



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

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**DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS
FOR THE APPROVAL OF A MINOR PARTITION AT SE CORNER OF THE INTERSECTION OF NW
HILL ROAD AND NW BAKER CREEK ROAD.**

DOCKET: MP 2-18 (Minor Partition)

REQUEST: The applicant is requesting a minor partition to partition an approximately 9.846 acre parcel of land into two (2) parcels approximately 3.337 (Commercial) and 6.309 (Residential) acres in size.

LOCATION: The subject site is located at SE corner of the intersection of NW Hill Road and NW Baker Creek Road and is more specifically described as Tax Lot 203, Section 18, T. 4 S, W.M.

ZONING: R-1 PD & C-3 PD (Single-Family Residential Planned Development & General Commercial Planned Development)

APPLICANT: Stafford Development Company, LLC

STAFF: Jamie Fleckenstein, Associate Planner

DATE DEEMED COMPLETE: May 23, 2018

HEARINGS BODY: McMinnville Planning Director

DATE & TIME: July 3, 2018

COMMENTS: This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; and Northwest Natural Gas. Their comments are provided in this exhibit.

APPLICATION SUMMARY:

The applicant is requesting approval to partition an approximately 9.846 acre parcel of land into two (2) parcels: Parcel 1 (Commercial – C-3 PD), approximately 3.337 acres in size, and Parcel 2 (Residential – R-1 PD) 6.309 acres in size. The proposed partition would result in one (1) lot suitable for a multiple family apartment complex, and one (1) lot that will be further subdivided in the future for single family residential uses. Those uses are permitted and consistent with the planned development approved by Ordinance No.5021.

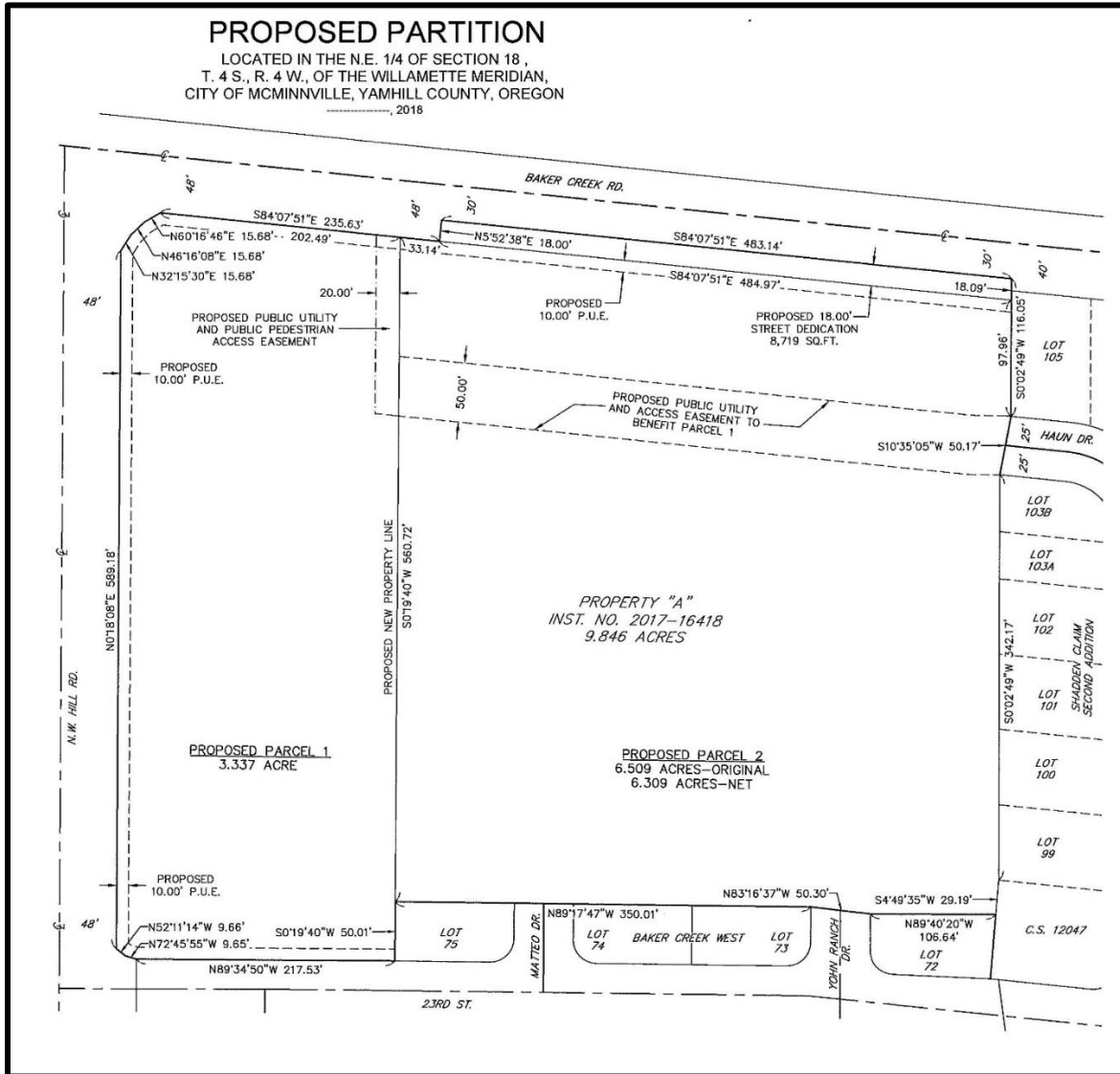
The location of the existing property proposed to be partitioned can be seen below:



Attachments :

Attachment 1 – Application and Attachments

The proposed partition map can be seen below:



CONDITIONS OF APPROVAL:

The following conditions of approval shall be required:

MP 2-18 is approved subject to the following conditions:

1. That the 50 foot wide public utility and access easement shown on proposed Parcel 2 to benefit proposed Parcel 1 shall not be shown on the final partition plat.
2. 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.

Attachments:

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3. 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 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 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. All required utilities shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat.
4. 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 2-18 Application and Attachments (on file with Planning Department)

COMMENTS:

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

- McMinnville Water and Light:

MWL has no comments on this application.

- McMinnville Fire Department

We have no issues with the minor partition.

- McMinnville Engineering Department

The Engineering Department had concerns with this easement being located over future right-of-way, based on the process that would be required to vacate it prior to any future subdivision. Also, the roadway would have been required to be built to city standards if it were constructed since it connects from an existing dead-end and barricaded right-of-way.

The easement was initially shown by the applicant to provide a secondary emergency access to the site. However, the Fire Marshall determined that the second access was not required, based on sections of the Oregon Fire Code below, and the proposed site plan for the multifamily site.

FINDINGS OF FACT

1. Stafford Development Company LLC requested a minor partition application to partition an approximately 9.846 acre parcel of land into two (2) parcels approximately 3.337 (Commercial) and 6.309 (Residential) acres in size. The subject site is located at SE corner of the intersection of NW Hill Road and NW Baker Creek Road and is more specifically described as Tax Lot 203, Section 18, T. 4 S, W.M.
2. The subject site is zoned R-1 PD (Single-Family Residential Planned Development) & C-3 PD (General Commercial Planned Development)
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. No public testimony was provided to the Planning Department.
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.

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.

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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:

Chapter 17.12 R-1 Single-Family Residential Zone:

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

Finding: The section of the zoning ordinance above is satisfied in that the proposed partition creates an R-1 zoned lot that meets the minimum lot size requirements. The portion of the proposed partition that is zoned R-1 PD is also consistent with the tentative subdivision plan and Planned Development that was approved through Ordinance No. 5021.

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. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Finding: The proposed partition will result in an R-1 zoned lot with buildable area that will allow for structures to be adequately located on the lot and still maintain the proper setbacks as required in the R-1 zone. The portion of the proposed partition that is zoned R-1 PD is also consistent with the tentative subdivision plan and Planned Development that was approved through Ordinance No. 5021.

Chapter 17.33 C-3 General Commercial

17.33.030 Yard Requirements. Except as provided in Section 17.54.050, and "A" and "B" below, there shall be no required yards in a C-3 zone.

- A. Side yard shall not be less than twenty feet when adjacent to a residential zone;
- B. Rear yard shall not be less than twenty feet when adjacent to a residential zone. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Finding: The proposed partition will result in a C-3 zoned lot with buildable area that will allow for structures to be adequately located on the lot and still maintain the proper setbacks as required in the C-3 zone. The portion of the proposed partition that is zoned C-3 PD is also consistent with the tentative subdivision plan and Planned Development that was approved through Ordinance No. 5021, and the lot will be the same dimension and size as the lot in the tentative subdivision plan that was identified and approved for a multiple family development site.

Attachments:

Attachment 1 – Application and Attachments

Chapter 17.53 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;
 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.

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Attachment 1 – Application and Attachments

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 Residential) zoning district in terms of lot size and setback requirements, and the underlying C-3 (General Commercial) zoning district in terms of setback requirements. The proposed partition is also consistent with the tentative subdivision plan and Planned Development that was approved through Ordinance No. 5021.

17.53.105 Lots.

- A. Size and shape. Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. All lots in a subdivision shall be buildable.
 1. Lot size shall conform to the zoning requirement of the area. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use contemplated. The depth of lot shall not ordinarily exceed two times the average width.
- B. Access. Each lot shall abut upon a street other than an alley for a width of at least 25 (twenty-five) feet or shall abut an access easement which in turn abuts a street for at least 15 (fifteen) feet if approved and created under the provisions of 17.53.100(C). Direct access onto a major collector or arterial street designated on the McMinnville Comprehensive Plan Map shall be avoided for all lots subdivided for single-family, common wall, or duplex residential use, unless no other access point is practical.
- C. Through lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 (ten) feet wide, and across which there shall be no right of access, may be required along the line of lots abutting such a traffic artery or other incompatible use.
- D. Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.
- E. Flag lots. The creation of flag lots shall be discouraged and allowed only when it is the only reasonable method of providing access to the rear of a lot which is large enough to warrant partitioning or subdividing.

Finding: The section of the zoning ordinance above is satisfied in that the proposed partition creates lots that meet the requirements for size, shape, access, and alignment. A condition of approval has been included to require that the 50 foot access easement shown running from the northeast corner of Parcel 1 to the existing Haun Drive right-of-way be removed from the final plat. This easement was shown to be located over future right-of-way that is proposed to be platted in the second phase of the Baker Creek West subdivision. The easement was shown by the applicant to provide a secondary emergency access to the site. However, the Fire Marshall determined that the second access was not required, based on the Planned Development limitation of the Parcel 1 to 70 multiple family dwelling units. OFC 2014 Section D106 only requires two separate fire access roads when a multiple family development project has more than 100 dwelling units.

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17.72.110 Applications – Director’s Review with Notification. The following applications shall be submitted as stated above in Section 17.72.020 and shall be reviewed by the Planning Director or designee.

- Administrative Variance
 - Classification of an Unlisted Use
 - Downtown Design Review (major alterations or waivers, reviewed by Historic Landmarks Committee)
 - Large Format Commercial Development (variation to standard)
 - Resident Occupied Short Term Rental
 - Short Term Rental
 - Tentative Partition
 - Tentative Subdivision (up to 10 lots)
 - Three Mile Lane Design Review
 - Transitional Parking Permit
- A. Notice of the request shall be provided to owners of property within 100 feet of the site for which the application is made. For applications involving classification of an unlisted use, the only notification provided shall be that published in a newspaper of general circulation a minimum of 14 (fourteen) days prior to a decision being rendered. Notices for applications listed in Section 17.72.110 shall:
1. Provide a 14 (fourteen) day period for submission of written comments prior to the decision;
 2. State that issues which may provide the basis for an appeal to the Land Use Board of appeals (LUBA) shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
 3. List, by commonly used citation, the applicable criteria for the decision;
 4. Set forth the street address or other easily understood geographical reference to the subject property;
 5. State the place, date and time that comments are due;
 6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
 7. Include the name and phone number of a local government contact person;
 8. Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and
 9. Briefly summarize the local decision making process for the land use decision being made.
- B. During the 14 (fourteen) day comment period, a person who has received notice may request a public hearing following the procedure as outlined in Section 17.72.120.
- C. The Director or designee shall make a decision for the above applications within 30 (thirty) days following the close of the 14 (fourteen) day comment period. The Director’s decision may be appealed as outlined in Section 17.72.170. (Ord. 5047 §2, 2108, Ord. 5034 §2, 2017; Ord. 4984 §1, 2014).

Finding: The section of the zoning ordinance above is satisfied in that a written Notice of Pending Administrative Decision Minor Partition was mailed to property owners within 100 feet of the affected property on May 29, 2018.

Planned Development Requirements:

The site of the proposed minor partition is subject to an approved and binding subdivision plan, which was approved as a Planned Development under Docket AP 1-17 and adopted by Ordinance No. 5021.

Attachments:

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Specific conditions of approval from the Planned Development apply to this minor partition request as follows:

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

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

Finding: The Planned Development requirement above is satisfied in that the developer has applied for a minor amendment to the existing Planned Development (Ordinance No. 5021) to address the re-numbering of the lots in the tentative subdivision plan and account for the partitioning of the multiple family site. The partitioned lots will still be consistent with the tentative subdivision plan and Planned Development that was approved through Ordinance No. 5021. An image of the approved tentative subdivision plan is provided below:

