



**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 AMENDMENT TO THE APPROVED PLANNED
DEVELOPMENT AT BAKER CREEK EAST.**

DOCKET: ZC 3-18 (Planned Development Amendment)

REQUEST: The applicant is requesting a minor amendment of an approved Planned Development (Ordinance No. 5021) to incorporate a portion of an open space tract into the first phase of the two phases of the Baker Creek East subdivisions, to adjust a common property line between two proposed lots (Lot 13 and Lot 14), to combine two lots (Lot 12 and Lot 13), and to change the numbering of lots within the Baker Creek East subdivision phases to reflect the above proposed changes to lots.

LOCATION: The subject site is located south of existing Shadden Claim subdivision and is more specifically described as Tax Lots 205 and 206, 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: Chuck Darnell, Senior Planner

DATE DEEMED COMPLETE: June 14, 2018

HEARINGS BODY: McMinnville Planning Director

DATE & TIME: July 9, 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.

DECISION

Based on the findings and conclusions, the Planning Director **APPROVES** the minor amendment to the approved Planned Development (ZC 3-18) **subject to the conditions of approval provided in this document.**

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DECISION: APPROVAL WITH CONDITIONS
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Planning Department: 
Heather Richards, Planning Director

Date: July 9, 2018

APPLICATION SUMMARY:

The applicant is requesting approval of a minor amendment to an approved Planned Development (Ordinance No. 5021). Specifically, the applicant is requesting approval of the incorporation of a portion of an open space tract into the first phase of the two phases of the Baker Creek East subdivisions, approval of the adjustment of a common property line between two proposed lots (Lot 13 and Lot 14), approval of the combination of two lots (Lot 12 and Lot 13), and approval of the change in the numbering of lots within the Baker Creek East subdivision phases to reflect the above proposed changes to lots.

The location of the property can be seen below:



CONDITIONS OF APPROVAL:

The following conditions of approval shall be required:

ZC 3-18 is **approved** subject to the following conditions:

1. That all applicable provisions and conditions of approval of McMinnville Ordinance No. 5021 shall remain in effect and apply to the subject property.

ATTACHMENTS:

1. ZC 3-18 Application and Attachments (on file with Planning Department)

Attachments:

Attachment 1 – Application and Attachments

COMMENTS:

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

- McMinnville Fire Department

Note: any sub division with more than 30 homes requires two access/egress points.

- McMinnville Engineering Department

We have reviewed proposed ZC 3-18, and do not have any comments or concerns.

- NW Natural

NW Natural takes no objection to ZC 2-18 or ZC 3-18 [...].

- Frontier Communications

No conflicts.

FINDINGS OF FACT

1. Stafford Development Company LLC requested a minor amendment to an approved Planned Development (Ordinance No. 5021) to incorporate a portion of an open space tract into the first phase of the two phases of the Baker Creek East subdivisions, to adjust a common property line between two proposed lots (Lot 13 and Lot 14), to combine two lots (Lot 12 and Lot 13), and to change the numbering of lots within the Baker Creek East subdivision phases to reflect the above proposed changes to lots. 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 Lots 205 and 206, 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.

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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 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:

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

- G. Permits for construction in a planned development shall be issued only on the basis of the approved plan. The approved site 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 is responsible for requesting permission of the Planning Commission for any major change of the details of the adopted site plan. Minor changes to the details of the adopted site 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; [...]

Finding: The original approval of the Planned Development (Ordinance No. 5021) included the approval of a tentative subdivision plan, and also included other conditions of approval that regulated development of lots within the Planned Development area. The developer requested permission to change some components of the tentative subdivision plan prior to building permits. Those proposed changes include the incorporation of a portion of an open space tract into the first phase of the two phases of the Baker Creek East subdivisions, approval of the adjustment of a common property line between two proposed lots (Lot 13 and Lot 14), approval of the combination of two lots (Lot 12 and Lot

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13), and approval of the change in the numbering of lots within the Baker Creek East subdivision phases to reflect the above proposed changes to lots. The Planning Director reviewed the proposed changes and determined that they were minor changes, and therefore processed the application as a minor amendment to the Planned Development.

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: While the minor amendment of a Planned Development is not listed as an application that is required to follow the Planning Director’s Review with Notification process, the Planning Director decided to complete a property owner notice given that the Planned Development Amendment application was deemed to be a minor change and therefore subject to a Planning Director decision. A

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written Notice of Pending Administrative Decision was mailed to property owners within 100 feet of the affected property on June 20, 2018.

Planned Development Requirements:

The site of the proposed planned development amendment 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. Specific conditions of approval from the Planned Development apply to this 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 original approval of the Planned Development (Ordinance No. 5021) included the approval of a tentative subdivision plan, and also included other conditions of approval that regulated development of lots within the Planned Development area. The developer requested permission to change some components of the tentative subdivision plan prior to building permits. Those proposed changes include the incorporation of a portion of an open space tract into the first phase of the two phases of the Baker Creek East subdivisions, approval of the adjustment of a common property line between two proposed lots (Lot 13 and Lot 14), approval of the combination of two lots (Lot 12 and Lot 13), and approval of the change in the numbering of lots within the Baker Creek East subdivision phases to reflect the above proposed changes to lots. The Planning Director reviewed the proposed changes and determined that they were minor changes, and therefore processed the application as a minor amendment to the Planned Development.

The changes to the lot lines as they were shown in the tentative subdivision plan results in the loss of one buildable lot within the Baker Creek East subdivisions, through the combination of Lot 12 and Lot 13 from the tentative subdivision plan. The common property line between Lot 13 and Lot 14 will then shift to create two lots more similar in size. This change will provide an opportunity for additional variety in the housing product constructed within the Baker Creek East subdivision, given the larger lots and larger allowable building footprint. The introduction of additional variety in the subdivision is consistent with and will support other conditions of approval from the Planned Development approval, specifically those that seek to eliminate a cookie-cutter stylization of the neighborhood.

The changes to the numbering of the lots is also approved, given the proposed combination of the lots and resulting loss of one buildable lot within the Baker Creek East subdivision.

The modification of the open space and detention area, identified as Tract C on the tentative subdivision plan, is driven by a need to contain the stormwater detention pond that will serve the first phase of the Baker Creek East subdivision within the boundaries of the first phase of the subdivision. This will allow for the maintenance of the stormwater detention pond to be assigned to the Homeowner's Association being created by a Declaration of Protective Covenants, Conditions, and Restrictions to be recorded with the subdivision plat. The size and configuration of the previously proposed Tract C in the tentative subdivision plan is not proposed to be changed. The tract will instead be split, with the portion of the original tract to be used as a detention pond shown as Tract C within the first phase of the Baker Creek East subdivision, and the remainder of the tract to be platted during the second phase of the Baker Creek East subdivision.

Attachments:

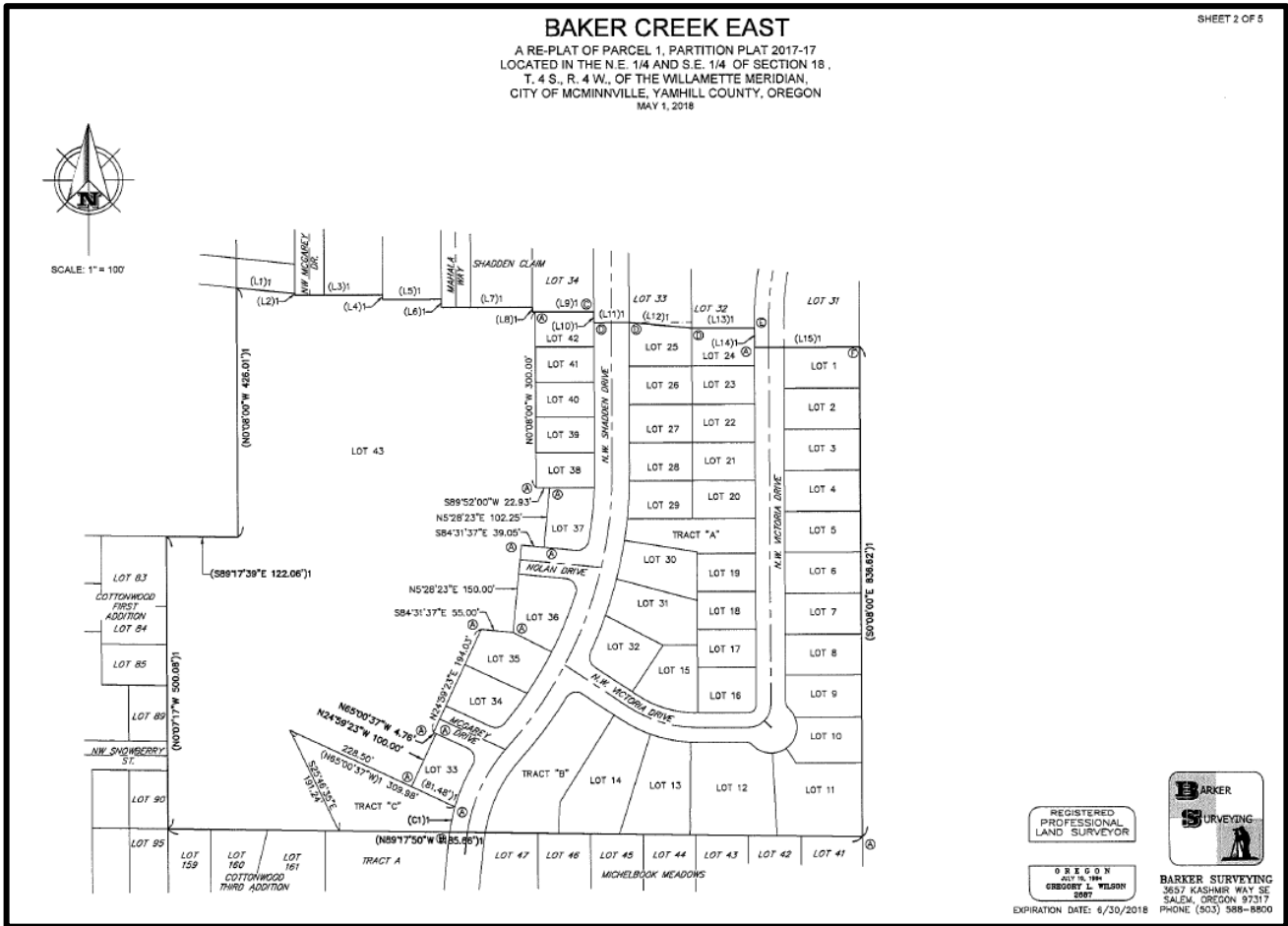
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A condition of approval is included to ensure that all applicable provisions and conditions of approval of McMinnville Ordinance No. 5021 shall remain in effect and continue to apply to the subject property. This will ensure that the architectural requirements and other open space improvement requirements from the Planned Development approval will still apply to the subject lots and open space and detention tracts impacted by the Planned Development Amendment.

An image of the approved tentative subdivision plan is provided below:



The amended subdivision plan for the first phase of the Baker Creek East subdivision is provided below:



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