development. Additionally, this multiple-family site is located along NW Hill Road and NW Baker Creek Road which are both identified in the McMinnville Transportation System Plan (TSP) as minor arterials. Further, this site is not located adjacent to or near other multiple-family development thereby implementing the City policy of dispersal of multiple-family developments. An approximately twelve-acre site located to the north and across Baker Creek Road is identified for future commercial development (Ord. No. 4633) and the afore mentioned property owned by the McMinnville

School District is located to the south, both of which are within a 700-foot walking distance of the multiple-family site.

Urban Policies:

99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:

1. Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.
2. Storm sewer and drainage facilities (as required).
3. Streets within the development and providing access to the development, improved to city standards (as required).
4. Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light). (as amended by Ord. 4796, October 14, 2003)
5. Deleted as per Ord. 4796, October 14, 2003.

Finding: Policy 99.00 is satisfied by this proposal as adequate levels sanitary sewer collection, storm sewer and drainage facilities, and municipal water distribution systems and supply either presently serve or can be made available to adequately serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site.

Lot Sales Policy:

99.10 The City of McMinnville recognizes the value to the City of encouraging the sale of lots to persons who desire to build their own homes. Therefore, the City Planning staff shall develop a formula to be applied to medium and large size subdivisions that will require a reasonable proportion of lots be set aside for owner-developer purchase for a reasonable amount of time which shall be made a part of the subdivision ordinance.

Finding: Policy 99.10 shall be satisfied in that, while the City has not developed this formula, it shall be a condition of approval of this request that the applicant shall provide information detailing how this policy is met by the minimum number of lots they proposed to be offered for individual sale. This information shall be provided to the Planning Director for review and approval prior to issuance of building permits for said lots. The referenced lots will be made available for sale to the general public for a minimum of ninety (90) days prior to building permit issuance for said lots.

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.

Streets

Policies:

117.00 The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.

118.00 The City of McMinnville shall encourage development of roads that include the following design factors:

1. Minimal adverse effects on, and advantageous utilization of, natural features of the land.
2. Reduction in the amount of land necessary for streets with continuance of safety, maintenance, and convenience standards.
3. Emphasis placed on existing and future needs of the area to be serviced. The function of the street and expected traffic volumes are important factors.
4. Consideration given to Complete Streets, in consideration of all modes of transportation (public transit, private vehicle, bike, and foot paths). (Ord.4922, February 23, 2010)
5. Connectivity of local residential streets shall be encouraged. Residential cul-de-sac streets shall be discouraged where opportunities for through streets exist

119.00 The City of McMinnville shall encourage utilization of existing transportation corridors, wherever possible, before committing new lands.

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

Finding: Goal VI 1 and Policies 117.00, 118.00, 119.00 and 120.00 are satisfied by this proposal in that the each of the proposed lots will abut public streets developed to City standards with adequate capacity to safely accommodate the expected trip generation from this development. Further, direct parcel access will not be permitted to either Hill Road or Baker Creek Road. Rather, access to those streets will be directed through NW 23rd Street and Meadows Drive. Local residential streets proposed within the development will connect at intersections except for the proposal of two cul-de-sac streets due to the presence of wetlands. The proposed street design will have minimal adverse effects on the natural features of the land.

Parking

Policies:

126.00 The City of McMinnville shall continue to require adequate off-street parking and loading facilities for future developments and land use changes.

127.00 The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and right-of-ways as transportation routes.

Finding: Policies 126.00 and 127.00 are satisfied by this proposal in that off-street parking will be required for the multiple-family development and single-family residences as specified by the McMinnville Zoning Ordinance.

Bike Paths

Policies:

- 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connect residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities.
- 132.00 The City of McMinnville shall encourage development of subdivision designs that include bike and foot paths that interconnect neighborhoods and lead to schools, parks, and other activity areas.
- 132.15 The City of McMinnville shall require that all new residential developments such as subdivisions, planned developments, apartments, and condominium complexes provide pedestrian connections with adjacent neighborhoods.

Finding: Policies 130.00, 132.00 and 132.15 are satisfied by this proposal in that the City has constructed the Westside Bicycle and Pedestrian system serving McMinnville’s west side and, of particular importance to this proposal, extends between the BCE and BCE portions of this development plan. This public amenity provides the opportunity for future residents of this subdivision to connect to other activity areas, schools and community facilities. The applicant proposes additional pedestrian pathways providing mid-block connections within the subdivision in situations where there are no amenities to connect. The public sidewalks that will be constructed as part of the required street improvements will add to the pedestrian connections within and beyond this subdivision.

Supportive of General Land Use Plan Designations and Development Patterns

Policies:

- 132.27.00 The provision of transportation facilities and services shall reflect and support the land use designations and development patterns identified in the McMinnville Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand—both short-term and long-term planned uses.

Finding: Policy 132.27.00 is satisfied by this proposal in that the proposed street design reflects and supports the land use designation of the site and urban development patterns within the surrounding area.

Circulation

Policies:

- 132.41.00 Residential Street Network – A safe and convenient network of residential streets should serve neighborhoods. When assessing the adequacy of local traffic circulation, the following considerations are of high priority:
 1. Pedestrian circulation,
 2. Enhancement of emergency vehicle access,
 3. Reduction of emergency vehicle response times,
 4. Reduction of speeds in neighborhoods, and
 5. Mitigation of other neighborhood concerns such as safety, noise, and aesthetics. (Ord. 4922, February 23, 2010)

- 132.41.05 Cul-de-sac streets in new development should only be allowed when connecting neighborhood streets are not feasible due to existing land uses, topography, or other natural and physical constraints. (Ord. 4922, February 23, 2010)
- 132.41.20 Modal Balance – The improvement of roadway circulation must not impair the safe and efficient movement of pedestrians and bicycle traffic. (Ord. 4922, February 23, 2010)
- 132.41.25 Consolidate Access – Efforts should be made to consolidate access points to properties along major arterial, minor arterial, and collector roadways. (Ord. 4922, February 23, 2010)
- 132.41.30 Promote Street Connectivity – The City shall require street systems in subdivisions and development that promote street connectivity between neighborhoods. (Ord. 4922, February 23, 2010)

Finding: Policies 132.41.00, 132.41.05, 132.41.20, 132.41.25 and 132.41.30 are satisfied by this proposal in that the proposed street pattern provides a safe and efficient network of residential streets to serve the proposed and adjacent existing residential neighborhoods. The two cul-de-sac streets are proposed in response to the noted existence of two wetland areas. The proposed system is also designed to promote a balance of safe and efficient movement of vehicles, pedestrians and bicycles as required by the requirements of the McMinnville TSP and provision of additional private pedestrian pathways. Vehicular access points to the adjacent minor arterial streets comply with this policy and promote safe street connectivity to the surrounding transportation network.

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.

Sanitary Sewer System

Policies:

- 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.

Storm Drainage

Policies:

- 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.
- 143.00 The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage.

Water System

Policies:

- 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.
- 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.

Water and Sewer – Land Development Criteria

Policies:

- 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.

Police and Fire Protection

Policies:

- 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 VII 3: TO PROVIDE PARKS AND RECREATION FACILITIES, OPEN SPACES, AND SCENIC AREAS FOR THE USE AND ENJOUMENT OF ALL CITIZENS OF THE COMMUNITY.

Policies:

163.00 The City of McMinnville shall continue to require land, or money in lieu of land, from new residential developments for the acquisition and/or development of parklands, natural areas, and open spaces.

Finding: Goal VII 3 and Policy 163.00 are satisfied in that park fees shall be paid for each housing unit at the time of building permit application as required by McMinnville Ordinance 4282, as amended.

169.00 Drainage ways in the City shall be preserved, where possible, for natural areas and open spaces and to provide natural storm run-offs.

Finding: Policy 169.00 is satisfied in that the applicant proposes to provide detention areas to accommodate natural storm run-off. These areas shall be designed and maintained in compliance with City requirements.

170.05 For purposes of projecting future park and open space needs, the standards as contained in the adopted McMinnville Parks, Recreation, and Open Space Master Plan shall be used.

Finding: Policy 170.05 is satisfied in that the McMinnville Parks, Recreation, and Open Space Master Plan was relied upon for calculation of the additional open space area to be required in the BCW portion of the development plan as provided in the attached conditions of approval.

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

Policies:

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 advertized public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

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

General Provisions:

17.03.020 Purpose. The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.

R-1 Single-Family Residential Zone:

17.12.010 Permitted Uses. In an R-1 zone, the following uses and their accessory uses are permitted:

- A. Site built single-family dwelling [...]

17.12.030 Lot Size. In an R-1 zone, the lot area shall not be less than nine thousand square feet [...]

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:

- 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.

17.12.050 Building Height. In an R-1 zone, a building shall not exceed a height of thirty-five feet.

17.12.060 Density Requirements. In an R-1 zone, the lot area per family shall not be less than nine thousand square feet [..].

C-3 General Commercial Zone:

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

- 3. Multiple-family dwelling subject to the provisions of the R-4 zone.

R-4 Multiple-Family Residential Zone:

17.21.010 Permitted Uses. In an R-4 zone, the following uses and their accessory uses are permitted:

- C. Multiple-family dwelling

17.21.040 Yard requirements. In an R-4 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than fifteen feet;
- B. A side yard shall not be less than six feet, except an exterior side yard shall not be less than fifteen feet;
- C. A rear yard shall not be less than twenty feet;

- D. Whether attached to a residence or as a separate building, a covered storage facility for a vehicle on which the main opening is toward a street shall be located not less than twenty feet to the property line bordering the street;
- E. All yards shall be increased, over the requirements of this section, one foot for each two feet of building height over thirty-five feet.

17.21.050 Building height. In an R-4 zone, a building shall not exceed sixty feet in height.

17.21.060 Density requirements. In an R-4 zone, the lot area per family shall not be less than fifteen hundred square feet for each unit with two bedrooms or less, and not less than seventeen hundred fifty square feet for each unit with three bedrooms, and an additional five hundred square feet for each additional bedroom in excess of three in any one unit. The above requirements may be waived if the provisions of Section 17.21.020(M) are utilized.

Off-Street Parking and Loading:

17.60.060 Spaces – Number required.

A. Residential land use category

- 4. Multiple-family dwelling. One and one-half spaces per dwelling with less than three bedrooms, two spaces per dwelling unit with three or more bedrooms, and one space per dwelling unit which is expressly reserved for senior or handicapped persons.
- 5. Single-family and two-family dwelling. Two spaces per dwelling with four or fewer bedrooms [..].

Finding: Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.

Finding: Sections 17.12.010(A), 17.12.030, 17.12.040(A-C), 17.12.050, 17.12.060, 17.21.010(C), 17.21.040(A-E), 17.21.050, 17.21.060, 17.33.010(3) and 17.60.060(A)(4- 5) are satisfied by this request in that site built single family residences are proposed for the lots to be created by the proposal with the exception of the multiple-family component which is a permitted use within the C-3 zoning designation of proposed Lot 131 subject to the provisions or the R-4 zone. While projected building heights for the single-family residences and numbers of bedrooms per dwelling unit are not provided as part of this submittal, the building height limitation of the R-1 zone and parking requirements of Chapter 17.60 will be satisfied as part of the building permit review process for each dwelling unit prior to permit issuance. The applicant has proposed a maximum building height of 35 feet for the multiple-family residential units to be constructed as part of the phased development. Lot sizes as proposed do not generally meet the minimums required of single-family residential lots as set forth by R-1 standards. The modification of lot sizes, as well as setbacks, below that typically required is an allowance that can be granted by Planning Commission recommendation and City Council approval through the Planned Development zone change application process requested by the applicant; this is discussed further below. Regarding multiple-family density, the applicant proposes to construct 65 residential units on the 3.8-acre C-3 PD zoned site (approximately 17 dwelling units per gross acre) while Planned Development related policies speak to encouraging such development at a much higher density.

Planned Developments:

17.51.010 Purpose. The purpose of a planned development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the provisions of the zoning ordinance. Further, the purpose of a planned development is to encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach and apply new technology in land development; preserve significant man-made and natural

features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces. A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance.

Finding: Section 17.51.010 is satisfied by the request in that the applicant proposes a development plan to provide for range of single-family residential density in addition to providing for 65 multiple-family residences. While the proposed residential density is greater than that provided for by the underlying zone, City policies noted above specifically direct higher densities and multiple-family development for locations such as the subject site. This balance or “trade-off” of purposes is allowed and supported through application of the Planned Development application process and goes toward meeting the City’s goals of multiple-family dispersal, increased opportunities for choice in the residential marketplace and location of higher residential densities located along arterials and transit corridors. Common open spaces, while not abundant, are provided in this proposal as are utilization of storm water detention areas to take advantage of natural slope within the site. Beyond the provision of public sidewalks as part of the public street improvements for the area, private mid-block pedestrian pathways are also provide to aid in enhancing pedestrian mobility within the area.

Additionally, staff specifically notes that a portion of the Planned Development purpose statement provides “A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance” and staff encourages the Commission to consider this in light of the streetscape discussion provided earlier in this report. In brief, the proposed lots in BCW typically range from 32 to 40 feet in width. This, along with the photographic examples of a typical streetscape view provided by the applicant, is a good indication of the type of single-family residential design that may likely result should this request be approved. As the applicant did not provide any design elements for the single-family residences as part of this proposal, staff suggests that some design direction be provided to the applicant in the form of a condition of approval in addition to a requirement that the applicant provide a “Pattern Book” of specific design elements to be used in the construction of the residences for BCW and BCE. This requirement will result in a more pedestrian friendly streetscape for the proposed development to help mitigate the auto-oriented effect of the narrow lots as well as to help visually blend these residences in with those of the adjacent established neighborhoods. The Commission has the ability to require such design considerations through the Planned Development process and in doing so could find that this development would fully satisfy the admonition that planned development approvals are not intended to be simply a guise to circumvent the intent of the zoning ordinance. Conditions of approval to enact this finding have been provided.

17.51.020 Standards and requirements. The following standards and requirements shall govern the application of a planned development in a zone in which it is permitted:

- A. The principal use of land in a planned development shall reflect the type of use indicated on the comprehensive plan or zoning map for the area. Accessory uses within the development may include uses permitted in any zone, except uses permitted only in the M-2 zone are excluded from all other zones. Accessory uses shall not occupy more than twenty-five percent of the lot area of the principal use;
- B. Density for residential planned development shall be determined by the underlying zone designations. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Finding: Section 17.51.020 (A-B) are satisfied by the request in that the applicant proposes a development type (single-family and multiple-family residential) consistent with the residential and commercial zoning indicated on the comprehensive plan and zoning map; again, the density of the plan is addressed through discussion and findings noted above. While Sub B of this standard states that the density of the residential planned development shall be determined by the underlying zone designations, this standard was supplanted by Policy

79.00. Specifically, Policy 79, as noted above, states that “densities greater than those allowed by the zoning classification may be allowed through the planned development process or where specifically provided in the zoning ordinance or by plan policy” and was adopted in 2003 (ORD No. 4796). Adoption of this policy was borne out of City efforts to increase land use efficiencies. The subsection of this standard currently under discussion was first adopted in 1968 and later modified in 1981. This standard was to be amended to reflect the more recent 2003 adoption of the Comprehensive Plan Policy 79.00 which unfortunately still reflects the 1981 policy preventing greater residential land use efficiencies. Therefore, the matter of amending Section 17.51.020(B) remains one of a number of zoning ordinance “housekeeping” tasks, it does not override or take precedence above the clear policy direction of Policy 79.00 which is utilized by this proposal and supported by staff.

17.51.030 Procedure. The following procedures shall be observed when a planned development proposal is submitted for consideration:

- C. The Commission shall consider the preliminary development plan at a meeting at which time the findings of persons reviewing the proposal shall also be considered. In reviewing the plan, the Commission shall need to determine that:
- (1) There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
 - (2) Resulting development will not be inconsistent with the comprehensive plan objectives of the area;
 - (3) The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels (as amended by Ordinance No. 4242, April 5, 1983);
 - (4) The plan can be completed within a reasonable period of time;
 - (5) The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
 - (6) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
 - (7) The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the City as a whole.

Finding: Section 17.51.030 is satisfied by the request in that the design objective of this proposal is to fulfill the City’s policy direction to achieve higher residential densities for developable residential land within ¼ mile of identified transit corridors and to continue the City’s dispersal policy regarding multiple-family residential development. This proposal helps to enact the intended residential density of the comprehensive plan objectives for this area and, as noted by the applicant, can be completed in a reasonable period of time; targeted buildout in 2017. The proposed street network is adequate to support anticipated traffic which can also be supported by the surrounding existing street network. Public facilities have the capacity to adequately serve the proposed development and there are no indications that the proposal will have an adverse effect due to pollutants or noise on surrounding areas or the City as a whole.

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.

When the proposed amendment concerns needed housing (as defined in the McMinnville Comprehensive Plan and state statutes), criterion "B" shall not apply to the rezoning of land designated for residential use on the plan map.

In addition, the housing policies of the McMinnville Comprehensive Plan shall be given added emphasis and the other policies contained in the plan shall not be used to: (1) exclude needed housing; (2) unnecessarily decrease densities; or (3) allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delay.

Finding: Section 17.74.020 is satisfied in that the proposal, as conditioned, is consistent with the goals and policies of the McMinnville Comprehensive Plan, is orderly and timely considering the existing nearby residential development and proximity to land owned by the McMinnville School District and planned for future school development, and the proposal can be adequately served by required utilities and services. In addition, there are no policies contained in the Comprehensive Plan that are being utilized to unnecessarily decrease densities or discourage any form of housing.

17.74.070 Planned Development Amendment - Review Criteria. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120, and include the following:

- An increase in the amount of land within the subject site;
- An increase in density including the number of housing units;
- A reduction in the amount of open space; or
- Changes to the vehicular system which results in a significant change to the location of streets, shared driveways, parking areas and access.

An amendment to an existing planned development may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

- A. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;
- C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;
- D. The plan can be completed within a reasonable period of time;
- E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
- F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;

G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

Finding: The requirements of Section 17.74.070 are met by this major modification to an existing planned development for the reasons enumerated in the finding provided for the Section 17.51.030(C) requirements provided above.

9. Ordinance No. 4626 is applicable to this request and is noted in Attachment 5 of this staff report.

Finding: The subject request complies with the requirements of Ordinance No. 4626 as the proposal seeks to add land to the original site addressed by that ordinance approval and proposes a new development plan for the newly added area and the undeveloped portions of land covered by Ordinance No. 4626. The applicant does not request to modify any adopted element governing the developed portions of that original site; specifically, Shadden Claim 1st and 2nd Additions residential subdivisions. As the prior tentative subdivision plan approval associated with this ordinance has long since expired, the applicant is however requesting approval of a new plan for the undeveloped land that more closely embodies the residential development policies addressed elsewhere in this report and findings document. To enable this action, a new ordinance approval is being requested that would incorporate and safeguard the existing development and enable the new. This intent and action is in compliance with the currently realized portions of Ordinance No. 4626.

RP:sjs