



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

503-434-7311

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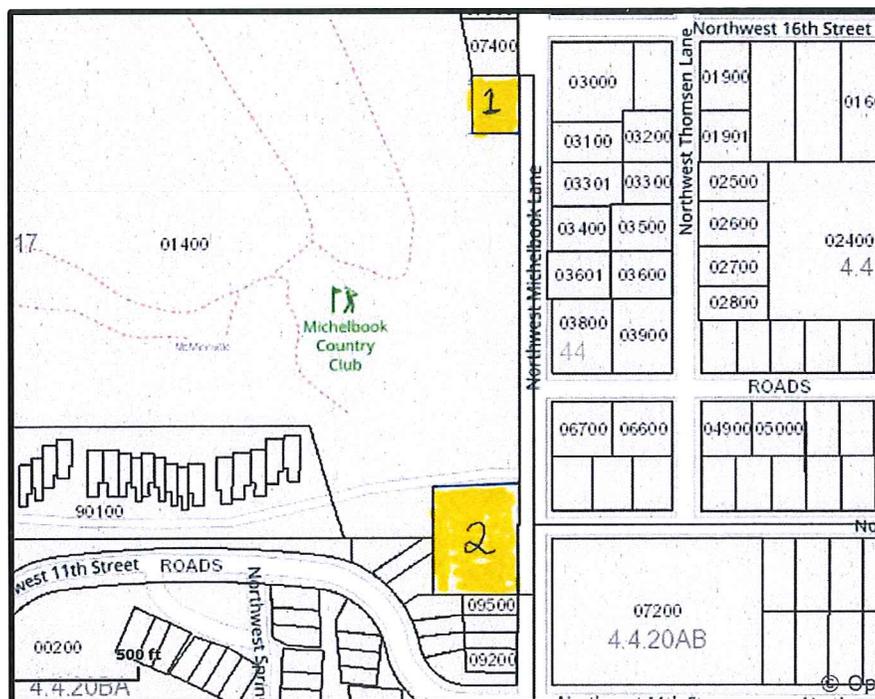
DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A MINOR PARTITION AT 1301 NW MICHELBOOK LANE

- DOCKET:** MP 8-17 (Minor Partition)
- REQUEST:** The applicant is requesting a minor partition to partition off two (2) parcels approximately 10,000 and 32,000 square feet in size from the existing Michelbook Golf Course property, which is approximately 140 acres.
- LOCATION:** The subject site is located at 1301 NW Michelbook Lane, and is more specifically described as Tax Lot 1400, Section 17, T. 4 S., R. 4 W., W.M.
- ZONING:** The subject site is zoned R-1 PD (Single Family Residential Planned Development) and is subject to a master plan approved through a Planned Development (Ordinance 4156 and Docket ZC 6-81).
- APPLICANT:** Dan O'Brien, on behalf of Michelbook Country Club
- STAFF:** Chuck Darnell, Associate Planner
- DATE DEEMED COMPLETE:** January 9, 2018
- HEARINGS BODY:** McMinnville Planning Director
- DATE & TIME:** February 1, 2018
- COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation 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, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Their comments are provided in this exhibit.

APPLICATION SUMMARY:

The applicant is requesting approval to partition off two (2) parcels approximately 10,000 and 32,000 square feet in size from the existing Michelbook Country Club property, approximately 140 acres. The proposed partition would result in two (2) single family residential lots. The subject site is associated with an approved and binding master plan, which was approved through a Planned Development under Docket ZC 6-81. That master plan was approved in concept only, and allowed for some deviation from the approved master plan without having to change the planned development approval. Major changes to the approved master plan were required to be reviewed and approved by the Planning Commission during a public hearing. The proposed partition has been deemed by the Planning Director to be a minor deviation from the approved master plan, so is being reviewed only as a minor partition and not a planned development amendment.

The locations of the two parcels proposed to be partitioned from the existing Michelbook Country Club property, as provided by the applicant, can be seen below:



CONDITIONS OF APPROVAL

The following conditions of approval shall be required:

MP 8-17 is approved subject to the following conditions:

1. The applicant shall submit a draft copy of the partition 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 partition plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.

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2. The applicant shall submit to the City Engineer, for review and approval, a utility plan for the subject site. At a minimum, this plan shall indicate all existing public utilities located on tax lot R4417 01400, and shall indicate the manner in which separate sanitary sewer, storm sewer, and water services will be provided to each of the proposed lots. Each lot will need to be served by a separate connection to a public sanitary sewer main. Easements and maintenance agreements as may be required by the City Engineer for the provision, extension and maintenance of these utilities shall be submitted to the City Engineer for review and approval prior to filing of the final plat. The final partition plat shall reflect all existing easements on tax lot R4417 01400, as indicated in the current title report. Public utility easements shall be dedicated on the final partition plat over all existing public utilities where no such easement currently exists. All required utilities shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat.
3. The final partition plat shall reflect the dedication of additional right-of-way, if necessary, equaling 33' total from centerline along the site's Michelbook Lane frontage.
4. Prior to the City's approval of the final partition plat, all existing driveways on tax lot R4417 01400 shall be upgraded to meet current Public Right-of-way Accessibility Guidelines (PROWAG).
5. The final plat shall include a 10-foot utility easement along the Michelbook Lane public right-of-way for the placement and maintenance of required utilities.
6. The final partition plat shall reflect that the northern property line of proposed Lot 2 (32,000 square foot lot) be located south of the existing easement that provides access to The Manors at Michelbook, which is located west of the proposed Lot 2 and is more specifically described as Tax Lot R4417CD90100. The Manors at Michelbook properties are currently accessed from Michelbook Lane through the subject site (Tax Lot R4417 01400).
7. That the existing mature fir trees located within the proposed Lot 2 (32,000 square foot lot) and adjacent to the properties located in the Shadowood Greenways subdivision be retained to provide buffering between the future uses on Lot 2 and the adjacent properties, as shown on the Michelbook Country Club master plan approved by Ordinance 4156 (Docket ZC 8-61). Prior to any construction activity, a tree removal plan shall be submitted to the Planning Department and approved by the Planning Director. Any tree being retained within or adjacent to Lot 2 shall be protected during any future construction activity. Specifically, protection shall be provided within the critical root zone of any tree in close proximity to any future construction site.
8. Any tree located in the public right-of-way after the dedication of additional right-of-way as required in Condition 3 shall be considered a street tree. The removal of any street tree is required to be reviewed and approved by the Landscape Review Committee as described in Section 17.58.040 of the McMinnville Zoning Ordinance.
9. Prior to the City's approval of the final partition plat, the existing structure located on the proposed Lot 2 (32,000 square foot lot) shall be removed.
10. Prior to any future partitioning or subdivision of any portion of the properties that are subject to the Michelbook Country Club master plan approved through Ordinance 4156 (Docket ZC 8-61), the master plan shall be updated to reflect the additional partitions or subdivisions. These future updates to the master plan shall be reviewed as a planned development amendment by the Planning Commission and City Council, and shall be subject to the standards and procedures in Chapter 17.51 (Planned Development Overlay) of the McMinnville Zoning Ordinance.

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11. That approval of this tentative plat will expire 12 (twelve) months after the date of issuance of this letter. If the final plat has not been submitted prior to expiration of the tentative plat, or a written request for an extension of this approval has not been submitted and approved within that same period, the applicant must resubmit a tentative plat for further consideration, and comply with regulations and conditions applicable at that time.

ATTACHMENTS

1. MP 8-17 Application and Attachments (on file with Planning Department)
2. Testimony Received – The Manors at Michelbook – Letter dated January 29, 2018 (on file with Planning Department)
3. Testimony Received – Wayne & Verla Duryee – Email received January 30, 2018 (on file with Planning Department)
4. Testimony Received – Patricia Seemueller – Letter dated January 30, 2018 (on file with Planning Department)
5. Testimony Received – Rose Marie Caughran – Email received January 31, 2018 (on file with Planning Department). Note – This testimony was received after the deadline of January 30, 2018 for comments on the application. Therefore, the testimony was considered by the Planning Director in the review of the application, but because it was submitted after the comment deadline of January 30, 2018, the testifier is precluded from appealing the decision of the Planning Director to the Planning Commission on the issues identified in their testimony.

COMMENTS

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation 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, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. The following comments had been received:

- McMinnville Engineering Department:

We have reviewed proposed MP 8-17, and offer the following suggested conditions of approval [...].

Also, note that it appears that there is an existing, non-residential structure on proposed parcel #2. In the past, as part of the partition approval, the Planning Department has required that similar structures be removed prior to the approval of the final partition plat.

Note - Those conditions of approval suggested by the Engineering Department were included in conditions of approval number 1 through number 5 as provided in this document.

- McMinnville Water and Light:

MW&L has no comments on this application.

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- McMinnville Fire Department:

We have no issues with this minor partition.

FINDINGS OF FACT

1. Dan O'Brien, on behalf of Michelbook Country Club, requested a minor partition to partition off two (2) parcels approximately 10,000 and 32,000 square feet in size from the existing Michelbook Golf Course property, which is approximately 140 acres. The subject site is located at 1301 NW Michelbook Lane, and is more specifically described as Tax Lot 1400, Section 17, T. 4 S., R. 4 W., W.M.
2. The subject site is zoned R-1 PD (Single Family Residential Planned Development) and is subject to a master plan approved through a Planned Development (Ordinance 4156 and Docket ZC 6-81). The subject site is designated as Residential 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, Parks and Recreation 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, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. No comments in opposition were provided to the Planning Department.
5. Notice of the application was provided by the City of McMinnville to property owners within 100 feet of the subject site, as required by the process described in Section 17.72.110 (Applications– Director's Review with Notification) of the McMinnville Zoning Ordinance. Four items of public testimony were received prior to the Planning Director's decision, which are listed as Attachments 2 – 5.
6. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

CONCLUSIONARY FINDINGS

McMinnville's Comprehensive Plan:

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

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.

Policy 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.

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Finding: Goal V 2 and Policy 68.00 are satisfied in that the partition will allow for further development that is land-intensive and cost-effective. The property is located in an area that is already fully developed with urban services available to support additional residential development.

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

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

Finding: Goal X 1 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 prior to the McMinnville Planning Director's review of the request. All members of the public have access to provide testimony and ask questions during the public review process.

McMinnville's City Code:

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

R-1 Single Family Residential Zone

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

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

- 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. [...]

Finding: The sections of the zoning ordinance above are satisfied in that the proposed partition creates lots that meet the minimum lot size requirements. The proposed partition will result in lots with buildable areas that will allow for structures to be adequately located on the lots and still maintain the proper setbacks as required in the R-1 zone.

Land Division Standards – Partition

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

- A. There shall be submitted to the Planning Department, a completed tentative partition application, applicable fees, and 15 (fifteen) copies of a tentative partition plan drawn to scale with sufficient information to show the following:
 1. The date, north point, scale, a copy of recorded deed, and any conveyed rights to define the location and boundaries of the parcels to be partitioned;

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2. Name, address and phone number of the recorded owner(s), authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed by the applicant with the Corporation Commission;
 3. Approximate size of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the partitioning;
 4. For land adjacent to and within the parcel to be partitioned, show locations, names, and existing widths of all streets and easements of way; locations, width, and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways;
 5. Outline and location of existing buildings to remain in place;
 6. Parcel layout showing size and relationship to existing or proposed streets and utility easements;
 7. Location and dimension of any existing or planned curb-side planting strip which may border the subject site. (Amended 12/9/97 by Ordinance 4654B.)
 8. A Title Report or Partition Guarantee prepared within 60 (sixty) days of the application date.
 9. Contour lines related to City datum and having minimum intervals of two (2) feet.
 10. Location and direction of water courses, and the location of areas within the 100-year floodplain as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
 11. Location of any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
 12. Source, method and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all other utilities.
 13. Such additional information as required by the Planning Director.
- B. Upon receiving a complete application for a partition, notification and review shall be provided as stated in Section 17.72.110. The Director's decision shall be based upon a finding that the tentative plan substantially conforms to the requirements of this chapter.
- C. The Planning Director may require such dedication of land and easements and may specify such conditions or modifications in the plan as are deemed necessary to carry out the McMinnville Comprehensive Plan. In no event, however, shall the Planning Director require greater dedications or conditions than could be required if the entire parcel were subdivided.
1. If the parcel of land to be partitioned, being large in size, shall be divided into more than three parcels within any one calendar year, full compliance with all requirements for a subdivision plat may be required if the Planning Director should determine, in his judgment, that the entire parcel is in the process of being subdivided.
 2. Where a parcel is proposed to be divided into units of one acre or more, the Planning Director shall require an arrangement of parcels and streets such as to permit future partitions or subdivision in conformity to the street requirements and other requirements contained in this ordinance. Refer to Section 17.53.080 for future development plan requirements.
 3. For notice of decision, effective date of decision and the appeal process, refer to Chapter 17.72 (Applications and Review Process).
 4. The effective date of the Planning Director's decision shall be 15 (fifteen) calendar days following the date the notice of decision is mailed unless an appeal is filed.
- D. Approval of a Tentative Partition Plat shall be valid for a one-year period from the effective date of approval. Upon written request, the Director may approve a one-year extension of the decision. Additional extensions shall require the approval of the Planning Commission.

Finding: The proposed partition, along with the conditions of approval, conforms with the requirements of a tentative partition and with the requirements of the underlying R-1 (Single Family

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Residential) zoning district in terms of lot size and setback requirements. A condition of approval has been included to require that the proposed Lot 2 not include any property within the existing easement that provides access to The Manors at Michelbook, which is the condominium development that is located west of the proposed Lot 2 and is accessed from Michelbook Lane through the subject site (Tax Lot R4417-01400).

Michelbook Lane, which is adjacent to the subject site (Tax Lot R4417 01400) and the two lots proposed to be partitioned off from the subject site, is designated as a Minor Collector street in the Street Functional Classification exhibit (Exhibit 2-3) of the McMinnville Transportation System Plan. The right-of-way width for Minor Collector streets with bike lanes is 66 feet, as shown in Section 17.53.101 (Streets) of the McMinnville Zoning Ordinance. The Bicycle System Plan (Exhibit 1-3) within the McMinnville Transportation System Plan identifies Michelbook Lane as a street that will include bike lanes. Based on these designations in the McMinnville Transportation Plan, the required right-of-way width for Michelbook Lane adjacent to the subject site and the two lots proposed to be partitioned is 66 feet. Section 17.53.060(C) (Submission of Tentative Partition Plan) allows for the Planning Director to require such dedication of land and easements as are deemed necessary to carry out the McMinnville Comprehensive Plan. Therefore, conditions of approval have been included to require that additional right-of-way be dedicated along the Michelbook Lane frontage of the site, where necessary, to provide for 33 feet of right-of-way as measured from the centerline of the Michelbook Lane right-of-way, and also that a utility easement be provided adjacent to the site's Michelbook Lane right-of-way.

Trees

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

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

Finding: The proposed partition, along with the conditions of approval that may require the dedication of additional right-of-way, will result in some trees within or adjacent to the proposed Lot 2 to be located within the public right-of-way. Therefore, these trees will be considered street trees and will be subject to the provisions of Chapter 17.58 (Trees) of the McMinnville Zoning Ordinance.

17.58.040 Tree Removal/Replacement

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

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calendar days of submittal. The Landscape Review Committee or Planning Director, as appropriate, may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. A decision of the committee or Director may be appealed to the Planning Commission if written notice of the appeal is filed with the Planning Department within 15 (fifteen) days of the committee's or Director's decision. A decision made by the Planning Director in response to a request to remove an unsafe tree, or a tree causing repeated and excessive damage to sidewalks or other public or private improvements or structures shall be final, unless appealed by the applicant; no other party shall have standing to appeal.

Finding: A condition of approval has been included to require the review and approval of any street tree removal request by the McMinnville Landscape Review Committee.

Planned Development Requirements:

The site of the proposed minor partition is subject to an approved and binding master plan, which was approved as a Planned Development under Docket ZC 6-81 and adopted by Ordinance No. 4156. Specific conditions of approval from the Planned Development apply to this minor partition request as follows:

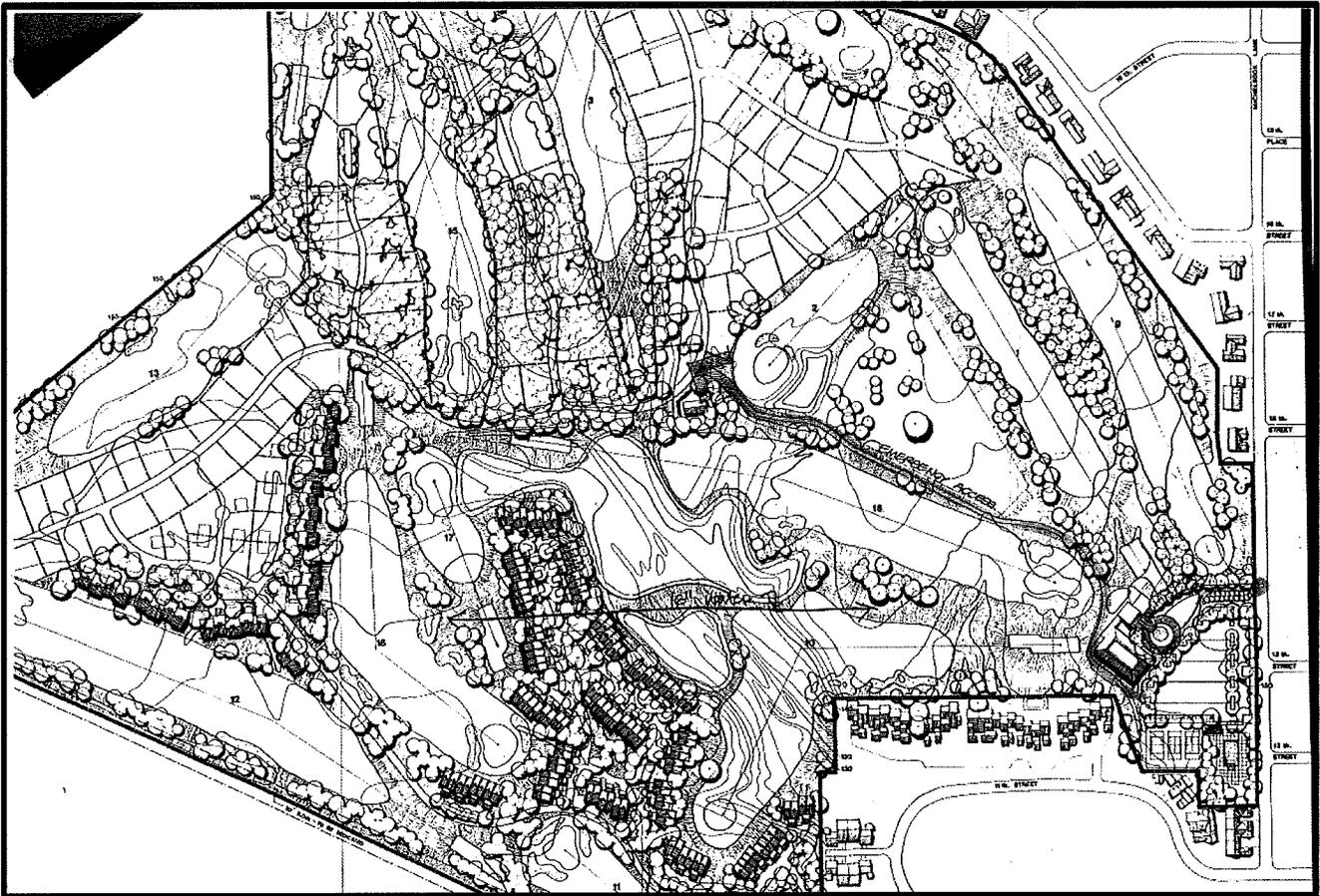
Ordinance 4156 – Section 2 – Conditions of Approval: [...]

- a. That the plan submitted with the application be approved in concept only. Some deviation from the approved plan shall be allowed at the time of the subdivision without having to change the planned development approval. Major changes to the approved plan must be approved by the Commission at a public meeting. [...]

Finding: The master plan that was approved through the Planned Development process and applies to the subject sites is shown below:

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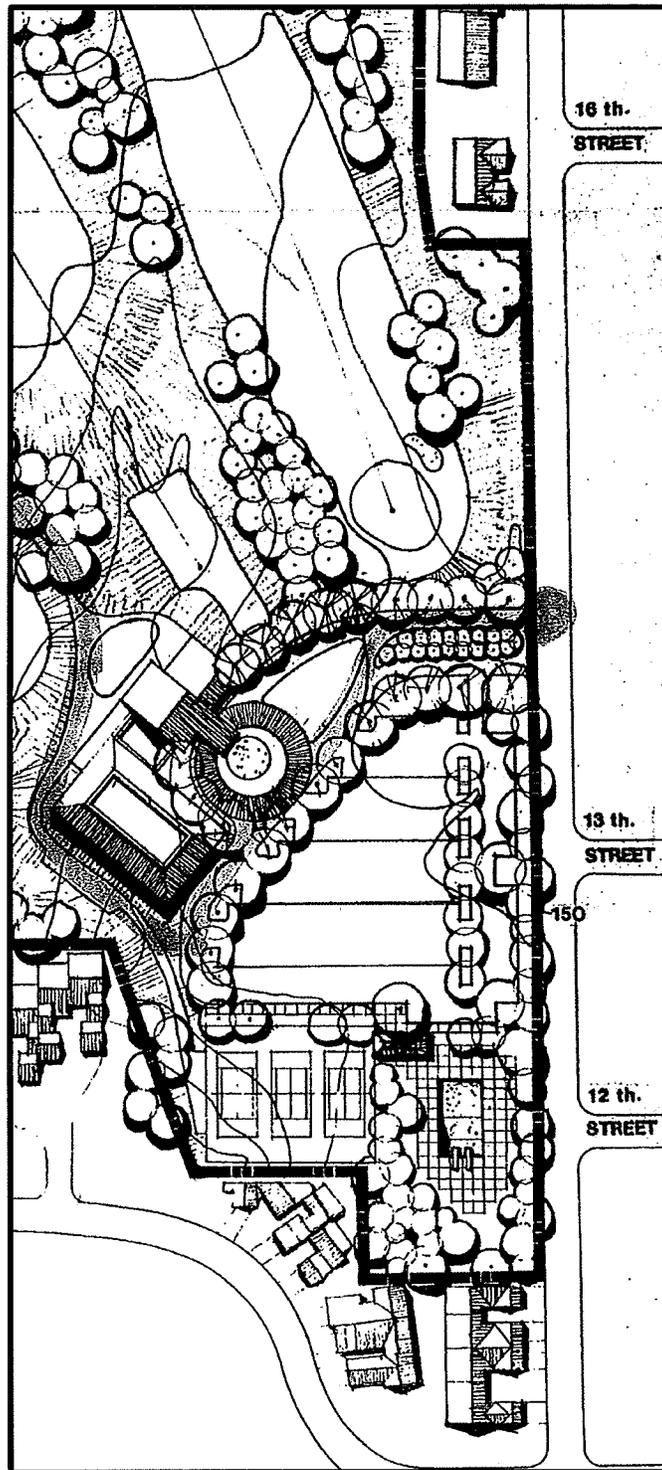
The master plan did not develop exactly as shown in the approved plan, with some minor deviations having been allowed around the clubhouse and some other major modifications to the originally proposed subdivision layouts that were approved through a planned development amendment (Ordinance 4674). However, the approval of the original planned development (in Ordinance 4156) allowed for minor deviations from the approved plan without having to review and amend the overall planned development overlay.

The master plan did not show the creation of residential lots in the two areas now being proposed to be partitioned off in the current minor partition application. The Planning Director has determined that the proposed minor partition and creation of two single family residential lots is a minor change and does not warrant a major modification to the original master plan. Therefore, the proposed minor partition is not being required to be reviewed and approved by the Planning Commission as a planned development amendment. However, the Planning Director has determined that any additional partitioning or subdivisions in the overall Michelbook Country Club property will require that the master plan be updated through a planned development amendment process. A condition of approval has been included to require this planned development amendment prior to any future partition or subdivision.

The specific area of the master plan that the proposed minor partition applies to is shown in more detail below:

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The lot identified as Lot 2 in the minor partition application is the southern-most lot that would be created by the partition. This lot is proposed to be slightly larger than 32,000 square feet in size. This lot is located adjacent to an existing townhome development, Shadowood Greenways, immediately to the south and west. A number of items of testimony were submitted from residents in the Shadowood Greenways townhomes located south and west of the proposed Lot 2. Those items of testimony expressed concerns with the potential removal of the existing vegetation and trees that provide buffering between the Michelbook Country Club property and their properties. The mature fir trees in question can be seen below:

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This existing vegetation is shown on the approved master plan in the area highlighted below, and was presumably included on the plan to identify buffering between the Michelbook County Club uses and the existing residential development. Therefore, a condition of approval has been included to require that the existing trees on the proposed Lot 2 adjacent to the properties located in the Shadowood Greenways subdivision be retained and that the critical root zone of those trees be protected during any construction activity that will occur on the proposed Lot 2. In addition, some of the existing trees within Lot 2 will be considered street trees if they are located within an area of public right-of-way after

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the dedication of the additional right-of-way required to allow for the future improvement of Michelbook Lane. Those street trees will be subject to the requirements of Chapter 17.58 (Trees) of the McMinnville Zoning Ordinance, and removal of any street tree will require the approval of the Landscape Review Committee.

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Attachments:

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