



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

www.mcminnvilleoregon.gov

Planning Commission
ZOOM Online Meeting:
June 17, 2021

*Please Note that this meeting will be conducted via
ZOOM meeting software due to the COVID-19 event.*

6:30 PM Regular Meeting

ZOOM Meeting: You may join online via the following link:

<https://mcminnvilleoregon.zoom.us/j/92712511996?pwd=Z2ZXUXFsVHV1Wkpzb2FhYjJrd20xUT09>

Zoom ID: 927 1251 1996

Zoom Password: 593914

Or you can call in and listen via zoom: 1 699 900 9128
ID: 927 1251 1996

Public Participation:

Citizen Comments: If you wish to address the Planning Commission on any item not on the agenda, you may respond as the Planning Commission Chair calls for "Citizen Comments."

Public Hearing: To participate in the public hearings, please choose one of the following.

- 1) *Email in advance of the meeting – Email at any time up to 12 p.m. the day of the meeting to Sarah.Sullivan@mcminnvilleoregon.gov, that email will be provided to the planning commissioners, lead planning staff and entered into the record at the meeting.*
- 2) *By ZOOM at the meeting - Join the zoom meeting and send a chat directly to Planning Director, Heather Richards, to request to speak indicating which public hearing, and/or use the raise hand feature in zoom to request to speak once called upon by the Planning Commission chairperson. Once your turn is up, we will announce your name and unmute your mic.*
- 3) *By telephone at the meeting – If appearing via telephone only please sign up prior to the meeting by emailing the Planning Director, Heather.Richards@mcminnvilleoregon.gov as the chat function is not available when calling in zoom.*

----- MEETING AGENDA ON NEXT PAGE -----

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.

Commission Members	Agenda Items
<p>Roger Hall, Chair</p> <p>Lori Schanche, Vice-Chair</p> <p>Robert Banagay</p> <p>Ethan Downs</p> <p>Gary Langenwalter</p> <p>Sylla McClellan</p> <p>Brian Randall</p> <p>Beth Rankin</p> <p>Dan Tucholsky</p> <p>Sidonie Winfield</p>	<p>6:30 PM – REGULAR MEETING</p> <ol style="list-style-type: none"> 1. Call to Order 2. Citizen Comments 3. Public Hearing: <ol style="list-style-type: none"> A. <u>Quasi-Judicial Hearing: Minor Partition (MP 6-20)</u> – (<i>Exhibit 1</i>) <p>Request: Approval to partition an approximately 7.22-acre parcel of land into three (3) parcels, approximately 6.43, 0.31, and 0.48 acres in size to allow for residential development. The proposed 0.31-acre parcel would be accessed by private easement from SW Fellows Street while the 6.43- and 0.48-acre parcels would be accessed from SW Hilary Street.</p> <p>Location: The subject site is located at 835 SW Hilary Street, more specifically described at Tax Lot 1600, Section 29AB, T.4S., R 4 W., W.M.</p> <p>Application: Steve and Mary Allen, property owners</p> B. <u>Quasi-Judicial Hearing: Variance (VR 1-21)</u> – (<i>Exhibit 2</i>) <p>Request: Approval of a variance to MMC Section 17.53.100(C)(1) to allow an increase in the number of lots permitted access by private easement to more than three (3) to support a future partition application.</p> <p>Location: The subject site is located at 2185 & 2191 NW 2nd Street, more specifically described at Tax Lot 502 Section 19AC, T.4S., R 4 W., W.M.</p> <p>Application: Nora Collins, property owner</p> 4. Commissioner/Committee Member Comments 5. Staff Comments <ul style="list-style-type: none"> • Introduction to Natural Features and Natural Hazards Inventory and Program Management - <i>Presentation</i> 6. Adjournment

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EXHIBIT 1 - STAFF REPORT

DATE: June 17, 2021
TO: Planning Commission Members
FROM: Jamie Fleckenstein, Associate Planner
SUBJECT: Minor Partition Application MP 6-20
for a partition of 835 SW Hilary Street into three (3) parcels

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

OBJECTIVE/S: Strategically plan for short and long-term growth and development that will create enduring value for the community

Report in Brief:

This proceeding is a quasi-judicial public hearing of the Planning Commission to consider an application for a Minor Partition (MP 6-20) of 835 SW Hilary Street (Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.). The proposed partition would divide an approximately 7.22-acre parcel of land into three (3) parcels, approximately 6.43, 0.31, and 0.48 acres in size to allow for residential development of the two smaller parcels. The decision of the Planning Commission is the final decision unless appealed to City Council. The hearing is conducted in accordance with quasi-judicial hearing procedures, and the application is subject to the 120-day processing timeline.

Background:

Request

The proposal is an application for a Tentative Partition (MP 6-20) to partition an approximately 7.22 acre parcel of land into three (3) parcels approximately 6.43, 0.31, and 0.48 acres in size to allow for future residential development of the parcels. The subject site is located at 835 SW Hilary Street, and is identified as Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.

Subject Property

The subject property is located west of SW Baker Street (Highway 99W) and south of SW Fellows Street at the termination of SW Hilary Street. Cozine Creek and its associated flood plain and steep terrain bisect the site, running generally north to southwest. The flood plain and surrounding areas are wooded. The subject property has portions that are zoned R-2 (Single-Family Residential), R-3 (Two-Family

Residential), and F-P (Flood Plain). Portions of the site zoned R-2 (Single-Family Residential) include the northwest corner of the site, and the eastern portion of the site north of the Hilary Street terminus. The southeast corner of the site south of the Hilary Street terminus is zoned R-3 (Two-Family Residential). The remainder of the site is zoned F-P (Flood Plain). A single-family dwelling is existing on the land zoned R-2 (Single-Family Residential) north of Hilary Street. The portion of the site east of Cozine Creek zoned R-2 and R-3 is accessed from Hilary Street. The portion of the site west of Coine Creek zoned R-2 is accessed via private easement from Fellows Street.

Cozine Creek and its floodplain continue north and southwest of the site. Adjacent properties to the west of the subject site include the Tall Oaks subdivision that is zoned R-2 (Single-Family Residential). Properties to the north and east of the site are also zoned R-2. South of Hilary Street, adjacent property is zoned R-4 (Multiple-Family Residential), developed with multi-family apartment buildings. A 33-foot wide undeveloped right-of-way borders the western property line of the subject site, between the it and the Tall Oaks subdivision. ***See Vicinity Map (Figure 1), Zoning Map (Figure 2), and Applicant's Proposed Partition Plan (Figure 3).***

Procedure

The applicant originally submitted the partition application on November 23, 2020. Following the completeness review of the application, it was unclear to staff that the applicant had provided sufficient evidence of access (a requirement for partitions) to proposed Parcel 2 via private easement from Fellows Street through three (3) existing parcels. Current zoning code (MMC Section 17.53.100(C)(1)) limits parcels accessed via private access easement to three (3). The applicant submitted an application for a variance from that code, seeking City approval and documentation to allow a fourth lot to be accessed from the existing easement. The variance and partition applications were scheduled for concurrent review through the public hearing process required for variances, the procedure that provides the most public hearing and notice. During staff review of the applications, evidence and documentation of the legal access through the access easement to proposed Parcel 2 was demonstrated, and the variance was no longer warranted. The variance application was withdrawn, and the minor partition application was unbundled from the concurrent review, reverting back to the Director's Review with Notification procedure typical for partitions. The partition application was noticed to surrounding property owners, and as allowed by code, a person who received notice requested a public hearing for the minor partition application. Minor Partition application MP 6-20 was then required to follow the public hearing procedure described in MMC Section 17.72.120.

Discussion:

Summary of Criteria

A minor partition application is subject to the standards and criteria in Chapter 17.53 – Land Division Standards of the Zoning Ordinance, which are intended to “...provide uniform procedures and standards for the subdivision and partitioning of land, and adjustment of property lines; to assure adequate width and arrangement of streets; to coordinate proposed development with plans for utilities and other public facilities; to avoid undue congestion of population; to assure adequate sanitation and water supply; to provide for the protection, conservation, and proper use of land; to secure safety from fire, flood, slides, pollution, drainage or other dangers; to provide adequate light and air, recreation, education, and adequate transportation; to promote energy conservation; to protect in other ways the public health, safety, and welfare; and to promote the goals and policies of the McMinnville Comprehensive Plan.”

The application achieves the purpose of Chapter 17.53-Land Division Standards, and meets the standards for access, lot size and shape, and provision of utilities and improvements for each of the proposed parcels. Proposed Parcel 1 is accessed via access easement from Hilary Street, and is

larger than the minimum lot size in the underlying R-3 (Two-Family Residential) zone. Utilities can be provided from Hilary Street through the easement to the parcel. Proposed Parcel 2 is accessed via private access easement from Fellows Street and through the adjacent undeveloped public right-of-way. Utilities are provided through the easement and right-of-way, and to a sewer main along Cozine Creek. Parcel 2 is larger than the minimum lot size of the underlying R-2 (Single-Family Residential) zone.

Minor partitions are normally an administrative decision as they are considered a Type II land-use application, meaning that the decision-making for compliance with the criteria is based on clear and objective standards that do not allow limited discretion. However, in McMinnville, during the 14 day notice period to adjacent property owners, anyone may request that the application be considered at a public hearing with the planning commission. That request was made by a neighboring property owner for this land-use application. The criteria for rendering a decision remains the same whether it is an administrative decision or a decision by the planning commission, and the decision needs to be rendered based on a clear and objective review and evaluation. The decision document attached to this staff report provides the criteria that should be used for rendering a decision on this land-use application.

Summary of Comments Received

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was provided in the News Register on Friday, June 11, 2021. As of the date of this Staff Report on Thursday, June 10, 2021, the following public testimonies have been received by the Planning Department:

1. Letter received May 5, 2021 from Earl & Sheryl Anderson expressing opposition to Parcel #2 of MP 6-20, citing concerns about loss of trees due to infrastructure and future residential development, and concerns about decreased safety with increased motor vehicle use of private easement.
2. Letter received May 10, 2021 from Carole Hansen expressing opposition to Parcel #2 of MP 6-20 citing concerns about development behind her home, development too close to the floodplain, loss of trees, emergency vehicle access, and decreased property values.
3. Letter received May 14, 2021 from Walt Gowell on behalf of Steve & JacElaine Macy, proposing suggested conditions of approval to require enforcement of a 15-foot wide driveway, continued lawful access to Parcel 3 of Partition Plat 2001-03, clear assignment of easement improvement costs to the Applicant, and incorporation of the existing easement terms into the approved Partition Plat.
4. Letter received May 17, 2021 from Brad & Shirley Robison expressing concern about the loss of trees and diminished lifestyle, and expressing desire for mitigation for adjacent Tall Oaks properties.
5. Letter received May 18, 2021 from Carole Hansen expressing opposition to Parcel #2 of MP 6-20 citing concerns about development behind her home and loss of trees from the undeveloped right-of-way, and expressing desire for mitigation by allowing trees and vegetation within the right-of-way to remain in place.

6. Letter received May 18, 2021 from James & Cheryl Lambright expressing opposition to Parcel #2 of MP 6-20 citing concerns about loss of trees for residential development and decreased property values and livability of adjacent properties.
7. Letter received May 18, 2021 from Linda Jordan expressing opposition to MP 6-20 citing concerns about visual impact, congestion, and noise from residential development behind her home.
8. Letter received May 19, 2021 from Earl & Sheryl Anderson expressing opposition to Parcel #2 of MP 6-20, citing concerns about ambiguous language on the applicant's tentative partition plan and development of the unimproved right-of-way and resulting loss of trees.
9. Letter received May 19, 2021 from Robert Tracey expressing opposition to MP 6-20, citing concerns about decreased safety at Fellows Street with increased motor vehicle use of private easement, and loss of trees resulting in increased negative climate change impacts.
10. Letter received May 19, 2021 from Rigo & Susan Perez expressing opposition to MP 6-20, citing concerns about the loss of community and lifestyle, loss of privacy due to future residential development, rodents during construction period, decreased safety at Fellows Street with increased motor vehicle use of private easement, and decreased property values of adjacent properties.
11. Petition received May 19, 2021 from TONCCA (Tall Oaks Neighborhood Cozine Creek Advocates) expressing opposition to Parcel #2 of MP 6-20, citing concerns about development of undeveloped right-of-way, loss of a perceived protected natural area subject to conditional use approval criteria, diminished Cozine Creek greenway and neighborhood livability, decreased property values specifically related to Great Neighborhood Principle #1 - Natural Feature Preservation, proposed lot size of Parcel #2, loss of trees, encroachment of Parcel #2 on floodplain, safety and economic loss due to development in the floodplain, and the lack of inclusion of wooded areas on tentative partition plan for compliance with MMC 17.53.060(A)(7).
12. Letter received May 19, 2021 from Cheryl Lambright requesting a public hearing for MP 6-20.

Agency Comments

Notice of the proposed application was sent to affected agencies and departments. Agency comments were received from the Building and Engineering Departments, and McMinnville Water & Light. Agency comments have been incorporated into the decision document.

Summary of Issues Raised in Written Public Testimony Received: The following issues have been raised in public testimony received by the Planning Department:

Loss of Mature Trees

Most of the written public testimony received expressed concern about the potential loss of trees in the undeveloped right-of-way remnant and the subject site to accommodate access to Parcel 2 and the future residential development on Parcel 2 located in the northwest corner of the parcel to be partitioned. The right-of-way remnant and Parcel 2 are heavily wooded with many large, mature trees, some of which would likely require removal for the extension of the access easement driveway and to clear land for building construction. Chapter 17.58 (Trees) of the Zoning Ordinance provides regulation of tree removal from public right-of-way, which includes the remnant adjacent to Parcel 2. Below is Section 17.58.020 of the MMC describing the applicability of the code which includes all trees located within any public area or right-of-way, and all trees on developable land subject to partition review.

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).

There are no McMinnville code provisions that would prevent development of Parcel 2 from occurring to preserve all of the mature trees. However, there are code provisions that require a thoughtful and diligent review of planning the development to preserve as many trees as possible. Below is Section 17.58.050 of the MMC describing the review criteria for granting tree removals

17.58.050 Review Criteria. A permit for major pruning or tree removal shall be granted if any of the following criteria apply:

- A. The tree is unsafe, dead, or diseased as determined by a Certified Arborist.
- B. The tree is in conflict with public improvements.
- C. The proposed removal or pruning is part of an approved development project, a public improvement project where no alternative is available, or is part of a street tree improvement program.
- D. Verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City.

As required by 17.58.040, requests for tree removal from public right-of-way or partitioned land would be reviewed by the Landscape Review Committee, an advisory committee to the Planning Director. It should also be noted that the Landscape Review Committee may condition a tree removal request upon replacement of the tree with another tree approved by the City, per Section 17.58.040(D).

Staff is recommending the following condition to help mitigate the concern raised in public testimony and to adhere to the provisions of the municipal code:

“That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.”

The intent of the condition is to require the review of tree removal requests for the right-of-way remnant and the future development sites to limit the removal of trees to those that are in poor or hazardous condition or that would be severely impacted by access and development of an approved, buildable lot. These limitations are in accordance with the criteria for approving tree removal described in Section 17.58.050-Review Criteria.

Increased Traffic on Existing Private Driveway

Another issue brought to attention through public testimony is a concern about increased traffic on the private driveway leading from Fellows Street to proposed Parcel 2. Section 17.53.100(C)(1) requires

private access easements to have a minimum width of 15 feet, and a minimum paved surface of 10 feet wide. The existing easement is 22 feet wide and has a 12 to 13 foot wide driveway, both exceeding the required minimums. The private easement agreement between affected property owners governing construction and maintenance of the easement further requires the expansion of the driveway to 15 feet wide prior to development of the Applicant's property.

The layout and specification of the driveway was reviewed and approved by the City, including the Engineering and Fire Department, at the time the easement was required in 2000-2001 knowing that the easement was approved to serve the land west of the cozone on the applicant's property. The Engineering and Fire Departments were provided opportunity to comment again on the access requirements for Parcel 2 in this current application, and all comments have been incorporated into the Decision Document. Further review of new driveway extension layout and specification, if necessary, can occur at the time of building permit submittal.

Emergency Vehicle Access to Parcel 2

Concerns about emergency vehicle access to Parcel 2 has been expressed. The layout and specification of the existing driveway was reviewed and approved by the City, including the Engineering and Fire Department, at the time the easement was required in 2000-2001 knowing that the easement was approved to serve additional future lots. The Engineering and Fire Departments were provided opportunity to comment again on the access requirements for Parcel 2 in this current application, and all comments have been incorporated into the Decision Document. Further review of new driveway extension layout and specification, if necessary, can occur at the time of building permit submittal.

Increased Safety Issues on Fellows Street

A concern about increased safety issues on Fellows Street due to increased traffic from new residential development on Parcel 2 has been raised in public testimony. Fellows Street is classified as a Minor Collector in the McMinnville Transportation System Plan and has been designed to accommodate medium intensity adjacent land-uses. Single family residential development, as allowed in the R-2 zone of Parcel 2, would be considered a low intensity use. Further, the subject property was identified for development at the densities of the R-2 and R-3 zones, the residential zoning designation of the site. With only one existing dwelling on the large site, the property is not developed to the full density of the zone(s). This means the surrounding street network and facilities are designed to accommodate more traffic and use than the site is currently contributing. Staff also notes that the layout and intersection of the existing private access driveway and Fellows Street was reviewed and approved by the City in 2000-2001, at the time it was required, when the private access drive was replacing a planned local street that would have served these properties.

Impact on the Floodplain and Sensitive Lands

Concern about the encroachment and impact of development on the adjacent Cozine Creek floodplain and riparian corridor has been raised. Land within the Special Flood Hazard Areas (100-year flood) as identified by "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas" (effective March 2, 2010) and accompanying Flood Rate Insurance Maps (FIRM) are regulated by Chapter 17.48 (FP Flood Area Zone) of the Zoning Ordinance. Development within the Flood Area Zone is not permitted. Portions of Parcel 1 and Parcel 2 are within the Cozine Creek floodplain and are designated Flood Area Zone, and no residential development would be allowed within this zone. Further, the residential zones found in Parcels 1 and 2, R-2 (Single-Family Residential) and R-3 (Two-Family Residential) both incorporate setbacks for development that can further protect the floodplain from the impact of development by limiting the building envelope. The residentially zoned portions of the proposed lots outside of the floodplain exceed the minimum lot size for the zone(s), which is a regulatory criterion for land division.

Staff is recommending conditions for the Applicant to demonstrate compliance with all necessary state and/or federal environmental permitting agency requirements, including the Department of Environmental Quality, Department of State Lands, and Army Corps of Engineers. The City of McMinnville does not maintain regulatory authority over wetlands, state bodies of water, or other significant natural features that may be present on the site at this time and relies on the state and federal agencies to regulate impact on such lands and/or features.

Decreased Property Values

Surrounding property owners have expressed concern that the combined effects of new residential development and the loss of trees will negatively impact their own property values. Consideration of property value is not a regulatory criterion for land-use decisions for property that is designated as Residential on the City's Comprehensive Plan and intended for development.

Attachments:

- A. MP 6-60 Decision Document

Fiscal Impact:

Not Applicable to Quasi-Judicial Decision.

Recommendation:

Planning Commission Options (for Quasi-Judicial Hearing):

- 1) **APPROVE** the application as proposed by the applicant with the conditions recommended in the attached Decision Document, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the denial, specifying which criteria are not satisfied, or specifying how the applicant has failed to meet the burden of proof to demonstrate all criteria are satisfied, in the motion to deny.

Staff Recommendation:

Staff has reviewed the proposal for consistency with the applicable criteria. Absent any new evidence to the contrary presented during the hearing, staff finds that, subject to the recommended conditions specified in the attached Decision Document, the application submitted by the applicant and the record contain sufficient evidence to find the applicable criteria are satisfied.

Staff **RECOMMENDS APPROVAL** of the application, subject to the conditions specified in the attached Decision Document.

Suggested Motion:

BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, THE MATERIALS SUBMITTED BY THE APPLICANT, AND EVIDENCE IN THE RECORD, I MOVE THAT THE PLANNING COMMISSION APPROVE THE DECISION DOCUMENT AND APPROVE MINOR PARTITION APPLICATION MP 6-20 SUBJECT TO THE CONDITIONS SPECIFIED IN THE DECISION DOCUMENT.



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
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MCMINNVILLE, OR 97128

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**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE
APPROVAL OF A TENTATIVE PARTITION AT 835 SW HILARY STREET**

DOCKET: MP 6-20 (Tentative Partition)

REQUEST: Approval to partition an approximately 7.22-acre parcel of land into three (3) parcels, approximately 6.43, 0.31, and 0.48 acres in size to allow for residential development. The proposed 0.31-acre parcel would be accessed by private easement from SW Fellows Street while the 6.43- and 0.48-acre parcels would be accessed from SW Hilary Street.

LOCATION: 835 SW Hilary Street (Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.)

ZONING: R-2, R-3, F-P (Single-Family Residential, Two-Family Residential, Flood Plain)

APPLICANT: Steve and Mary Allen (property owners)

STAFF: Jamie Fleckenstein, Associate Planner

**DATE DEEMED
COMPLETE:** May 20, 2021

**DECISION MAKING
BODY & ACTION:** The McMinnville Planning Commission makes the final decision, unless the Planning Commission's decision is appealed to the City Council.

**DECISION DATE
& LOCATION:** June 17, 2021, Community Development Center, 231 NE 5th Street, McMinnville, Oregon, and Zoom Online Meeting ID 927 1251 1996.

PROCEDURE: An application for a Tentative Partition is processed in accordance with the procedures in Section 17.72.110 of the Zoning Ordinance. As allowed by Section 17.72.110(B) a public hearing was requested, requiring the application to be processed in accordance with the Applications-Public Hearings procedures specified in Section 17.72.120 of the Zoning Ordinance.

CRITERIA: The applicable criteria for a Tentative Partition are specified in Section 17.53.060 of the Zoning Ordinance. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

APPEAL: The Planning Commission's decision is final unless appealed to the City Council. As specified in Section 17.72.180 of the Zoning Ordinance, the Planning Commission's decision may be appealed to the City Council within fifteen (15) calendar days of the date the written notice of decision is mailed. The City's final decision is subject to the 120 day processing timeline, including resolution of any local appeal.

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

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are satisfied with conditions and **APPROVES** the Tentative Partition (MP 6-20), **subject to the conditions of approval provided in Section II of this document.**

DECISION: APPROVAL WITH CONDITIONS

Planning Commission: _____
Roger Hall, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date:

Attachments :

Attachment 1 – Application and Attachments

Attachment 2 – Testimony Received

I. APPLICATION SUMMARY:

Subject Property & Request

The proposal is an application for a Tentative Partition (MP 6-20) to partition an approximately 7.22 acre parcel of land into three (3) parcels approximately 6.43, 0.31, and 0.48 acres in size to allow for future residential development of the parcels. The subject site is located at 835 SW Hilary Street, and is identified as Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.

The subject property is located west of SW Baker Street (Highway 99W) and south of SW Fellows Street at the termination of SW Hilary Street. Cozine Creek and its associated flood plain and steep terrain bisect the site, running generally north to southwest. The subject property has portions that are zoned R-2 (Single-Family Residential), R-3 (Two-Family Residential), and F-P (Flood Plain). Portions of the site zoned R-2 (Single-Family Residential) include the northwest corner of the site, and the eastern portion of the site north of the Hilary Street terminus. The southeast corner of the site south of the Hilary Street terminus is zoned R-3 (Two-Family Residential). The remainder of the site is zoned F-P (Flood Plain). A single-family dwelling is existing on the land zoned R-2 (Single-Family Residential) north of Hilary Street. The portion of the site east of Cozine Creek zoned R-2 and R-3 is accessed from Hilary Street. The portion of the site west of Cozine Creek zoned R-2 is accessed via private easement from Fellows Street.

Cozine Creek and its floodplain continue north and southwest of the site. Adjacent properties to the west of the subject site include the Tall Oaks subdivision that is zoned R-2 (Single-Family Residential). Properties to the north and east of the site are also zoned R-2. South of Hilary Street, adjacent property is zoned R-4 (Multiple-Family Residential), developed with multi-family apartment buildings. A 33-foot wide undeveloped right-of-way borders the western property line of the subject site, between the it and the Tall Oaks subdivision. ***See Vicinity Map (Figure 1), Zoning Map (Figure 2), and Applicant's Proposed Partition Plan (Figure 3).***

Summary of Criteria & Issues

The application is subject to the standards and procedures established in Chapter 17.53 (Land Division Standards) of the Zoning Ordinance, which are intended to “[...] provide uniform procedures and standards for the subdivision and partitioning of land, and adjustment of property lines; to assure adequate width and arrangement of streets; to coordinate proposed development with plans for utilities and other public facilities; to avoid undue congestion of population; to assure adequate sanitation and water supply; to provide for the protection, conservation, and proper use of land; to secure safety from fire, flood, slides, pollution, drainage or other dangers; to provide adequate light and air, recreation, education, and adequate transportation; to promote energy conservation; to protect in other ways the public health, safety, and welfare; and to promote the goals and policies of the McMinnville Comprehensive Plan.” The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

As required by the Land Division Standards, lots created by partition are required to conform to the zoning requirements of the area. The R-2 (Single-Family Residential) zone has a minimum lot size of 7,000 square feet, and the R-3 (Two-Family Residential) zone has a minimum lot size of 6,000 square feet. Proposed lots are required to abut streets or access easements to provide access. Proposed Parcels 1 and 2 are provided access through easements and rights-of-way. Extension of an access drive through an unimproved right-of-way which Proposed Parcel 2 abuts would likely require the removal of public trees from the unimproved right-of-way. Utilities are required to be provided to each proposed parcel, and the proposed partition indicates utilities are, or can be, provided to each parcel.

Attachments :

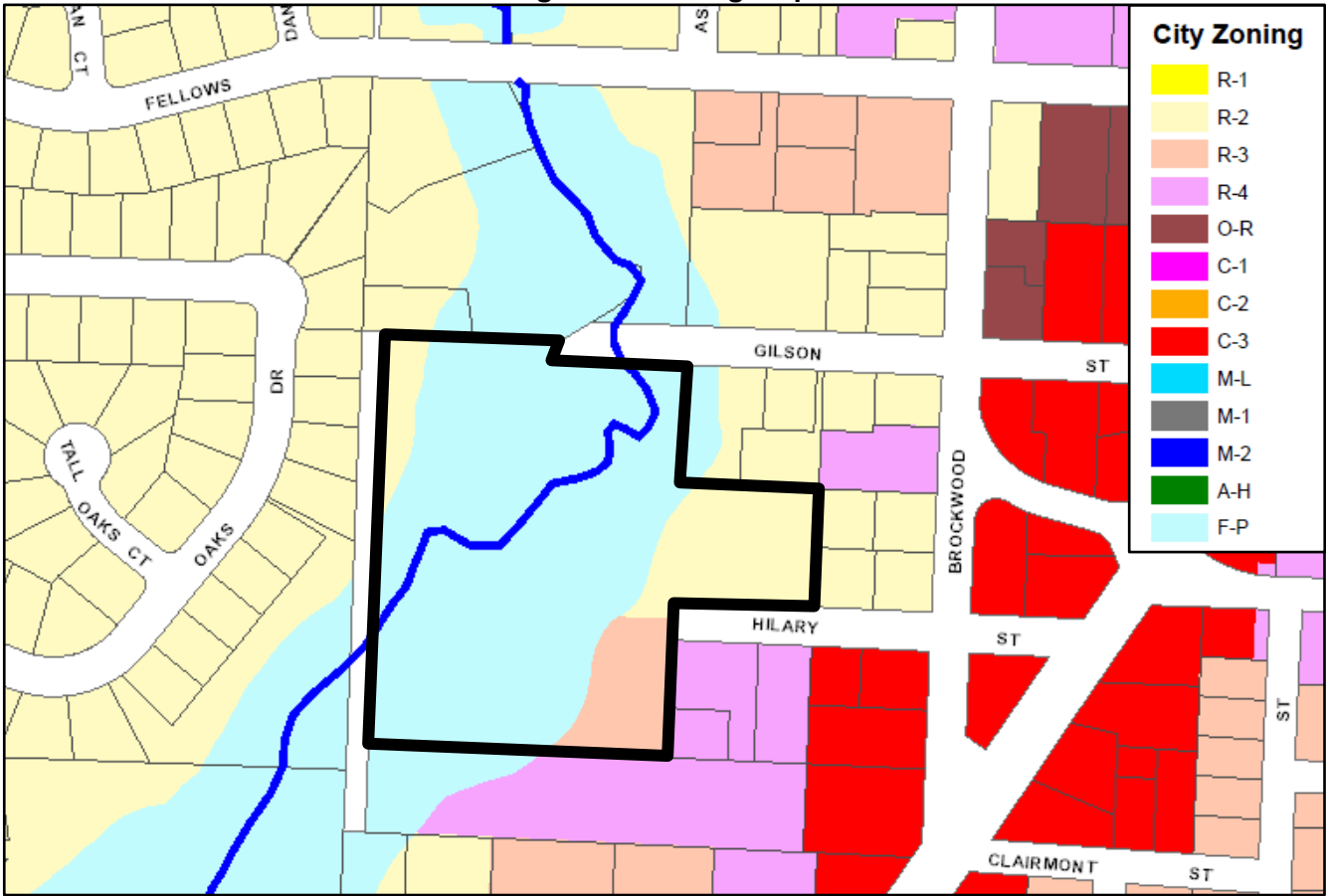
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Figure 1. Vicinity Map

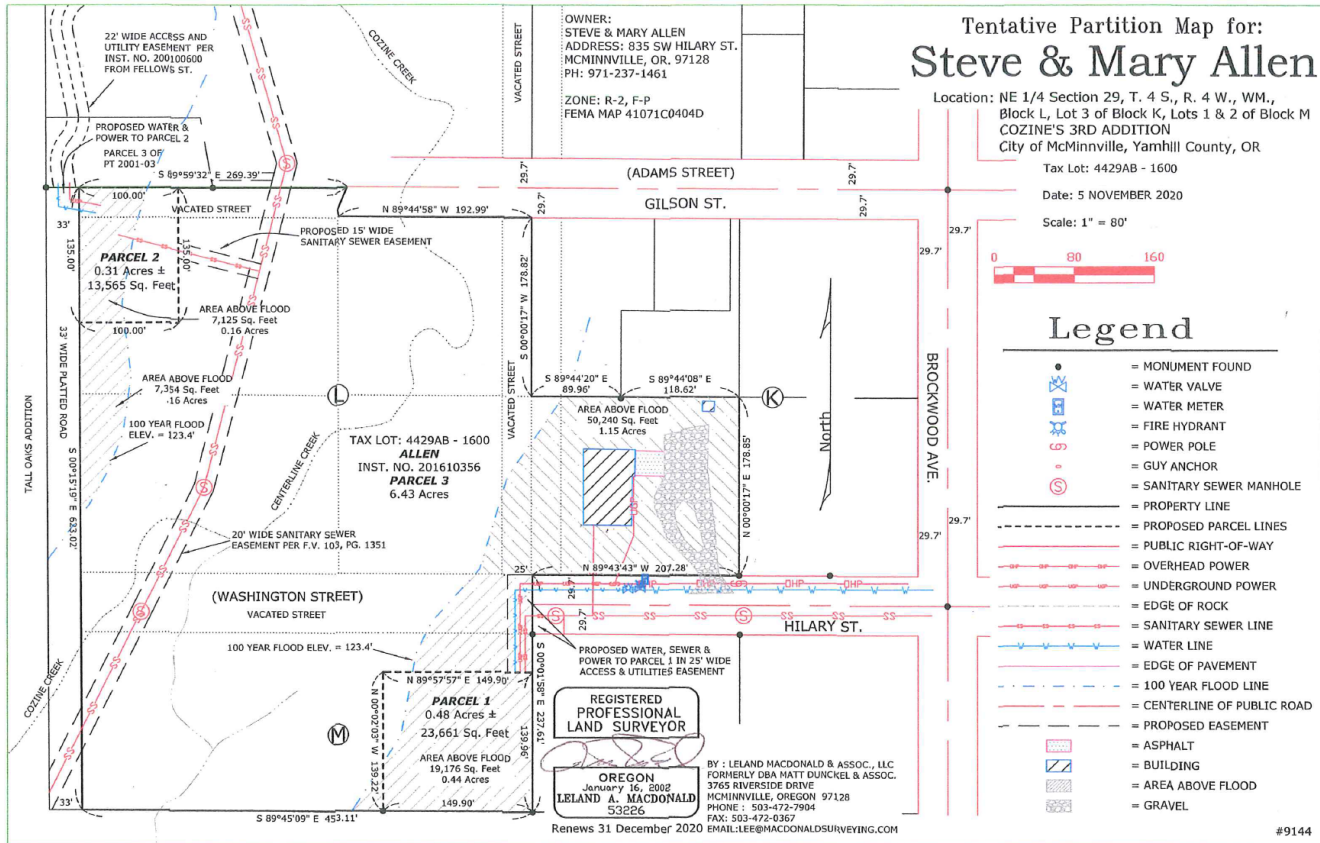


Figure 2. Zoning Map



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Figure 3. Applicant's Proposed Partition Plan



II. CONDITIONS:

1. All conditions of land-use decisions Minor Partition MP 7-00 and Ordinance No. 4741 shall remain in effect.
2. That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Municipal Code, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

Parcel 1:

3. That the applicant shall submit for approval an engineered plan for the extension of the public sanitary sewer main on Hilary Street and sewer service for Parcel #1. The Public sewer extension and service for Parcel #1 shall be installed and accepted by the City prior to the signing of the partition plat.

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4. That the applicant shall enter into a Construction Permit Agreement with the City and pay associated fees for the extension of the sanitary sewer main on Hilary Street. Contact Larry Sherwood (503) 434-7312 for details.
5. That the applicant shall provide a storm drainage plan for Parcel 1 including any easements necessary from the parcel to point of discharge.
6. That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 1.
7. That storm drainage facilities for Parcel 1 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Parcel 2:

8. That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for Parcel 2.
9. That sewer service for Parcel 2 shall be installed from the main to the proposed property line prior to the signing of the partition plat.
10. That private sanitary sewer easement for this service shall be dedicated as part of the partition plat.
11. That the applicant shall provide a storm drainage plan for Parcel 2 including any easements necessary from the parcel to point of discharge.
12. That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 2.
13. That storm drainage facilities for Parcel 2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Street Improvements:

14. Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.
15. Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 2.
16. Applicant shall consent and agree to a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the final partition plat.

Final Partition Plat and Approval:

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17. That two (2) 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.
18. That this partition will not be considered a legal partition until such time that a copy of the recorded document is provided to the City of McMinnville's Planning Department.
19. That approval of this tentative plat will expire 12 (twelve) months after the effective date of decision. 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.

III. ATTACHMENTS:

1. MP 6-20 Application and Attachments (on file with the Planning Department)
2. Testimony Received (on file with the Planning Department)
 - a. Letter received May 5, 2021 from Earl & Sheryl Anderson
 - b. Letter received May 10, 2021 from Carole Hansen
 - c. Letter received May 14, 2021 from Walt Gowell on behalf of Steve & JacElaine Macy
 - d. Letter received May 17, 2021 from Brad & Shirley Robison
 - e. Letter received May 18, 2021 from Carole Hansen
 - f. Letter received May 18, 2021 from James & Cheryl Lambright
 - g. Letter received May 18, 2021 from Linda Jordan
 - h. Letter received May 19, 2021 from Earl & Sheryl Anderson
 - i. Letter received May 19, 2021 from Robert Tracey
 - j. Letter received May 19, 2021 from Rigo & Susan Perez
 - k. Petition received May 19, 2021 from TONCCA (Tall Oaks Neighborhood Cozine Creek Advocates)
 - l. Letter received May 19, 2021 from Cheryl Lambright

IV. COMMENTS:

Agency Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas. The following comments were received:

- McMinnville Building Department

No building code concerns.

- McMinnville Engineering Department

Parcel #1:

- Applicant shall submit for approval an engineered plan for the extension of the public sanitary sewer main on Hilary Street and sewer service for Parcel #1. The Public sewer

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extension and service for Parcel #1 shall be installed and accepted by the City prior to the signing of the partition plat.

- Applicant shall enter into a Construction Permit Agreement with the City and pay associated fees for the extension of the sanitary sewer main on Hilary Street . Contact Larry Sherwood (503) 434-7312 for details.
- Applicant shall provide a storm drainage plan for the parcel including any easements necessary from the parcel to point of discharge.
- Applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for this parcel.
- The storm drainage facilities for Parcel #2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Parcel #2:

- Applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for this parcel.
- The sewer service for Parcel #2 shall be installed from the main to the proposed property line prior to the signing of the partition plat.
- A private sanitary sewer easement for this service shall be dedicated as part of the partition plat.
- Applicant shall provide a storm drainage plan for the parcel including any easements necessary from the parcel to point of discharge.
- Applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for this parcel.
- The storm drainage facilities for Parcel #2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

Street Improvement Conditions:

- Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the partition, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 2
- Applicant shall consent and agree to a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the partition.
- Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the partition, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.

• McMinnville Water & Light

Power: Additional utility easement may be needed to extend power to Parcel 2.

Water: Water service PARCEL 2 is at the Fellows right-of-way on the west side of the driveway entrance. Applicant to pay for water meter installation and is responsible for all plumbing behind the water meter.

Water service to PARCEL 1 does not exist and will need to be installed in the Hilary right-of-way. All costs for McMinnville Water and Light to install the service and water meter is the applicants responsibility. Applicant is responsible for all plumbing behind the water meter.

Public Comments

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Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was provided in the News Register on Friday, June 11, 2021. As of the date of the issuance of this Decision Document to the Planning Commission on Thursday, June 10, 2021, the following public testimonies have been received by the Planning Department:

1. Letter received May 5, 2021 from Earl & Sheryl Anderson expressing opposition to Parcel #2 of MP 6-20, citing concerns about loss of trees due to infrastructure and future residential development, and concerns about decreased safety with increased motor vehicle use of private easement.
2. Letter received May 10, 2021 from Carole Hansen expressing opposition to Parcel #2 of MP 6-20 citing concerns about development behind her home, development too close to the floodplain, loss of trees, emergency vehicle access, and decreased property values.
3. Letter received May 14, 2021 from Walt Gowell on behalf of Steve & JacElaine Macy, proposing suggested conditions of approval to require enforcement of a 15-foot wide driveway, continued lawful access to Parcel 3 of Partition Plat 2001-03, clear assignment of easement improvement costs to the Applicant, and incorporation of the existing easement terms into the approved Partition Plat.
4. Letter received May 17, 2021 from Brad & Shirley Robison expressing concern about the loss of trees and diminished lifestyle, and expressing desire for mitigation for adjacent Tall Oaks properties.
5. Letter received May 18, 2021 from Carole Hansen expressing opposition to Parcel #2 of MP 6-20 citing concerns about development behind her home and loss of trees from the undeveloped right-of-way, and expressing desire for mitigation by allowing trees and vegetation within the right-of-way to remain in place.
6. Letter received May 18, 2021 from James & Cheryl Lambright expressing opposition to Parcel #2 of MP 6-20 citing concerns about loss of trees for residential development and decreased property values and livability of adjacent properties.
7. Letter received May 18, 2021 from Linda Jordan expressing opposition to MP 6-20 citing concerns about visual impact, congestion, and noise from residential development behind her home.
8. Letter received May 19, 2021 from Earl & Sheryl Anderson expressing opposition to Parcel #2 of MP 6-20, citing concerns about ambiguous language on the applicant's tentative partition plan and development of the unimproved right-of-way and resulting loss of trees.
9. Letter received May 19, 2021 from Robert Tracey expressing opposition to MP 6-20, citing concerns about decreased safety at Fellows Street with increased motor vehicle use of private easement, and loss of trees resulting in increased negative climate change impacts.
10. Letter received May 19, 2021 from Rigo & Susan Perez expressing opposition to MP 6-20, citing concerns about the loss of community and lifestyle, loss of privacy due to future residential development, rodents during construction period, decreased safety at Fellows Street with increased motor vehicle use of private easement, and decreased property values of adjacent properties.

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11. Petition received May 19, 2021 from TONCCA (Tall Oaks Neighborhood Cozine Creek Advocates) expressing opposition to Parcel #2 of MP 6-20, citing concerns about development of undeveloped right-of-way, loss of a perceived protected natural area subject to conditional use approval criteria, diminished Cozine Creek greenway and neighborhood livability, decreased property values specifically related to Great Neighborhood Principle #1 - Natural Feature Preservation, proposed lot size of Parcel #2, loss of trees, encroachment of Parcel #2 on floodplain, safety and economic loss due to development in the floodplain, and the lack of inclusion of wooded areas on tentative partition plan for compliance with MMC 17.53.060(A)(7).
12. Letter received May 19, 2021 from Cheryl Lambright requesting a public hearing for MP 6-20.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicants, Steve and Mary Allen, property owners, submitted the Tentative Partition application on November 23, 2020.
2. The application was deemed incomplete on December 23, 2020 to allow the applicant the opportunity to provide evidence of legal access to the western portion of the subject site or submit a variance application to approve legal access.
3. Variance application VR 1-21 was submitted concurrently with the Tentative Partition application and was subsequently withdrawn when evidence of legal access was determined.
4. The Tentative Partition application was deemed complete on April 20, 2021. Based on that date, the 120 day land-use decision time limit expires August 18, 2021.
5. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.110 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Comcast; Recology; Oregon Department of State Lands; and Northwest Natural Gas.

Comments received from agencies are addressed in Section IV of the Decision Document.

6. Notice of the application was mailed to property owners within 100 feet of the subject property in accordance with Section 17.72.110 of the Zoning Ordinance.

Public testimonies received by the Planning Department with the public comment period are addressed in Section IV of the Decision Document.

7. During the public comment period, a public hearing for the Tentative Partition application was requested as allowed by Section 17.72.110(B).
8. Notice of the application and the June 17, 2021 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property on May 27, 2021 in accordance with Section 17.72.120 of the Zoning Ordinance, and to members of the public who previously submitted testimony during the public comment period.
9. Notice of the application and the June 17, 2021 Planning Commission public hearing was published in the News Register on Friday, June 11, 2021, in accordance with Section 17.72.120 of the Zoning Ordinance.

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No additional public testimony was submitted to the Planning Department prior to the issuance of this document to the Planning Commission.

10. On June 17, 2021, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** 835 SW Hilary Street (Tax Lot 1600, Section 29AB, T. 4 S., R. 4 W., W.M.)
2. **Size:** 7.22 acres
3. **Comprehensive Plan Map Designation:** Residential, Floodplain
4. **Zoning:** The subject property has multiple zones:
 - a. R-2 (Single-family Residential)
 - b. R-3 (Two-family Residential)
 - c. F-P (Flood Plain)
5. **Overlay Zones/Special Districts:** None.
6. **Current Use:** Single-family dwelling.
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None
8. **Other Features:**
 - a. **Slopes:** The developed eastern portion of the lot accessed from Hilary Street is mostly level, then the site slopes down to Cozine Creek which bisects the property, then slopes up to the western property line. The sloped flood plain and the western portion of the site is wooded.
 - b. **Easements:** The portion of the subject site within Block “L” of Cozine’s 3rd Addition and west of Cozine Creek is accessed by private access easement (Instrument #200100600) from Fellows Street, granted by Partition Plat 2001-03. A public utility easement to the City of McMinnville is retained over the portion of Hilary Street right-of-way vacated by Ordinance No. 4914. A 20-foot wide sanitary sewer easement to the City of McMinnville is present within the floodplain area, generally parallel to Cozine Creek.
9. **Utilities:**
 - a. **Water:** The property is currently served by water mains in SW Hilary Street and SW Fellows Street. The treatment plant has sufficient treatment capacity.
 - b. **Sewer:** The property is served by sewer mains in SW Hilary Street and along Cozine Creek. The municipal water reclamation facility has sufficient capacity to accommodate expected waste flows resulting from the use.
 - c. **Stormwater:** Storm water service is not available in SW Hilary Street adjacent to the site. Storm drainage is directed to Cozine Creek.
 - d. **Other Services:** Other services are available to the property. Overhead utilities are present along the north side of Hilary Street adjacent to the property.
10. **Transportation:** SW Hilary Street is classified as a Local Street in the Transportation System Plan (TSP). The existing Hilary Street right-of-way adjacent to the site is approximately 60 feet

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wide. The paved street width varies, and no curbs, gutters, sidewalks, or planter strips are present adjacent to the site. The portion of the subject site west of Cozine Creek is accessed via existing private easement from SW Fellows Street, which is classified as a Minor Collector in the TSP.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Minor Partition are specified in Chapter 17.53 of the Zoning Ordinance.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

Comprehensive Plan Volume II:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, policies, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

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 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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION OF APPROVAL #2. A condition of approval is included to require review of tree removal requests to help preserve wooded areas and/or isolated trees where feasible. Staff notes that the City does not currently have adopted inventories of significant natural features, including riparian corridors, tree groves, or landmark trees at this time.

CONDITION FOR FINDING: That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Zoning Ordinance, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such

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tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

Urban Policies:

Policy 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).*

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #3-13. The tentative partition plan indicates proposed provision of water, electricity, and sanitary sewer to proposed Parcels 1 and 2. Conditions of approval are included to require storm drainage plans and installation of storm drainage facilities prior to approval of the final partition plat.

CONDITIONS FOR FINDING: That the applicant shall submit for approval an engineered plan for the extension of the public sanitary sewer main on Hilary Street and sewer service for Parcel #1. The Public sewer extension and service for Parcel #1 shall be installed and accepted by the City prior to the signing of the partition plat.

That the applicant shall enter into a Construction Permit Agreement with the City and pay associated fees for the extension of the sanitary sewer main on Hilary Street. Contact Larry Sherwood (503) 434-7312 for details.

That the applicant shall provide a storm drainage plan for Parcel 1 including any easements necessary from the parcel to point of discharge.

That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 1.

That storm drainage facilities for Parcel 1 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the sewer service for Parcel 2.

That sewer service for Parcel 2 shall be installed from the main to the proposed property line prior to the signing of the partition plat.

That private sanitary sewer easement for this service shall be dedicated as part of the partition plat.

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That the applicant shall provide a storm drainage plan for Parcel 2 including any easements necessary from the parcel to point of discharge.

That the applicant shall obtain agency permits (DEQ, DSL, ACOE etc.) as necessary, and provide copies of approved permits to the City, prior to any permit issuance or site disturbance for the installation of the storm drainage facilities for Parcel 2.

That storm drainage facilities for Parcel 2 shall be installed from the point of discharge to the proposed property line prior to the signing of the partition plat.

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.

- Policy 132.29.05* *Off-site improvements to streets or the provision of enhanced pedestrian and bicycle facilities in the McMinnville planning area may be required as a condition of approval for land divisions or other development permits.*
- Policy 132.40.05* *Conditions of Approval – In accordance with the City's TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:*
- 1. Improvement of on-site transportation facilities,*
 - 2. Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility's operations beyond the City's mobility standards; and [...]*
- Policy 132.62.00* *TSP as Legal Basis – The City of McMinnville shall use the McMinnville TSP as the legal basis and policy foundation for actions by decision makers, advisory bodies, staff, and citizens in transportation issues. The goals, objectives, policies, implementation strategies, principles, maps, and recommended projects shall be considered in all decision-making processes that impact or are impacted by the transportation system.*
- Policy 132.62.05* *TSP Policies – The City of McMinnville shall use the McMinnville TSP to:*
- 1. Describe the classification or function of all streets within the McMinnville planning area. Policies found in the Plan shall be used to develop connective local street circulation patterns.*
 - 2. Require new development to provide adequate accessibility, as defined by the McMinnville Zoning Ordinance, for all travel modes within a development and in coordination with existing and other proposed development. Street design standards in the McMinnville Zoning Ordinance are to be used to secure adequate public street and sidewalk facilities. [...]*
- Policy 132.62.20* *TSP Use in Review of Land Use Actions – The City of McMinnville shall consider and apply the goals, policies, planning principles, recommended projects, implementation strategies, and maps contained in McMinnville TSP in the review of land use actions and development applications.*

APPLICANT'S RESPONSE: None.

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FINDING: SATISFIED WITH CONDITION OF APPROVAL #15. A condition of approval is included on the proposed land division to require a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the final partition plat.

CONDITION FOR FINDING: Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.

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.

Policy 153.00 The City of McMinnville shall continue coordination between the planning and fire departments in evaluating major land use decisions.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The McMinnville Fire Department was provided the opportunity to review and comment on the application.

GOAL IX 2: TO ESTABLISH A LAND USE PLANNING FRAMEWORK FOR APPLICATION OF THE GOALS, POLICIES, AND PROPOSALS OF THE McMINNVILLE COMPREHENSIVE PLAN

GREAT NEIGHBORHOOD PRINCIPLES

Policy 187.10 The City of McMinnville shall establish Great Neighborhood Principles to guide the land use patterns, design, and development of the places that McMinnville citizens live, work, and play. The Great Neighborhood Principles will ensure that all developed places include characteristics and elements that create a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood with enduring value, whether that place is a completely new development or a redevelopment or infill project within an existing built area.

Policy 187.20 The Great Neighborhood Principles shall encompass a wide range of characteristics and elements, but those characteristics and elements will not function independently. The Great Neighborhood Principles shall be applied together as an integrated and assembled approach to neighborhood design and development to create a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood, and to create a neighborhood that supports today’s technology and infrastructure, and can accommodate future technology and infrastructure.

Policy 187.30 The Great Neighborhood Principles shall be applied in all areas of the city to ensure equitable access to a livable, egalitarian, healthy, social, inclusive, safe, and vibrant neighborhood for all McMinnville citizens.

Policy 187.40 The Great Neighborhood Principles shall guide long range planning efforts including, but not limited to, master plans, small area plans, and annexation requests. The Great

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Neighborhood Principles shall also guide applicable current land use and development applications.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The application is a current land-use application for a Minor Partition of the subject site, and Great Neighborhood Principles policies are applicable.

Policy 187.50 The McMinnville Great Neighborhood Principles are provided below. Each Great Neighborhood Principle is identified by number below (numbers 1 – 13), and is followed by more specific direction on how to achieve each individual principle.

1. *Natural Feature Preservation. Great Neighborhoods are sensitive to the natural conditions and features of the land.*
 - a. *Neighborhoods shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas, and landmark trees.*

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED WITH CONDITION OF APPROVAL #2. The application is a current land-use application, and Great Neighborhood Principles policies are applicable. Staff notes that the City currently has no adopted inventories of significant natural features, including riparian corridors, wooded areas, or landmark trees at this time. The Cozine Creek and floodplain corridor that bisects the subject site is heavily wooded. The wooded area extends beyond the floodplain onto the buildable portion of the site west of Cozine Creek, and further into the unimproved right-of-way that borders the western property line of the site. Many large, mature trees are present on proposed Parcels 1 and 2 and the adjacent undeveloped right-of-way west of Parcel 2, providing value to the Cozine Creek floodplain and riparian corridor, the subject site, and the surrounding neighborhood. Tree removal appears to be necessary to accommodate future residential development and associated public improvements and utility provision. Therefore, a condition of approval is included to require prior review and authorization from the Landscape Review Committee to remove any tree larger than nine (9) inches DBH (Diameter at Breast Height) to limit the unnecessary removal of trees within proximity to a sensitive natural area in the floodplain and riparian corridor.

CONDITION FOR FINDING: That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Zoning Ordinance, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

11. *Housing for Diverse Incomes and Generations. Great Neighborhoods provide housing opportunities for people and families with a wide range of incomes, and for people and families in all stages of life.*

Attachments :

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- a. *A range of housing forms and types shall be provided and integrated into neighborhoods to provide for housing choice at different income levels and for different generations.*

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed partition would create buildable lots within an existing neighborhood that can be used for infill development. This type of development can help provide a variety of housing choice at different income levels for different generations that would be integrated into an established neighborhood.

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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The process for a Tentative Partition provides an opportunity for citizen involvement through the public notice and comment period. Throughout the process, there are 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 Municipal Code

The following Sections of the McMinnville Municipal Code provide criteria applicable to the request:

Chapter 17.15 R-2 Single Family Residential Zone

17.15.030 Lot Size. In an R-2 zone, the lot size shall not be less than seven thousand square feet except as provided in Section 17.15.010(C) of this ordinance.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. Proposed parcels #2 and #3 each contain land zoned R-2 (Single Family Residential). The tentative partition plan indicates the area of land in Parcel #2 above the Flood Plain which is zoned R-2 is 7,125 square feet which exceeds the minimum lot size for the zone. The tentative partition plan indicates the area of land in Parcel #3 above the Flood Plain which is zoned R-2 is 50,240 square feet which exceeds the minimum lot size for the zone.

17.15.040 Yard requirements. In an R-2 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 seven and one-half feet, except an exterior side yard on the street side of a corner lot shall be not less than twenty feet.

APPLICANT’S RESPONSE: None.

Attachments :

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FINDING: SATISFIED. An existing single-family dwelling is present on proposed Parcel #3. The minimum distance from the dwelling to a property line is approximately 52 feet. Because this minimum distance exceeds the maximum yard requirement in the R-2 zone (20 feet), the single-family dwelling on proposed Parcel #3 will continue to meet the yard requirements of the zone.

Chapter 17.18 R-3 Two-Family Residential Zone

17.15.030 Lot Size. In an R-3 zone, the lot size shall not be less than six thousand square feet except as provided in Section 17.18.010(C) of this ordinance.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Proposed Parcel #1 contains land zoned R-3 (Two-Family Residential). The tentative partition plan indicates the area of land in Parcel #1 above the Flood Plain which is zoned R-3 is 19,176 square feet which exceeds the minimum lot size for the 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:

17.53.060(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.

Attachments :

Attachment 1 – Application and Attachments

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APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The applicant submitted an application and tentative partition plan on November 23, 2020, and the application was deemed incomplete pending a variance application or other verification of legal access via private easement to the portion of the site west of Cozine Creek. Following verification of evidence documenting the provision of legal access via private easement to the portion of the site west of Cozine Creek, the application was deemed complete on April 20, 2021. Staff notes that the City of McMinnville currently does not have adopted inventories of natural features such as wetlands, tree groves, or natural hazards.

17.53.060(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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The application for a Tentative Partition of the subject site was deemed complete on April 20, 2021. Notification was mailed to property owners within 100 feet of the subject site on May 5, 2021. A request for public hearing was received by the Planning Department within the 14-day comment period, requiring a public hearing following the procedure outlined in Section 17.72.120 of the Zoning Ordinance. Findings have been provided for applicable Comprehensive Plan policies and goals, and criteria and standards of the McMinnville Municipal Code and other applicable ordinances.

17.53.060(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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Dedication of additional land and/or easements are not required to carry out the McMinnville Comprehensive Plan. The subject site has not been partitioned into more than three (3) parcels within any one (1) calendar year, nor is the subject site proposed to be divided into units of one acre or more.

17.53.060(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.

APPLICANT'S RESPONSE: None.*Attachments :*

Attachment 1 – Application and Attachments

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FINDING: SATISFIED WITH CONDITION OF APPROVAL #19. A condition of approval has been included to confirm that the approval of the tentative partition plat shall be valid for a one-year period from the effective date of decision.

CONDITION FOR FINDING: That approval of this tentative plat will expire 12 (twelve) months after the effective date of decision. 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.

Land Division Standards – Approval of Streets and Ways

17.53.100 Creation of Streets.

- C. An easement providing access to property and which is created to allow the partitioning of land for the purpose of lease, transfer of ownership, or building development, whether immediate or future, shall be in the form of a street in a subdivision, except that a private easement to be established by deed without full compliance with these regulations may be approved by the Planning Director under the following conditions:
1. If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access and said access shall be not less than 15 (fifteen) feet in width and shall have a hard surfaced drive of 10 (ten) feet width minimum;
 2. The Planning Director shall require the applicant to provide for the improvement and maintenance of said access way, and to file an easement for said access way which includes the right to passage and the installation of utilities. Such requirements shall be submitted to and approved by the City Attorney.
 3. Access easements shall be the preferred form of providing access to the rear lots created by partition if the alternative is the creation of a flag lot.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #14, 15. Proposed Parcel 1 is to be accessed via private easement as indicated on the tentative partition plan. The proposed private access easement to Parcel 1 is 25 feet wide.

Proposed Parcel 2 is provided legal access via existing private easement, as indicated on approved Partition Plat 2001-03, and through an undeveloped public right-of-way. Although proposed Parcel 2 is the fourth lot accessed via the private easement, the City has acknowledged and approved this deviation from 17.53.100(C)(1) through prior land-use decision MP 7-00 and Ordinance No. 4741, and by approving Partition Plat 2001-03. The existing access easement is 22 feet wide, and the existing driveway leading to Parcel 2 is approximately 12 to 13 feet wide, both exceeding the minimum width. The applicant is party to an existing private easement agreement noted on Partition Plat 2001-03 that provides the terms for construction and maintenance of the shared access driveway.

CONDITIONS FOR FINDING: Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 1.

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Applicant shall enter into a Revocable License and Right to use Public Right of Way, prior to the approval of the final partition plat, for the extension of the access easement driveway across the unimproved public right-of-way to proposed Parcel 2.

17.53.101 Streets.

- A. General. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. Where location is not shown in a comprehensive plan, the arrangement of streets in a subdivision shall:
1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; or
 3. Maximize potential for unobstructed solar access to all lots or parcels. Streets providing direct access to abutting lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features. The east-west orientation of streets shall be integrated into the design.
- B. Rights-of-way and street widths. The width of rights-of-way and streets shall be adequate to fulfill city specifications as provided in Section 17.53.151 of this chapter. Unless otherwise approved, the width of rights-of-way and streets shall be as shown in the following table:

COMPLETE STREET DESIGN STANDARDS

			Arterial		Collector		Neighborhood Connector	Local Residential	Alley	
			Major	Minor	Major	Minor				
Streetscape	Street Profile	Bike	Auto/Truck Amenities (lane widths) ¹	2-4 lanes (12 ft.)	2 lanes (11 ft.)	2 lanes (11 ft.)	2 lanes (10 ft.)	See Street Width	See Street Width	20 ft.
			Median / Center Turn Lane	14 ft.	12 ft.	12 ft.	10 ft.	None	None	None
			Bike Facility ²	2 lanes (6 ft.)	2 lanes (6 ft.)	2 lanes (5 ft.)	2 lanes (5 ft.) or shared lane	Shared Lane	Shared Lane	None
			Curb-to-curb Street Width ³	na	na	na	30 or 40 ft. 30 or 40 ft.	28 ft.	28 ft.	Not Apply
	Pedestrian Zone (with ADA)	Pedestrian Amenities ⁴ Sidewalks (both sides) Planter Strips	On-Street Parking Two Sides None	na 74 ft.	na 46 ft.	na 44 ft.	30 or 40 ft. 30 or 40 ft.	28 ft.	28 ft.	Not Apply
			Preferred Adjacent Land Use – Intensity	High	Medium to High	Medium	Medium	Medium to Low	Low	Low
			Maximum Average Daily Traffic	32,000	20,000	16,000	10,000	1,200 – 3,000	1,200	500
			Traffic Calming	Not Typical	Not Typical	Not Typical	Permissible/ Not Typical	Permissible/ Not Typical	Typical	Not Typical
			Managed Speed ⁵	35 mph	30-35 mph	25-30 mph	25 mph	25 mph	15-25 mph	10 mph
			Through-traffic Connectivity	Primary	Typical	Typical	Typical	Not Typical	Not Permissible	Not Permissible
Traffic Management	Traffic Management	Access Control	Yes	Yes	Some	No	No	No		
		Maximum Grade	6%	6%	10%	10%	12%	12%	12%	
		Right-of-Way:	104 ft.	96 ft.	74 ft.	56 ft. (no bike lane) 66 ft. (bike lane)	50 ft.	50 ft.	20 ft.	

General Design Notes:

1. Lane widths shown are the preferred construction standards that apply to existing routes adjacent to areas of new development, and to newly constructed routes. For arterial and collector streets within industrial zones, lanes widths shall be 12 feet.
2. An absolute minimum bike lane width for safety concern is 5 ft. on arterial and 4 ft. on collector streets, which is expected to occur in locations where existing development along an established route or other physical constraint preclude construction of the preferred facility width.
3. Street design for each development shall provide for emergency and fire vehicle access.
4. Sidewalks 10-12 feet in width are required in commercial areas to accommodate the Pedestrian zone. Street trees are to be placed in tree wells. Placement of street trees and furniture and business accesses are to meet ADA requirements for pedestrian access.
5. Speeds in the central business district may be 20-25 mph. Traffic calming techniques, signal timing, and other efforts will be used to keep traffic within the desired managed speed ranges for each Functional Class. Design of a corridor's vertical and horizontal alignment will focus on providing an enhanced degree of safety for the managed speed.
6. None with on-street parking

Street Design Standard Notes:

- (a) Exclusive of side slope easement which may be required in addition for cuts and fills in rough terrain.
- (b) The right-of-way and street width may be varied after consideration of the unique characteristics of the land including geography, topography, unique vegetation, and its relation to land development already present or proposed in the area.
- (c) The right-of-way, street width, improvement standards, and turnaround radius of commercial/industrial cul-de-sacs and streets shall be dependent upon the types of vehicle traffic to be served.
- (d) Intersection curb radii shall not be less than 25 feet. On-street parking shall not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb return. Where such a local residential street intersects an arterial, parking along the local street shall not be permitted within a 60-foot distance of the intersection measured from the terminus of the curb return. The developer shall be responsible for the provision and installation of "No Parking" signs as approved by the City Engineering Department.
- (e) Sidewalks and planting strips shall not be required along eyebrows.
- (f) For cul-de-sacs greater than 300 feet in length, fire hydrants may be required to be installed at the end of the bulb and appropriately spaced along the throat of the cul-de-sac as determined by the McMinnville Fire Department.

APPLICANT'S RESPONSE: None.

Attachments :

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FINDING: SATISFIED WITH CONDITION OF APPROVAL #16. A Condition of approval is included on the proposed land division to require the applicant to file waiver of right of remonstrance against future street improvements of Hilary Street in the right-of-way adjacent to the subject site.

CONDITION FOR FINDING: Applicant shall consent and agree to a waiver of rights of remonstrance for future street improvements on Hilary Street prior to the approval of the final partition plat.

17.53.105(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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The lots resulting from the proposed partition are of a size, width, shape, and orientation appropriate for the location of the subdivision and for the use contemplated (residential). All proposed lot sizes conform to the zoning requirements of the area. See findings for Sections 17.15.030 and 17.18.030 above. The depth of each of the proposed parcels does not exceed two times the width.

17.53.105(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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. Proposed Parcel 1 would abut a proposed access easement that is 25 feet wide. The 25-foot wide access easement abuts the entire approximately 60 foot width of the terminus of the Hilary Street right-of-way. Proposed Parcel 2 would abut a 33-foot wide undeveloped right-of-way west of the subject site for a width of 135 feet. A 22-foot wide access easement abuts both the 33-foot wide unimproved right-of-way and Fellows Street right-of-way. Fellows Street is classified as a Minor Collector and direct access is allowed. Proposed Parcel 3, the remainder of the parent parcel, will continue to abut the Hilary Street right-of-way for a 207.28-foot width.

17.53.105(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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The proposed partition does not create any through lots, therefore this criterion is met.

Attachments :

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17.53.105(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.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed property lines that would divide the three proposed parcels run at approximate right angles to the street rights-of-way, or the access easement leading to the streets, upon which the parcels face. Therefore, this criterion is met.

17.53.060(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. [...]

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The proposed partition does not create any flag lots, therefore this criterion is met.

Chapter 17.58 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; [...]

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The subject site is undergoing partition review to create new parcels with developable land. Access to proposed Parcel 2 will be through a portion of undeveloped public right-of-way adjacent to Parcel 2. The subject site is heavily wooded outside of the portion of proposed Parcel 3 that is developed with an existing single-family dwelling. Tree removal will likely be necessary to accommodate future residential development and associated public improvements on proposed Parcels 1, 2, and within the undeveloped public right-of-way west of Parcel 2. Therefore, (B) and (D) are met, and the provisions of the Trees Chapter of the Zoning Ordinance shall apply to trees within the subject site and the undeveloped public right-of-way west of proposed Parcel 2.

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. [...] Requests for tree removal or pruning of trees outside of the Downtown Tree Zone shall be forwarded to the McMinnville Landscape Review Committee [...]. The Landscape Review Committee may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. [...]

APPLICANT’S RESPONSE: None.

Attachments :

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FINDING: SATISFIED WITH CONDITION OF APPROVAL #2. Any tree removal on the subject site or within the adjacent undeveloped right-of way is applicable under 17.58.020 and would require City approval. A condition of approval is included to require the applicant to submit an application for proposed tree removal for approval pursuant to Chapter 17.58.

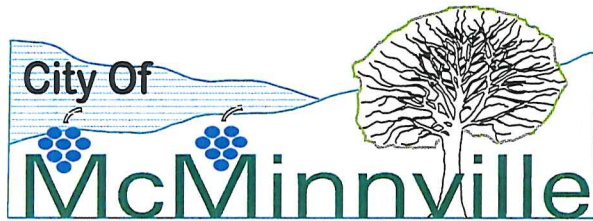
CONDITION FOR FINDING: That existing trees with trunks partially or wholly within Parcels 1, 2, and 3 of the partition and the undeveloped public right-of-way west of Parcel 2 are subject to the provisions of Chapter 17.58 – Trees of the McMinnville Zoning Ordinance, and shall not be removed by the applicant without prior review and written approval by the Planning Director, pursuant to Chapter 17.58. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead, or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved partition. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.

JF

Attachments :

Attachment 1 – Application and Attachments

Attachment 2 – Testimony Received

**Planning Department**

231 NE Fifth Street • McMinnville, OR 97128

(503) 434-7311 Office • (503) 474-4955 Fax

www.ci.mcminnville.or.us**Office Use Only:**File No. MP L-20Date Received 11-23-20Fee 1387.⁰⁰

Receipt No. _____

Received by SA

Partition Application

Applicant Information

Applicant is: ☒ Property Owner ☐ Contract Buyer ☐ Option Holder ☐ Agent ☐ Other _____Applicant Name Steve and Mary Allen Phone 971-237-1461Contact Name _____ Phone _____
(If different than above)Address 835 SW Hilary st.City, State, Zip McMinnville OR, 97128Contact Email Jakesdeli@gmail.com

Property Owner Information

Property Owner Name _____ Phone _____
(If different than above)

Contact Name _____ Phone _____

Address _____

City, State, Zip _____

Contact Email _____

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 835 SW Hilary st. McMinnville ORAssessor Map No. R4 429-AB - 01600 Total Site Area 7.22 acresSubdivision Cozine's 3rd addition Block L-M-K Lot _____Comprehensive Plan Designation _____ Zoning Designation R-2


General Description of Subject Property


1. Proposed Parcel Size: #1 12,107 #2 _____ #3 _____
2. Current Land Use: Residential
3. Purpose of the partition request: New residential construction
4. Topography: Eastern facing slope
5. Method of Sewage Disposal: City sewer
(Note: If septic field, this application must be accompanied by a letter of approval from the County Sanitarian indicating their approval. The Sanitarian can be contacted through the Yamhill County Planning Department.)
6. Water Supply: City water

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

- ☐ A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating all required information as listed in the information sheet and in [Section 17.53.060 \(Submission of Tentative Partition Plan\)](#) of the Zoning Ordinance, or, if applicable, [Section 17.53.080 \(Submission of Future Development Plan\)](#).
- ☐ A Title Report or Subdivision Guarantee prepared within 60 (sixty) days of the application date.
- ☐ 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.


Applicant's Signature


10.19.20
Date

Property Owner's Signature

Date

Tentative Partition Map for: Steve & Mary Allen

Location: NE 1/4 Section 29, T. 4 S., R. 4 W., WM.,
Block L, Lot 3 of Block K, Lots 1 & 2 of Block M
COZINE'S 3RD ADDITION
City of McMinnville, Yamhill County, OR

Tax Lot: 4429AB - 1600

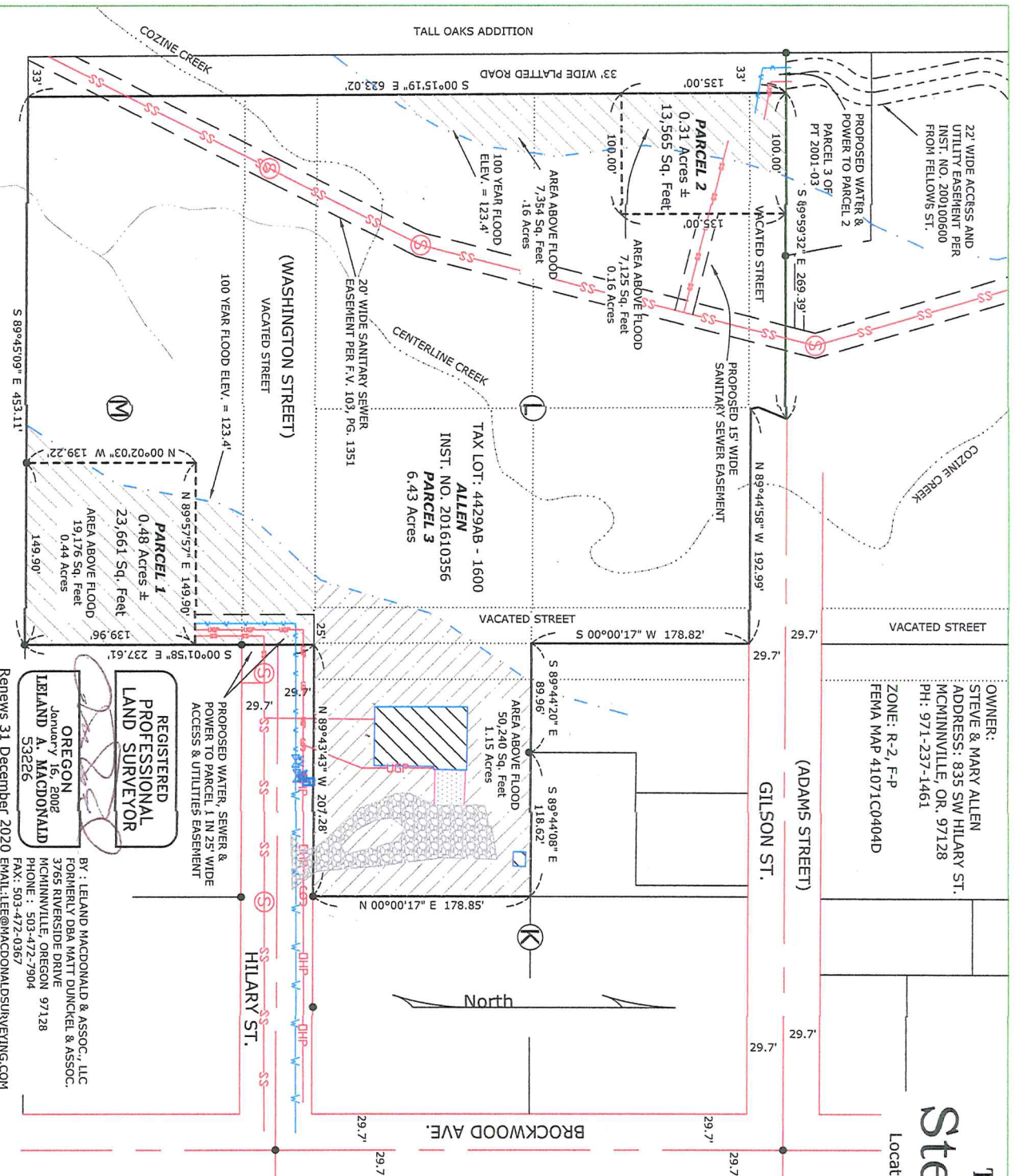
Date: 5 NOVEMBER 2020

Scale: 1" = 80'



Legend

- = MONUMENT FOUND
- = WATER VALVE
- = WATER METER
- = FIRE HYDRANT
- = POWER POLE
- = GUY ANCHOR
- = SANITARY SEWER MANHOLE
- = PROPERTY LINE
- = PROPOSED PARCEL LINES
- = PUBLIC RIGHT-OF-WAY
- = OVERHEAD POWER
- = UNDERGROUND POWER
- = EDGE OF ROCK
- = SANITARY SEWER LINE
- = WATER LINE
- = EDGE OF PAVEMENT
- = 100 YEAR FLOOD LINE
- = CENTERLINE OF PUBLIC ROAD
- = PROPOSED EASEMENT
- = ASPHALT
- = BUILDING
- = AREA ABOVE FLOOD
- = GRAVEL



BLBE

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



STEVEN D ALLEN AND MARY M ALLEN,
AS TENANTS BY THE ENTIRETY

Grantor's Name and Address
DAVID C. HAUGEBERG, TRUSTEE
PO BOX 480
MCMINNVILLE, OR 97128

Trustee's Name and Address
FIRST FEDERAL SAVINGS & LOAN
PO BOX 239
MCMINNVILLE, OR 97128

Beneficiary's Name and Address
After recording, return to (Name and Address):
STEVEN D ALLEN AND MARY M ALLEN
835 SW HILARY ST
MCMINNVILLE OR 97128

Until requested otherwise, send all tax statements to (Name and Address):
STEVEN D ALLEN AND MARY M ALLEN

OFFICIAL YAMHILL COUNTY RECORDS
BRIAN VAN BERGEN, COUNTY CLERK

202019791



\$81.00

00597392202000197910010010

11/03/2020 02:33:27 PM

DMR-RECDMR Cnt=1 Stn=3 SUTTONS
\$5.00 \$5.00 \$11.00 \$60.00

DEED OF RECONVEYANCE

KNOW ALL BY THESE PRESENTS that the undersigned trustee under that certain trust deed dated July 1, 2013, executed and delivered by STEVEN D ALLEN AND MARY M ALLEN, AS TENANTS BY THE ENTIRETY, as grantor and recorded on July 8, 2013, in the Records of Yamhill County, Oregon in ☐ book ☐ reel ☐ volume No. _____ on page _____, and/or as ☐ fee ☐ file ☒ instrument ☐ microfilm ☐ reception No. 201310717 (indicate which), conveying real property situated in that county described as follows (legal description of property):

FOR LEGAL DESCRIPTION SEE DEED OF TRUST RECORDED
AS INSTRUMENT NO. 201310717 IN YAMHILL COUNTY DEED
AND MORTGAGE RECORDS.

*

/

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE)

having received from the beneficiary under the trust deed a written request to reconvey, reciting that the obligation secured by the trust deed has been fully paid and performed, hereby does grant, bargain, sell and convey, but without any covenant or warranty, express or implied, to the person or persons legally entitled thereto, all of the estate held by the undersigned in and to the described premises by virtue of the trust deed. *First Federal Savings and Loan Association

In construing this instrument, where the context so requires, the singular includes the plural, the words "trustee," "grantor" and "beneficiary" include their respective successors in interest, if any, and all grammatical changes shall be made so that this instrument shall apply equally to businesses, other entities and to individuals.

IN WITNESS WHEREOF, the undersigned has executed this instrument on October 30, 2020; any signature on behalf of a business or other entity is made with the authority of that entity.

David C. Haugeberg
DAVID C. HAUGEBERG, TRUSTEE

STATE OF OREGON, County of Yamhill

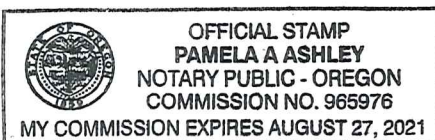
This instrument was acknowledged before me on October 30, 2020 ss.
by David C. Haugeberg, Trustee

This instrument was acknowledged before me on _____

by _____

as _____

of _____



Pamela A. Ashley
Notary Public for Oregon
My commission expires August 27, 2021



TICOR TITLE™
Company of Oregon

1215 NE Baker Street, McMinnville, OR 97128
(503)472-6101 FAX (503)434-5311

PRELIMINARY REPORT

ESCROW OFFICER: Tiffany N. Best
tiffany.best@ticortitle.com
503-472-6101

ORDER NO.: 471820096547
Supplement 4: update report

TITLE OFFICER: Deborah Clark

TO: Ticor Title Company of Oregon
1215 NE Baker Street
McMinnville, OR 97128

ESCROW LICENSE NO.: 201006153

BUYER/BORROWER: The Steven D. Allen and Mary Bernards Allen Joint Trust dated July 6, 2016, and any amendments thereto

PROPERTY ADDRESS: 835 SW Hilary Street, McMinnville, OR 97128

EFFECTIVE DATE: September 17, 2020, 08:00 AM

1. THE POLICY AND ENDORSEMENTS TO BE ISSUED AND THE RELATED CHARGES ARE:

	<u>AMOUNT</u>	<u>PREMIUM</u>
ALTA Loan Policy 2006	\$ 130,000.00	\$ 683.00
Extended Lender's		
Proposed Insured: First Federal Savings and Loan Association of McMinnville		
OTIRO 209.10-06 - Restrictions, Encroachments, Minerals - Current Violations (ALTA 9.10-06)		\$ 100.00
OTIRO 222-06 - Location (ALTA 22-06)		\$ 0.00
OTIRO 208.1-06 - Environmental Protection Lien (ALTA 8.1-06)		\$ 0.00
Limited Coverage Loan Policy	\$ 40,000.00	\$ 85.00
Limited Coverage Loan Policy		
Government Lien Search		\$ 20.00

2. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee

3. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Steven D. Allen and Mary Bernards Allen, Co-Trustees, or the successor Trustee under the Steven D. Allen and Mary Bernards Allen Joint Trust dated July 6, 2016, and any amendments thereto

4. THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE CITY OF MCMINNVILLE, COUNTY OF YAMHILL, STATE OF OREGON, AND IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

EXHIBIT "A"
Legal Description

All of Block L; Lot 3, Block K; and Lots 1 and 2, Block M, COZINES 3RD ADDITION TO MCMINNVILLE, in the County of Yamhill, State of Oregon.

TOGETHER WITH that portion of Euclid Street insuring thereto by reason of vacation thereof as recorded in Book 14, page 303, City Court Journal.

ALSO TOGETHER WITH that portion of Hilary Street insuring thereto by reason of vacation thereof as recorded April 27, 2009 as Instrument No. 200906040, Yamhill County Records.

AS OF THE DATE OF THIS REPORT, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN THE POLICY FORM WOULD BE AS FOLLOWS:

GENERAL EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims, which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, which are not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the Land onto adjoining land or of existing improvements located on adjoining land onto the subject Land), encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the subject Land.
5. Any lien or right to a lien for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

SPECIFIC ITEMS AND EXCEPTIONS:

6. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2020-2021.
7. Rights of the public, riparian owners and governmental bodies as to the use of the waters of Cozine Creek and the natural flow thereof on and across that portion of the subject land lying below the high water line of said waterway.
8. Any irregularities, reservations, easements or other matters in the proceedings occasioning the abandonment or vacation of the street/road shown below:

Name: Euclid Street and Ashwood Street
Recording Date: September 9, 1957
Recording No: Book 185, Page 368, Deed Records

9. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of McMinnville
Purpose: Sanitary sewer
Recording Date: December 3, 1974
Recording No: Film Volume 103, Page 1354
Affects: Reference is hereby made to said document for full particulars

10. Matters contained in that certain Driveway Construction and Maintenance Agreement which document, among other things, may provide for liens and charges.

Executed by: Delane Smith, Sandra Smith, Steve Allen and Mary Bernards Allen
Recording Date: January 16, 2001
Recording No: 200100600

Reference is hereby made to said document for full particulars.

11. Any irregularities, reservations, easements or other matters in the proceedings occasioning the abandonment or vacation of the street/road shown below:

Name: Hilary Street
Recording Date: April 27, 2009
Recording No: 200906040

12. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$121,000.00
Dated: July 1, 2013
Trustor/Grantor: Steven D. Allen and Mary M. Allen, as tenants by the entirety
Trustee: David C. Haugeberg
Beneficiary: First Federal Savings & Loan Assn. of McMinnville
Loan No.: Not Disclosed
Recording Date: July 8, 2013
Recording No.: 201310717

13. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$40,000.00
Dated: June 17, 2015
Trustor/Grantor: Steven D. Allen and Mary M. Allen, as tenants by the entirety
Trustee: David C. Haugeberg
Beneficiary: First Federal Savings & Loan Assn of McMinnville
Loan No.: Not Disclosed
Recording Date: June 26, 2015
Recording No.: 201509077

The Deed of Trust set forth above is purported to be a "Credit Line" Deed of Trust. It is a requirement that the Trustor/Grantor of said Deed of Trust provide written authorization to close said credit line account to the Lender when the Deed of Trust is being paid off through the Company or other Settlement/Escrow Agent or provide a satisfactory subordination of this Deed of Trust to the proposed Deed of Trust to be recorded at closing.

14. Any invalidity or defect in the title of the vestees in the event that the trust referred to herein is invalid or fails to grant sufficient powers to the trustee(s) or in the event there is a lack of compliance with the terms and provisions of the trust instrument.

If title is to be insured in the trustee(s) of a trust (or if their act is to be insured), this Company will require a copy of said Trust Agreement or a Trust Certification pursuant to ORS Chapter 130.860.

The Company reserves the right to make additional requirements or add additional items or exceptions after review of the requested documentation.

15. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.

To remove this item, the Company will require an affidavit and indemnity on a form supplied by the Company.

16. Any lien or right to a lien for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

To remove this item, the Company will require an affidavit and indemnity on a form supplied by the Company.

ADDITIONAL REQUIREMENTS/NOTES:

- A. Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year:	2019-2020
Amount:	\$7,720.53
Levy Code:	40.0
Account No.:	173369
Map No.:	R4429AB 01600

Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

- B. Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.
- C. In addition to the standard policy exceptions, the exceptions enumerated above shall appear on the final 2006 ALTA Policy unless removed prior to issuance.
- D. Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.
- E. Note: There are no matters against the party(ies) shown below which would appear as exceptions to coverage in a title insurance product:

Parties: Mary B. Allen and Steve Allen

F. Recording Charge (Per Document) is the following:

County	First Page	Each Additional Page
Yamhill	\$81.00	\$5.00

Note: When possible the company will record electronically. An additional charge of \$5.00 applies to each document that is recorded electronically.

Note: Please send any documents for recording to the following address:

Portland Title Group
Attn: Recorder
1433 SW 6th Ave.
Portland, OR. 97201

Please email your release to the following email address: or-ttc-yamhillrecording@ticortitle.com

G. THE FOLLOWING NOTICE IS REQUIRED BY STATE LAW: YOU WILL BE REVIEWING, APPROVING AND SIGNING IMPORTANT DOCUMENTS AT CLOSING. LEGAL CONSEQUENCES FOLLOW FROM THE SELECTION AND USE OF THESE DOCUMENTS. YOU MAY CONSULT AN ATTORNEY ABOUT THESE DOCUMENTS. YOU SHOULD CONSULT AN ATTORNEY IF YOU HAVE QUESTIONS OR CONCERNS ABOUT THE TRANSACTION OR ABOUT THE DOCUMENTS. IF YOU WISH TO REVIEW TRANSACTION DOCUMENTS THAT YOU HAVE NOT SEEN, PLEASE CONTACT THE ESCROW AGENT.

H. Note: This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances or acreage shown thereon.

I. NOTE: IMPORTANT INFORMATION REGARDING PROPERTY TAX PAYMENTS

Fiscal Year:	July 1 st through June 30 th
Taxes become a lien on real property, but are not yet payable:	July 1 st
Taxes become certified and payable (approximately on this date):	October 15 th
First one third payment of taxes is due:	November 15 th
Second one third payment of taxes is due:	February 15 th
Final payment of taxes is due:	May 15 th

Discounts: If two thirds are paid by November 15th, a 2% discount will apply.
If the full amount of the taxes are paid by November 15th, a 3% discount will apply.

Interest: Interest accrues as of the 15th of each month based on any amount that is unpaid by the due date. No interest is charged if the minimum amount is paid according to the above mentioned payment schedule.

EXHIBIT ONE

2006 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses that arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning) restricting, regulating, prohibiting or relating to:
 - the occupancy, use, or enjoyment of the Land;
 - the character, dimensions or location of any improvement erected on the land;
 - the subdivision of land; or
 - environmental protection;or the effect of any violation of these laws, ordinances or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- Defects, liens, encumbrances, adverse claims, or other matters:
 - created, suffered, assumed or agreed to by the Insured Claimant;
 - not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

- resulting in no loss or damage to the Insured Claimant;
 - attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
- Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with the applicable doing-business laws of the state where the Land is situated.
 - Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
 - Any claim, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is:
 - a fraudulent conveyance or fraudulent transfer, or
 - a preferential transfer for any reason not stated in the Covered Risk 13(b) of this policy.
 - Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage.

SCHEDULE B - GENERAL EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
- Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
- Any lien for services, labor or material heretofore or hereafter furnished, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, imposed by law and not shown by the Public Records.

2006 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses that arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning) restricting, regulating, prohibiting or relating to:
 - the occupancy, use, or enjoyment of the Land;
 - the character, dimensions or location of any improvement erected on the land;
 - the subdivision of land; or
 - environmental protection;or the effect of any violation of these laws, ordinances or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- Defects, liens, encumbrances, adverse claims, or other matters:
 - created, suffered, assumed or agreed to by the Insured Claimant;
 - not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

- resulting in no loss or damage to the Insured Claimant;
 - attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
- Any claim, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is:
 - a fraudulent conveyance or fraudulent transfer, or
 - a preferential transfer for any reason not stated in the Covered Risk 9 of this policy.
 - Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage.

SCHEDULE B - GENERAL EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
- Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
- Any lien for services, labor or material heretofore or hereafter furnished, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, imposed by law and not shown by the Public Records.



Inquire before you wire!

WIRE FRAUD ALERT

This Notice is not intended to provide legal or professional advice.
If you have any questions, please consult with a lawyer.

All parties to a real estate transaction are targets for wire fraud and many have lost hundreds of thousands of dollars because they simply relied on the wire instructions received via email, without further verification. **If funds are to be wired in conjunction with this real estate transaction, we strongly recommend verbal verification of wire instructions through a known, trusted phone number prior to sending funds.**

In addition, the following non-exclusive self-protection strategies are recommended to minimize exposure to possible wire fraud.

- **NEVER RELY** on emails purporting to change wire instructions. Parties to a transaction rarely change wire instructions in the course of a transaction.
- **ALWAYS VERIFY** wire instructions, specifically the ABA routing number and account number, by calling the party who sent the instructions to you. DO NOT use the phone number provided in the email containing the instructions, use phone numbers you have called before or can otherwise verify. **Obtain the number of relevant parties to the transaction as soon as an escrow account is opened.** DO NOT send an email to verify as the email address may be incorrect or the email may be intercepted by the fraudster.
- **USE COMPLEX EMAIL PASSWORDS** that employ a combination of mixed case, numbers, and symbols. Make your passwords greater than eight (8) characters. Also, change your password often and do NOT reuse the same password for other online accounts.
- **USE MULTI-FACTOR AUTHENTICATION** for email accounts. Your email provider or IT staff may have specific instructions on how to implement this feature.

For more information on wire-fraud scams or to report an incident, please refer to the following links:

Federal Bureau of Investigation:
<http://www.fbi.gov>

Internet Crime Complaint Center:
<http://www.ic3.gov>

FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE

Effective April 9, 2020

Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF," "our," or "we") respect and are committed to protecting your privacy. This Privacy Notice explains how we collect, use, and protect personal information, when and to whom we disclose such information, and the choices you have about the use and disclosure of that information.

A limited number of FNF subsidiaries have their own privacy notices. If a subsidiary has its own privacy notice, the privacy notice will be available on the subsidiary's website and this Privacy Notice does not apply.

Collection of Personal Information

FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- identity information (e.g. Social Security Number, driver's license, passport, or other government ID number);
- financial account information (e.g. loan or bank account information); and
- other personal information necessary to provide products or services to you.

We may collect Personal Information about you from:

- information we receive from you or your agent;
- information about your transactions with FNF, our affiliates, or others; and
- information we receive from consumer reporting agencies and/or governmental entities, either directly from these entities or through others.

Collection of Browsing Information

FNF automatically collects the following types of Browsing Information when you access an FNF website, online service, or application (each an "FNF Website") from your Internet browser, computer, and/or device:

- Internet Protocol (IP) address and operating system;
- browser version, language, and type;
- domain name system requests; and
- browsing history on the FNF Website, such as date and time of your visit to the FNF Website and visits to the pages within the FNF Website.

Like most websites, our servers automatically log each visitor to the FNF Website and may collect the Browsing Information described above. We use Browsing Information for system administration, troubleshooting, fraud investigation, and to improve our websites. Browsing Information generally does not reveal anything personal about you, though if you have created a user account for an FNF Website and are logged into that account, the FNF Website may be able to link certain browsing activity to your user account.

Other Online Specifics

Cookies. When you visit an FNF Website, a "cookie" may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. Information gathered using cookies helps us improve your user experience. For example, a cookie can help the website load properly or can customize the display page based on your browser type and user preferences. You can choose whether or not to accept cookies by changing your Internet browser settings. Be aware that doing so may impair or limit some functionality of the FNF Website.

Web Beacons. We use web beacons to determine when and how many times a page has been viewed. This information is used to improve our websites.

Do Not Track. Currently our FNF Websites do not respond to "Do Not Track" features enabled through your browser.

Links to Other Sites. FNF Websites may contain links to unaffiliated third-party websites. FNF is not responsible for the privacy practices or content of those websites. We recommend that you read the privacy policy of every website you visit.

Use of Personal Information

FNF uses Personal Information for three main purposes:

- To provide products and services to you or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you about our, our affiliates', and others' products and services, jointly or independently.

When Information Is Disclosed

We may disclose your Personal Information and Browsing Information in the following circumstances:

- to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to nonaffiliated service providers who provide or perform services or functions on our behalf and who agree to use the information only to provide such services or functions;
- to nonaffiliated third party service providers with whom we perform joint marketing, pursuant to an agreement with them to jointly market financial products or services to you;
- to law enforcement or authorities in connection with an investigation, or in response to a subpoena or court order; or
- in the good-faith belief that such disclosure is necessary to comply with legal process or applicable laws, or to protect the rights, property, or safety of FNF, its customers, or the public.

The law does not require your prior authorization and does not allow you to restrict the disclosures described above. Additionally, we may disclose your information to third parties for whom you have given us authorization or consent to make such disclosure. We do not otherwise share your Personal Information or Browsing Information with nonaffiliated third parties, except as required or permitted by law. We may share your Personal Information with affiliates (other companies owned by FNF) to directly market to you. Please see "Choices with Your Information" to learn how to restrict that sharing.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of bankruptcy, reorganization, insolvency, receivership, or an assignment for the benefit of creditors. By submitting Personal Information and/or Browsing Information to FNF, you expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings.

Security of Your Information

We maintain physical, electronic, and procedural safeguards to protect your Personal Information.

Choices With Your Information

If you do not want FNF to share your information among our affiliates to directly market to you, you may send an "opt out" request by email, phone, or physical mail as directed at the end of this Privacy Notice. We do not share your Personal Information with nonaffiliates for their use to direct market to you without your consent.

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you.

For California Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties, except as permitted by California law. For additional information about your California privacy rights, please visit the "California Privacy" link on our website (<https://fnf.com/pages/californiaprivacy.aspx>) or call (888) 413-1748.

For Nevada Residents: You may be placed on our internal Do Not Call List by calling (888) 934-3354 or by contacting us via the information set forth at the end of this Privacy Notice. Nevada law requires that we also provide you with the following contact information: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: BCPINFO@ag.state.nv.us.

For Oregon Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

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Attn: Chief Privacy Officer



PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein Ticor Title Company of Oregon hereby reports that it is prepared to issue, or cause to be issued, as of the specified date, a policy or policies of title insurance describing the land and the estate or interest hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage of said policy or policies are set forth in Exhibit One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company, a/an Florida corporation.

Please read the exceptions shown or referred to herein and the Exceptions and Exclusions set forth in Exhibit One of this report carefully. The Exceptions and Exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

This preliminary report is for the exclusive use of the parties to the contemplated transaction, and the Company does not have any liability to any third parties nor any liability until the full premium is paid and a policy is issued. Until all necessary documents are placed of record, the Company reserves the right to amend or supplement this preliminary report.

Countersigned

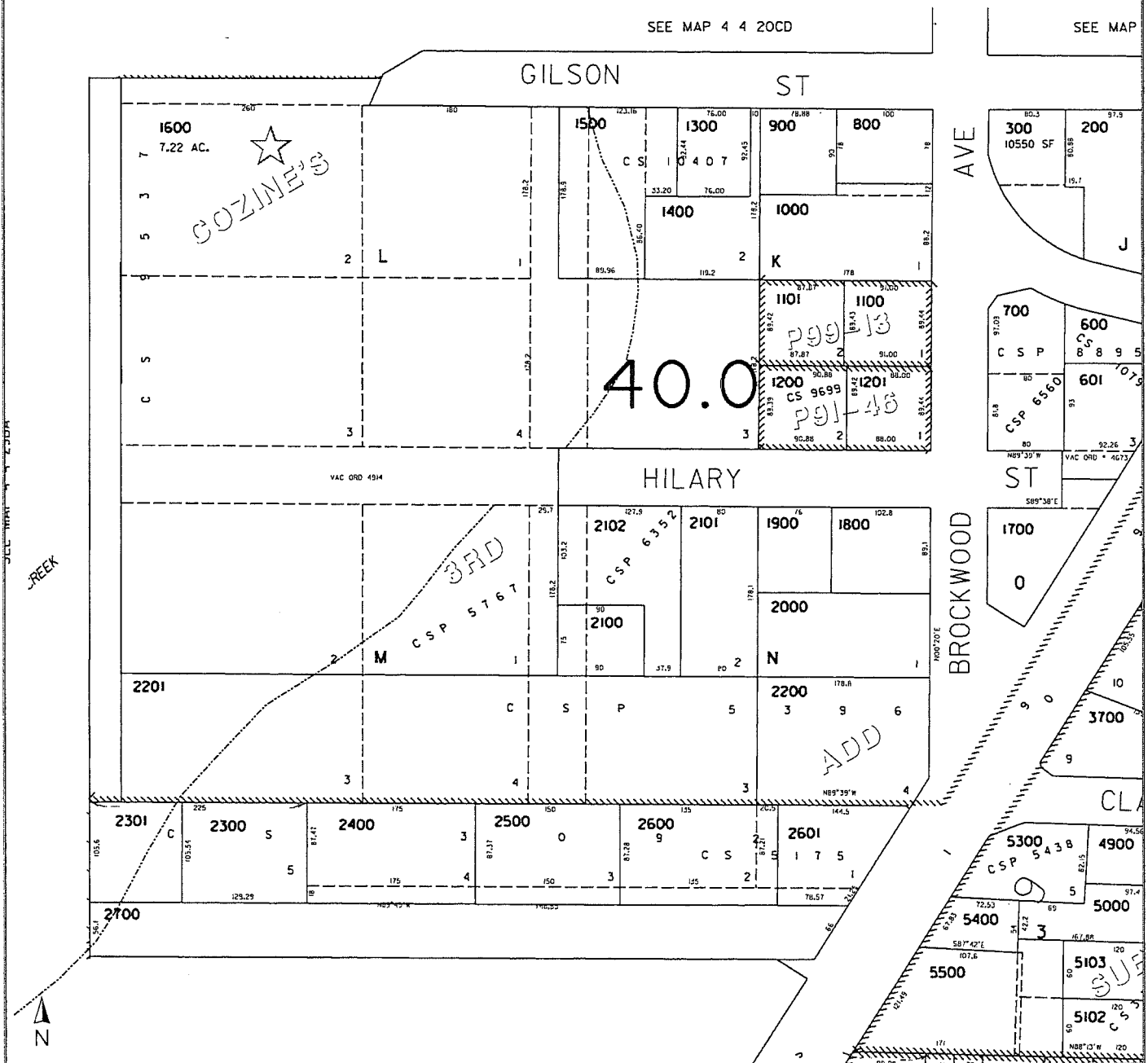
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NW 1/4 NE 1/4 SEC 29 T4S R4W W.M.
YAMHILL COUNTY

1" = 100'

SEE MAP 4 4 20CD

SEE MAP



ParcelID: 173369

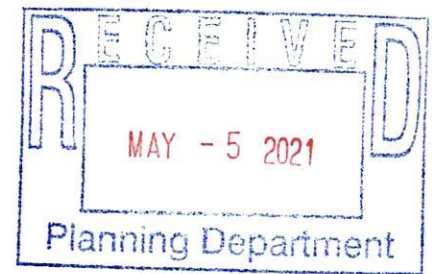
835 SW Hilary St

McMinnville, OR 97128

This map/plat is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

Date: 05 May 2021

Heather Richards
Planning Director
Community Development Center
231 NE Fifth Street
McMinnville, OR 97128



Reference: Arguments in Opposition to VR 1-21 and Parcel #2 of
Minor Partition (MP 6-20) – 835 SW Hilary Street

Dear Ms. Richards

My name is Earl Anderson. I have been a resident of McMinnville for over 36 years. We purchased my first home on Tall Oaks Drive in early 1985, my second on Cross Street and my third a 20-acre ranch in Muddy Valley in 1994 and finally we purchased our 4th home off Fleischauer Street in 2002.

In 2000 I moved back into my favorite home on Tall Oaks Drive to discover that a residence had been constructed a few feet behind my property. Believing this area was a protected, city owned sensitive watershed, I never considered erecting a fence because we just wanted to connect with our natural surroundings. As you may imagine it was more than a little bit overwhelming to see the large home with an asphalt drive obstructing the greenway on the northeast boundary of my property.

Years earlier, my children's first enduring encounter with nature was in our back yard on Tall Oaks Drive. My son could not believe there was such a thing as a CRAWDAD with CLAWS in the Cozine for goodness sake. The look in my daughter's eyes when she first spied two fawns emerge from the forest canopy behind our house with their mother close behind... it was priceless. Now in our advancing years and fully vaccinated, my wife Sheryl and I will soon resume backyard celebrations with our family, friends and most importantly our grandchildren. I read you have children Ms. Richards I'm certain we are all watching for their first encounter with nature and its wonders, hoping it triggers in them a life-long respect for nature and the feeling of being safe, centered and home in this nurturing place.



The Allen's invitation to a neighborhood meeting and the subsequent Public Hearing Notice for VR1-21 including the concurrent review of minor partition MP6-20, is again, alarming to say the least. Further, reviewing your Statesman Journal discussions regarding Urban growth and planning, it leaves me somewhat hopeless and quite anxious about the prospects of the city, with one swing of the gavel, awarding the variance and accepting the new proposed Allen Partitioning.

Today, the pandemic and civil unrest invariably elicit anxiety and dread. However, we are equally upset to hear of the city's urgent need to identify and aggressively pursue every possible opportunity to break ground and build, build, build. The scarcity of buildable land risks a city planning the elimination of the very attributes that you profess in your op-eds to enhance quality of life and "livability" in McMinnville.

"Growth is inevitable" you say, which initially left me at somewhat of a loss to respond to VR1-21 and the applicants concurrent ensuing Partitioning proposal.

A Different Perspective

My background in Engineering and later as Director of Quality and Regulatory Affairs, informs a more reasoned analytical, rather than emotional response to the circumstances. In the Engineering world we like to quote Sir Isaac Newton when he said, "If I have seen further, it is by standing on the shoulders of Giants". I would posit the City's approach should embrace this "wisdom" of the Hydrologists, Geologists the Civil and Safety Engineers who built the city and designed the streets and parks and greenways. My understanding is that this important knowledge has been passed down and sequestered in city ordinances, rules, and supporting policies and procedures. The knowledge from overseeing the building of thousands of homes, apartments, and businesses over decades, surely will wisely inform the commissions decisions on VR 1-21.

On its face, the variance appears to be reasonably straight forward. The applicant is asking the city to allow access to their proposed parcel #2 (0.31 acres) within Minor Partition (MP 6-20), by granting a variance to city ordinance 17.53.100.c.1, allowing one additional (4th) lot on the private drive.

On the other hand, extending an existing private drive to include utilities (gas water and electric) to reach the proposed 4th lot is not trivial and risks significant private and public unintended consequences. The applicant's neighborhood meeting invitation included a plot with a duplex structure (entitled Gilson Duplex) precariously sited on a narrow parcel above the 100-year flood plain. At the "Neighborhood Meeting" the variance applicant suggested that city officials, and a building contractor friend, viewed this variance application as "a mere formality" and assured supporting participants that the application would be quickly approved without issue.

The common wall duplex structure illustrated in the applicants Neighborhood Meeting Invitation, represents up to a 66% increase from established ordinance on a private drive. The applicant's proposal, could require the private drive infrastructure support up to 5 residences, not accounting for the possibility the owner of Parcel #3 in Partition 2001-03 may also decide to construct a duplex based on new ordinances taking effect in 2022. Awarding a variance in this particular case overburdens 20-year-old public safety and engineering infrastructure standards utilized to establish the partition.

Although the easement through the adjacent undeveloped (3rd Parcel of Partition 2001-03) lot has been plotted, the road construction and routing of utilities to serve the proposed Parcel #2 must be undertaken to establish a buildable lot. This development of the roadbed and installation of utilities, risks root damage to old growth giant White Oak Trees, for which Tall Oaks Drive derives its name. Moreover, the applicant's confirmed that Carole Hansen (Tall Oaks Drive resident abutting the proposed new "Gilson Duplex" site) will lose the canopy of a massive White Oak Tree along with select other Douglas Fir trees if permits are authorized.

Further, expanding the private drive to accommodate up to six more motor vehicles diminishes motor vehicle safety by elevating private drive congestion, risking unsafe backing onto a major thoroughfare Fellows Street), accelerates existing private road surface wear resulting in added maintenance expense and 100-year flood plain intrusion concerns.



Having lived under their canopy for decades, it is difficult to imagine our back yards without these majestic trees. However, the Allen's insist these trees must go, even though some are within a 33' Natural Public Right of Way utilized by the abutting Tall Oaks Drive community for decades. This cherished public right of way was a positive legacy of the city's decision to vacate an earlier plotted street. The decision to remove the trees is likely due to the applicants' desire to maximize the available lot size to meet the 7000 Sq. ft. minimums required by ordinance above the 100-year flood plain. Unintended consequences abound, including the loss of shade, wind and temperature moderation insufficiently served by the applicants promise of conditional landscape screening near adjacent and abutting properties. Given the circumstances of our stressed climate, it seems an ill-advised exchange, developing over this sensitive green space, just to make room for driveways and parking spaces.

In summary my wife and I strongly oppose VR 1-21 and the establishment of Parcel #2 within MP 6-20. Hopefully by now you will have heard from other neighbors on Tall Oaks Drive. In this case, the applicant clearly has not met the criteria established in MMC Section 17.74.110.C. Awarding the variance would in fact be materially detrimental to the property in the same zone or vicinity in which the property is located. Awarding up to a 66% variance and developing over a cherished public right of way, otherwise conflicts with the objectives of McMinnville's city plan and policies.

Respectfully,

Earl & Sheryl Anderson
1100 SW Tall Oaks Drive
McMinnville, OR 97128
503-313-0149

P.S. "I should be glad if all the meadows on the earth were left in a wild state, if that were the consequence of men's beginning to redeem themselves." Henry David Thoreau. I have personally always been proud and drawn back to our friends in McMinnville because it seems we really do care and hold the tenant to serve our community by preserving and cherishing nature and natural green spaces, the very thing that restores and nurtures our soul in these difficult times.

May 6, 2021

Heather Richards
Planning Director
Community Development Center
231 NE Fifth Street
McMinnville, OR 97128



re' Argument in opposition to VR 1-21 and Parcel # 2 of
Minor Partition (MP 6-20)—835 SW Hilary St.,

Dear Ms. Richards,

I have lived in McMinnville for nearly 48 years. My husband Bernt A.Hansen (he was a McM Planning Commissioner several years ago, and is now deceased) and I have owned the house where I live (1110 SW Tall Oaks Drive, McM) for over 20 years. My house is directly in front of the proposed building site referenced above, and I AM NOT HAPPY about that !

I am writing to strongly protest the City's recent decision to award the variance to the Allens. We neighbors were originally invited to submit comments about the application prior to the(Zoom) Planning Commission public hearing scheduled for May 20, 2021. Also, you received the petition objecting to this variance, signed by neighbors in this Tall Oaks Drive area. **It was most upsetting to us that the Planning Department made the decision to approved the variance without first proceeding with the scheduled hearing.**

I am requesting that this letter of objection be filed with the petition and the other letters of objection that you have received re' this matter.

My main areas of concern are:

- My house is directly in front of the proposed building site , including a driveway which is proposed to be directly behind my back fence. So, I would be the home owner most affected by this building and road.
- The plot is entirely too close to the flood plain; the land just on the far side of the proposed plot slopes sharply down into the Cozine.
- The beautiful forest canopy, including several very large, old Oak trees, would be destroyed. The beautiful, peaceful, and quiet environment that I've enjoyed for years, as I sat on my back patio or worked in my garden beds, would be gone. Instead, I would be looking at a building and driveway , hearing vehicles go back and forth, hearing people talking , where before I could look at the trees , the birds, the deer. My

back fence is a four foot chain link one, which would allow all the sights and sounds of the new neighbors into my property. It would be awful !

- **It would be a tragedy to cut those trees !!** Some are within the 33 foot natural Public right of way. Therefore, why would the Allens be allowed to cut them down? Has anyone from your department come out to look at the current wooded area ? *They would be welcome to come to my back yard and look.*
- The narrow road into the property, even if widened, would not accommodate emergency vehicle mobility, were that needed.
- Property values for me and my neighbors would be detrimentally affected!

Sincerely,

A handwritten signature in cursive script that reads "Carole Hansen". The signature is written in black ink and is positioned above the typed name and address.

Carole Hansen
1110 SW Tall Oaks Drive
McMinnville, OR. 97128

The Law Firm Of
Haugeberg, Rueter, Gowell,
Fredricks & Higgins, P.C.

David C. Haugeberg
Walter R. Gowell
Douglas S. Fredricks, LL.M. Tax*
Dianne L. Haugeberg, LL.M. Tax*
Karin A. Moshier
Tyler C. Yeoman-Millette
Katherine L. Gowell**
Nicholas A. Peasley
*Also admitted in California
**Also admitted in Colorado

May 13, 2021

Heather Richards
Planning Director
McMinnville Planning Department
231 NE 5th Street
McMinnville, Oregon 97128

Re: Written Submittal by Steve and JacElaine Macy for MP 6-20

Dear Heather:

Our clients Steve Macy and JacElaine Macy desire to present the following written submission relating to your pending application MP 6-20. All of the comments below relate to that portion of Applicant's property lying to the west of Cozine Creek.

1. **UNCLEAR REQUEST:** The request made in Applicant's prior variance application is unclear. The application references both a request for a fourth private driveway access for a proposed "lot" in Section 2 of the application. In Section 3 of the application Applicant expresses the intent is to develop "**a residence**". In Section 5 of the application Applicant originally requests a variance for a "**residential dwelling**". Attached to the application is a Conceptual Site Plan that references the "Gilson Duplex" and appears to reflect the intent to construct a duplex on the proposed .31-acre parcel west of Cozine Creek. Based on these references in the application it is not possible to determine whether the partition requested is for a single-family residence or for access to a two- family duplex.

The distinction is potentially very important to our clients Steve and JacElaine Macy. Mr. and Mrs. Macy own Parcels 2 and 3 of Partition Plat 2001-03. Their residence is located on Parcel 2. Their adjacent parcel 3 is a buildable lot that is accessed by means of the private access roadway approved by the City as a part of Partition Plat 2001-03.

City Zoning provision 17.53.100 provides for approval for access to up to three lots via a private easement. Your Revised Notice issued for the variance application indicates that this requirement was effectively waived by the City's approval of Partition Plat 2000-03 (sic 2001-03) and thus no variance is required for access to and development of one additional lot by applicant

Mr. and Mrs. Macy recognize the existence of the platted easement and easement terms incorporated into such 2001-03 partition plat and they have no objection to approval of a partition by the city for the proposed additional lot on the West side of Cozine Creek if the city continues to recognize their right of access to Parcel 3 for a future residence without need for a future variance approval from the city.

2. **APPROVAL CRITERIA:** Approval criteria 17.53.053 C for a land division requires access to the newly created parcel from a public right of way or private driveway. Per 17.53.053 C (2) and (3) a joint-use easement maintenance provisions can be required.

The findings for any approval of the proposed partition by staff or the Planning Commission should incorporate the same easement terms that were made a part of Partition Plat 2001-03, including the Plat note that the terms of the 2001 recorded maintenance agreement apply to any development to Applicant's lot to be created on the west side of Cozine Creek.

3. **REQUIREMENT FOR DRIVEWAY IMPROVEMENTS:** Applicant's request to access their proposed .31 acre lot West of Cozine Creek presents practical and logistical challenges:

The existing private easement is currently 22 feet in width, but is only currently paved to a variable width of 11-12 feet for approximately 175 feet of its length.

The recorded Driveway Construction and Maintenance Agreement dated January 9, 2001, between Applicants and the former owners of Parcels 1, 2 & 3 of Partition Plat 2001-03, provides: *"The easement will provide access to one and possibly two parcels located on property located to the south of the property in Block L of the Cozine Addition as described on Exhibit B. Those parcels shall be responsible for the cost of widening the existing segments of the driveway as may be required by any statute, regulation, ordinance or condition placed upon it by the City of McMinnville in the granting of the land use decision or building permit"*.

The Agreement further provides that: **"Prior to the sale or occupancy of any residence on said property described in Exhibit B, the driveway must be paved to at least 15 feet in width."**

The Driveway Construction and Maintenance Agreement also provides that the Allens or their successors in interest shall be responsible for driveway extension improvements required to serve their property and the associated costs.... *"They shall also be responsible for the costs incurred in constructing the driveway extension across Parcels 1, 2 & 3 needed to reach the south boundary of Parcel 3 to the extent such extensions are not already in place."* Due to the potential costs associated with these required driveway improvements, any approval of Applicant's partition request should incorporate this requirement and allocate all such costs to Applicant.

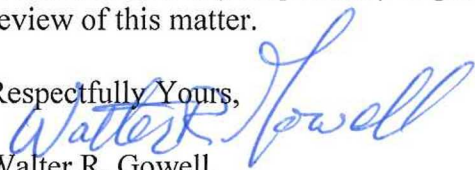
4. **SUGGESTED CONDITIONS OF APPROVAL:** *In granting a partition, city staff or the Planning Commission may attach conditions which they find necessary to protect the best interests of surrounding properties or neighborhood.* If Partition MP6-20 is approved by the staff or Planning Commission, Mr. and Mrs. Macy respectfully request that the approval include the following conditions of approval and any other conditions the staff or Commission may find appropriate.
- a. **"This approval is subject to the pre-existing approved and vested right of Parcels 1, 2 and 3 of Partition Plat 2001-03 to utilize the access easement for all permitted or conditionally permitted uses allowed in the zone for such parcels.**
 - b. **"Development of the new parcel located West of Cozine Creek is subject to the widening of the full length of the paved area of the access easement to a minimum paved width of 15 feet or such wider paved area as shall be required by the city in accordance with the Driveway Construction and Maintenance Agreement dated January 9, 2001 and other applicable city standards for emergency vehicles access."**
 - c. **"All costs incurred by Applicant to widen and improve the private driveway to a minimum 15-foot width in compliance with the Driveway Construction and Maintenance Agreement dated January 9, 2001 shall be the separate financial obligation of Applicant.**
 - d. **"The approved Partition Plat shall contain a comparable plat note incorporating the easement terms of the Driveway Construction and Maintenance Agreement dated January 9, 2001.**

In summary, Mr. and Mrs. Macy do not oppose partition of Applicant's property to allow one additional lot to be created on the Applicants proposed parcel West of Cozine Creek. They believe the minimum 15-foot pavement requirement for Applicant's use of the easement roadway for residential access must be enforced. They request assurance that their existing lawful access to Parcel 3 of Partition Plat 2001-03 will not be diminished by the approval of the partition being requested. They also want the Applicant to assume clear responsibility for all improvement costs related to their development as required by the recorded terms of the access easement. They believe the above conditions of approval address all of these concerns.

Mr. and Mrs. Macy respectfully request that this submittal be considered in connection with your review of this matter.

Respectfully Yours,

Walter R. Gowell



Heather Richards, Planning Director
Community Development Center
231 NE Fifth Street
McMinnville, OR 97128

May 14, 2021

Reference: Response to public Zoom meeting about MP 6-20

Hi, my name is Brad Robison, a long-time citizen of McMinnville. I graduated from McMinnville High School and later became the McMinnville Parks Supervisor for over 25 years, caring for and loving our Parks. And in years prior to retiring in 2005, I was the Public Works Superintendent. I was always an interested party to "Life McMinnville style", which was a quoted phrase adopted by the City Council in those years of my working life.

My wife and I live in the Tall Oaks sub division which is part of the development boarding the South end of the public access easement. The owners of the Tall Oaks properties bordering to the west of Parcel 2 of the MP6-20 tentative development should receive some "mitigation", including trees and vegetation to remain public access between the proposed development of Parcel 2.

This area is basically an Urban forest that will be threatened by squeezing another lot(s) of an area that actually is accessed by a private drive that, as of now served three other lots. The aesthetics of removing several trees seems unnecessary, just to build another house in a beautiful habitat. All of the home owners near the lot(s) in question love our forest and pristine area of wildlife and secluded environment. We feel that adding more traffic in this private drive, will diminish our life style we all moved into our neighborhood for.

There are many large trees that could be saved as well as providing some setbacks in the public access area. The public access area is 33' wide and runs approximately 600 plus feet from the end of the current private road end, running north to south. It only makes sense that the public access should continue in large part to remain as public access to serve as necessary protection and environmental refuge for many generations to follow.

Regards,

Brad Robison
Shirley Robison

Brad and Shirley Robison
1150 SW Tall Oaks Drive
McMinnville, Oregon 97128



May 17, 2021

Heather Richards
Planning Director
231 NE Fifth Street
McMinnville, OR. 97128



Re: Response to notice of pending Administrative decision re' Tentative Partition
2, MP 6-20 (835 SW Hilary St., McMinnville)

Hello.

I have lived in McMinnville since 1974, and have lived in this house (1110 SW Tall Oaks Drive, McM) since 2008. My husband (now deceased), Bernt Al Hansen, was an attorney in McMinnville, and served several years ago on the local Planning Commission, as well as being a City Councilor. This house has always had a special appeal to us because of the location—quiet neighborhood, friendly neighbors, and the peaceful quiet “ forest” behind our house.

I was a participant in the public information Zoom meeting with you and Jaime Fleckenstein on May 23, 2021. Therefore I understand (although I don't agree with) the reasons for the withdrawal of the Allens' application for a variance.

I am writing to express my **very strong opposition to the MP6-20 Partitioning** re this property. My house will be the most directly affected by the proposed development, as the development will cover the entire 70 foot footage behind my house.

The Cozine Creek area behind my house is a natural greenway and wildlife habitat. The majestic (50—100 year old) fir and white oak trees and surrounding vegetation have provided shade and noise moderation , as well as woodland beauty, as I enjoy my back patio and garden.

Parcel 2 includes the legacy 33 foot public right-of-way, a natural protected area within the city. Some of the grand old trees are within this 33 foot right-of-way, and must NOT be cut down. I strongly urge you to consider some “mitigation” , to allow those trees and vegetation within the right-of-way to remain in place. The parcel owners have suggested that they could provide conditional landscape screening near adjacent properties (most particularly behind my house). But no such screening could possibly replace the majestic trees and noise screening vegetation. And it would be UGLY! And noisy, as the driveway to the proposed house or duplex would be exactly behind my back fence!

The 33 foot public right-of-way should remain a right-of-way! This public access should remain a public access, with trees in place!

Our entire neighborhood loves to have those trees sheltering us. This is the Tall Oaks neighborhood , after all !!

Sincerely,

Carole Hansen

5-17-21

McMinnville Planning Commission C/O Heather Richards, Planning Direct

231 NE 5th St.

McMinnville, OR 97128

Our names are James and Cheryl Lambright. We live at 1130 SW Tall Oaks Dr. McMinnville. We purchased our home in 1995 for one reason- Location, location, location. Even though we paid more for this home than a similar type home elsewhere in town, we knew we wanted to be here. My husband is a retired small business owner and I am a retired McMinnville School District Teacher. We are both active members and supportive citizens in our McMinnville Community.

For the record, we would like you to know that we are strongly opposed to the approval of the MP 6-20 request as applied for by Steve and Mary Allen.

The Cozine is a very unique place in McMinnville. The trees are huge, nature abounds, and wildlife is abundant. We do not want to see this natural beauty destroyed by the building of homes in this area. The destruction of these trees (being cut down to make buildable lots/dwellings along with the driveway extension) could cause major safety issues for homes and people. These trees have protected each other for years from high winds, snow and ice. Removing a number of these trees could cause others to fall more easily without the protection they have had for years. I would never want the approval of anything that could potentially harm other human life or structures. Please feel free to visit the area that we are discussing so that you have a real-time picture of the safety concerns, and of this area in general.

Property Rights.... There is a 33' public right of way that provides public access for all. At the 5-13-21 zoom meeting, Heather R. proposed a question- "Would you rather have 30,000+ people accessing this area (vs. having a few additional lots/residences)?" Our answer is, "Yes!" Why would the city allow one property owner to supersede the rights of the many others who will be greatly and negatively impacted by the approval of the MP 6-20? Don't we all have the same property rights? I was told by a city employee that we do. Mr. Allen wants to build on this land in order to make money to pay his taxes, insurance, etc. (as stated in an earlier application), but we, on Tall Oaks Dr., would be losing money (decreased property values) and losing the quality of our neighborhood livability that we have loved for years.

We understand that this is a complex issue. We believe that the McMinnville Planning Commission will balance the need for growth with the need to maintain beauty and livability in our city.

Thank you for your time and attention. We appreciate it.

James Lambright *Cheryl Lambright*

James and Cheryl Lambright

1130 SW Tall Oaks Dr.



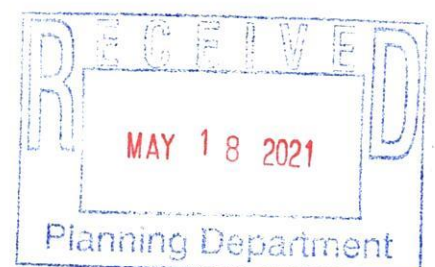
Letter to Heather Richards (Planning Director).

My name is Linda Jordan I have lived at 1125 SW Tall Oaks Drive for 26 years. My view from my kitchen and bay window face directly east into the Cozine canopy of trees which block the summer sun from heating up my house. I enjoy having beautiful fir and oak trees and the wildlife (deer, squirrel, birds, and wild turkeys) that the Cozine provides. I spend lots of time in the kitchen and I do not want to see buildings behind the houses across the street I would be looking straight at them not to mention if they are two stories they would be looking straight into my front yard and kitchen. I think there will be congestion and noise associated with the proposed driveway and new duplexes. I strongly oppose MP 6-20! I want to continue with this beautiful and quiet neighborhood where we all know one another and look out for each other.

Thank you for your time

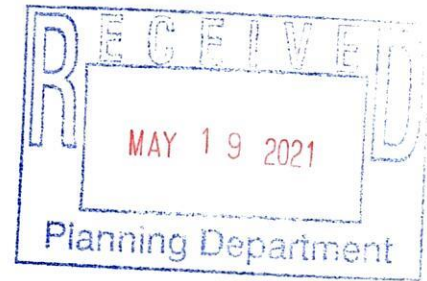
Linda M. Jordan

Linda M. Jordan
5-17-21



Date: 18 May 2021

Heather Richards
Planning Director
Community Development Center
231 NE Fifth Street
McMinnville, OR 97128



Reference: Arguments in Opposition to Parcel #2 of Minor Partition (MP 6-20) – 835 SW Hilary Street
Zoom meeting regarding withdrawal of VR 1-21

Dear Director Richards,

Ambiguous Language

The city has concluded VR 1-21 is not necessary and has resulted in the Allen's withdrawing their variance application. Your PowerPoint presentation illustrated documents signed in 2001 by city & county surveyors to include the now retired Planning Director. Per your presentation, signatures from these city and county officials authorized and deemed these easements for access & utilities sufficient, subject to and governed by driveway construction and maintenance agreements. Referenced Note #2, however ...perpetual and non-exclusive, does not constitute a right to develop tentative parcel #2 without restrictions and adherence to the city's safety engineering and other relevant municipal codes.

Access has been granted to the Allen's however, their Tentative Partition Plan not only identifies tentative parcel #2 but labels the area immediately south of tentative parcel #2 as "AREA ABOVE FLOOD 7,354 Sq. Feet .16 Acres". When asked if future developing in this area would require an access and easement variance, your answer was, "that's a good question". Jamie Fleckenstein's response was, perhaps not if the language noted on Partition 2001-03 stands?

The Partition easement label includes less precise language, stipulating as noted in your presentation (Exhibit 2b), "22' wide access & utilities easement to benefit that portion of Block "L" of COZINE THIRD ADD. lying westerly of Cozine Creek -see Note #2." The term 'to benefit', does not constitute limits on access or easements. This lack of clarity can be construed as the city's desire to accelerate development in this naturally sensitive area.

Clearly the Allen's development of this unparcelled available land will not be limited based on recently passed ordinance to take effect in January of 2022. The question is, how will the city defend the safety engineering of the private drive access overburdened by new initiatives, to permit construction of dwellings not previously authorized per existing zoning ordinances?

As Director, it would be most helpful if your pending Partitioning decision could address this issue in some detail, outlining what if any limits prevail considering the prior Surveyor's/Director's absence of clarity on the topic.

Public Right of Way

The 33' Public Right of Way adjoining the Tall Oaks Development with the proposed Allen Partition frontage has enriched many community lives and provided a natural green buffer for wildlife, flora and fauna alike.

My wife and I vigorously oppose developing over this Natural Public Right of Way. As citizens of McMinnville, we have a right to access this natural space and enjoy its bounty not the least of which is the magnificent canopy provided by the huge White Oak and Douglas Fir trees. This cherished public right of way was a positive legacy of the city's decision to vacate an earlier plotted street.

The Allen's insistence on removing the trees must be mitigated by city ordinances protecting "Public Trees" within the Right of Way. The Developers desire to remove these trees comes with unintended consequences, including the loss of shade, wind and temperature moderation for adjacent and adjoining properties. Notwithstanding the negative consequence of increasing residential density in a delicate natural setting; adding noise and congestion without sufficient provisions for emergent climate change issues in the form of fire hazards and soil erosion, further complicating existing Cozine Creek water quality issues due to surface runoff and contaminants.

Thank you in advance for your consideration in this matter.

Respectfully,



Earl & Sheryl Anderson
1100 SW Tall Oaks Drive
McMinnville, OR 97128
Email: Andathom180722@gmail.com
Phone: 503-313-0149

EHA, SAA/eha

CC: Jamie Fleckenstein, Associate Planner, McMinnville Planning Department, 231 NE Fifth Street
McMinnville, OR 97128 Jamie.fleckenstein@mcminnvilleoregon.gov

Enclosure: Petition in Opposition to Parcel #2 of Minor Partition (MP 6-20) – 835 SW Hilary Street,
13 May, 2021

P.S. *"I should be glad if all the meadows on the earth were left in a wild state, if that were the consequence of men's beginning to redeem themselves."* Henry David Thoreau.

I have personally always been proud of my friends in McMinnville because it seems we really do care and hold the tenant to serve our community by preserving and cherishing nature and natural green spaces, the very thing that restores and nurtures our soul in these difficult times.

McMinnville Planning Commission
C/O Ms. Heather Richards, Planning Director
231 NE Fifth St.
McMinnville, Or.
97128

April 30, 2021
May 18, 2021

RE: ~~Variance Request (VR 1-21) Mary and Steve Allen~~ MP 6-20

My name is Robert Tracey and I live just outside of the area of notification for this ^{minor partition (MP6-20)} variance request, at 1160 SW Tall Oak Drive. I did not receive notice of this request, and learned of it just a couple of days ago, while visiting with neighbors. I was interested and had the application documents forwarded to me. After reviewing the documents, visiting the site, and the existing access to the lots in question, I believe it would prove detrimental to the cities effort to maintain safe vehicle and pedestrian passage at the intersection of Fellows St. and the proposed access road, as well as the cities efforts to mitigate the detrimental effects of our current climate crisis.

If this request were approved, it is likely the the daily number of entries and departures of the site will increase by as many as 10 to 18, causing the existing driveway to function essentially as a common city street. Vehicles traveling south over the hill above the driveway oftentimes come quickly. Without significant engineering and construction at the intersection, this will become a dangerous site.

More importantly, the removal of several large and diverse species of trees and other vegetation at the site will prove detrimental to the cities efforts to mitigate the negative effects of global climate change. Climate change constitutes an existential threat to the continuing habitability of our planet and I believe it is the responsibility of every individual, as well as every level of government to do all we can to mitigate the most severe effects of this ongoing tragedy. This problem is not in some distant future, it is here and now. 19 of the hottest years recorded in human history have occurred since the turn of the century in 2000. And the problem is accelerating. Naturally functioning ecosystems, particularly forests, constitute our best opportunity to sequester carbon already present in the atmosphere and have the potential to trap this carbon, essentially in perpetuity, in the healthy, functioning soils beneath the forest. The litter that naturally falls in the forest, leaves, needles, bark, fruits and cones contain significant quantities of carbon that has been removed from the atmosphere. In a healthy soil, this litter is decomposed by the myriad of microorganisms existing in the soil and ultimately converted to a stabilized humus that serves to increase the soils carbon content and is trapped potentially for centuries. This is analogous to the process that provided the fossil fuels we have used since the beginning of the industrial revolution, and has caused our current problems by their release back to the atmosphere.

I believe every decision made, at every level of government, must consider the effects on our current climate crisis. The carbon sequestration inherent at this site should be protected to maintain the beneficial ecosystem services it currently provides. I respectfully request this request for a ^{minor} ~~variance~~ to the existing ordinances be denied.

Sincerely,

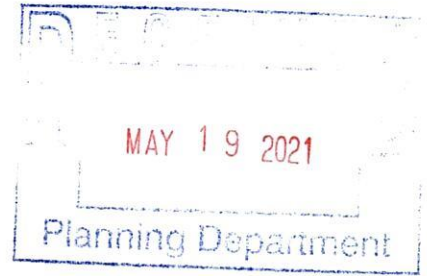
Robert Tracey
Robert Tracey

1160 SW Tall Oaks Dr.

McMinnville, OR
97128

rob.tracey06@gmail.com





May 14, 2021

Heather Richards, Planning Director
Community Development Center
231 N.E. Fifth Street
McMinnville, OR 97128

Reference: Response to notice of Pending Administrative Decision Tentative Partition
835 S.W. Hilary Street (Minor Partition)MP6-20

Dear Ms. Richards,

My name is Susan Perez. I represent myself and husband, Rigoberto, of 37 years. In the following paragraphs I will state my concerns opposing minor partition MP6-20 that Steve and Mary Allen are requesting. Please read it in its entirety so our voice will be heard.

We moved to our home located at 1080 S.W. Tall Oaks Drive in December of 1999. Christmas Eve to be exact! We chose to live in McMinnville for various reasons. We have raised our children here. As a family we have utilized the parks, biking, library, sports, swimming pool, and Farmers Market. We like a good yard sale. We have been active in our church for 32 years! McMinnville has had a sense of community. We fear that with the rapid growth intended for this city, that will be lost.

We have especially loved our home and its location here on Tall Oaks Drive. I was raised in the city of Portland, but always wanted to live in the country. Our situation hasn't allowed for that. However, 21 years ago when we saw THIS property, we knew this was the perfect spot for us! And we were right. To be able to escape the busy-

ness of life and enjoy the peace and tranquility of beautiful, age-old trees right outside our door has been like a breath of fresh air! We love the deer, birds, and various wild life that this small "forest" provides a home for. We have the benefits of country all in one gorgeous place! Our children and now grandchildren have had such a wonderful time exploring. It would be a shame to destroy this!

When we heard the news that the Allens were proposing this minor partition, we were first heart sick and then just outraged. Outraged that our beautiful environment could be altered by just one family for their retirement. What about all of the 10 or more retirees that have lived along Tall Oaks Drive for 20, 30 years plus? They have looked forward to continued peace, tranquility, and beauty in their retirement years! What about the Lambrights, Andersons, Mrs. Hansen? Do you really think Mrs. Hansen, a recent widow, really wants strangers literally living in her back yard? Or Lambrights? Did the Allens ask ANY of us how we felt about this? No, they did not!

If minor partition MP 6-20 goes through and a duplex is built, (with a strong hint of many more structures to come), God only knows who the renters will be. People aren't always who they seem to be. We may have to contend with not only loss of the trees which shade the area, but our grandkids' safety, eyesores, excess noise, loss of privacy, excessive traffic, and trespassing just to name a few! Who's to say new tenants on that property won't be in our yards and looking in our windows? And if the building is 2 stories high, there will certainly be NO privacy for those who live directly next to it.

Health safety is an issue. Twenty years ago when Macy's developed their parcel of land next door to us, wildlife was stirred up. We had RATS galore in our yard, in our garage. It went on for several months until we were able to get it under control. It was filthy, disgusting, and expensive! We don't want to go through THAT again!

Traffic safety is another. Have you ever tried to get onto Fellows Street from Fleishauer Drive? Try it, especially right before school starts, when school lets out, and during heavier traffic times such as when workers are returning home. From the direction of Tall Oaks Drive, there is a curve in the road looking left and an incline on the right making entering Fellows Street a challenge. Many close calls have happened here! Visibility is horrible. It is worse from the private drive down at 750 S.W. Fellows.

The entrance is narrow, fitting one car only. There is more of a small "hill" there. Again visibility is limited. It is already a danger. Think of how much more dangerous it will be with added traffic of another residence or two by allowing building back there? There are already four vehicles coming in and out of the private driveway plus any guests that they may have. If this partition goes through, MP6-20, doubles that traffic. Seems like the City of McMinnville will have a dilemma, an accident waiting to happen! Plus, the headlights to these vehicles shine into the bedrooms at the back of our house at night. I have been awakened many times.

The residences along Tall Oaks Drive are single family dwellings. Having a multi-dwelling unit(s) adjacent to our yards will be ugly as well as lowering our property values, but I am willing to bet our taxes won't go down. They will probably go up to pay for all the changes that will need to be made!

In conclusion, we STRONGLY don't want minor partition MP6-20 approved! I speak for my household as well as others along our lovely, peaceful drive. Why should all the families I mentioned and others be compromised because of the Allens? I just can't see how the Allens are in any hardship as they have stated in previous documents! It is laughable to believe that! Surely there are other options for them. Please, say a big NO to approving minor partition MP6-20!

Thank you for hearing our voice.

Respectfully,

Rigo Perez
Susan Perez

Rigo and Susan Perez

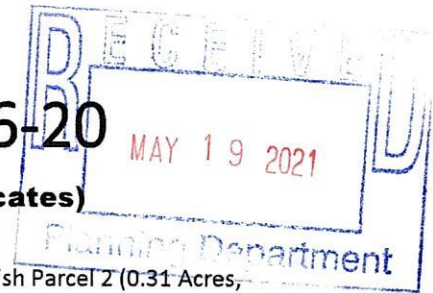


Petition in Opposition to MP 6-20

From: TONCCA (Tall Oaks Neighborhood Cozine Creek Advocates)

Date: 12 May 2021

Within the Partitioning Application MP 6-20, the developer is asking for approval to establish Parcel 2 (0.31 Acres, 13,565 sq. ft.) in Steve & Mary Allen's Tentative Partition Block L. The proposed 0.31 – acre parcel would be accessed via private easement from SW Fellows Street recently deemed sufficient by city planning officials based on safety and engineering standards established over twenty years ago.



Basis for Opposition to MP 6-20, Tentative Parcel #2:

- Develops over an existing 33' Public Right of Way utilized by the adjacent Tall Oaks Drive community as a natural greenway for decades.
- The notice of "Impending Administrative Decision" invited those affected to consider Review Criteria based on "Comprehensive Plan Goals and Policies". The Tall Oaks Neighborhood has long considered the area above the floodplain identified as tentative Parcel 2 including the legacy 33' public right-of-way, a natural protected area within the city, subject to conditional use criteria as established in (MMC 17.74.030 Sub B-D).
 - B. That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;
 - C. That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;
 - D. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.
- Intrusively diminishes Cosine Creek natural greenway and wildlife habitat, impinging on neighborhood livability and quality of life.
- Constrains property values by obstructing natural views and privacy to valued residents of the Tall Oaks community. The city's (MMC 17.10.080 Master Plan Review Criteria) charges the director with "Natural Feature Preservation. Great Neighborhoods are sensitive to the natural conditions and features of the land. Neighborhoods shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas, and landmark trees"
- Increases residential density in a delicate natural setting, adding noise and congestion, without sufficient provisions for emergent climate change issues in the form of fire hazards and soil erosion (MMC 17.57.010 Sub A.1), further complicating existing Cozine Creek water quality issues due to surface runoff and contaminants.

Petition in Opposition to MP 6-20

- The applicants net density calculation for tentative parcel #2 is insufficient. The 13,565 Sq. Ft. represents ~ 50% FP and 50% above, not accounting for emergent climate science exceeding current standards for 1% flood zones based on traditional data sources. Further, per (MMC 17.15.010 Sub C.3.a), permitted uses for a buildable R2 lot for the applicants proposed duplex, requires a minimum of 8,000 Sq. Ft., therefore the applicants remaining 7,125 Sq. Ft. above the floodplain does not qualify under this ordinance.
- Applicant insists on removal of important "Public Trees" (MMC 17.58.075 Sub A, Protection of Trees) and forest canopy including 50-100-year-old majestic Fir and White Oak trees for which the adjacent "Tall Oaks Drive" derives its name. The loss of shade, wind and temperature moderation cannot be sufficiently served by the applicants promise of conditional landscape screening near adjacent and abutting properties.
- Tentative Parcel 2 encroaches on natural floodways and drainage ways. (MMC 17.48.005 Flood Plain) "...the floodplain zone shall set aside an area which shall, for the most part, be preserved in its natural state or farmed to provide open spaces, natural habitats, and recreational places."
- The city's primary tenant is safety and public economic loss when it comes to authorizing building in floodplains (MMC 17.48.005). According to The National Wildlife Federation, "... it must be recognized that the NFIP 100-yearflood standard (MMC 17.06.030) is not generally an acceptable safety standard for most populated areas. Floodplain planning and maps must incorporate future anticipated conditions, including effects of climate change, urbanization and deforestation and accelerated drainage practices in upland watershed areas. People living in floodplains—even low-risk floodplains—need to know they are at risk and should obtain flood insurance and work to mitigate their flood risks."
- Developers Partitioning Application is not in compliance with zoning ordinance (MMC 17.53.060 Sub A.7) -Tentative Partition Plan "...must include designated wetlands, wooded areas, and natural hazards.

NEIGHBORHOOD IN OPPOSITION:

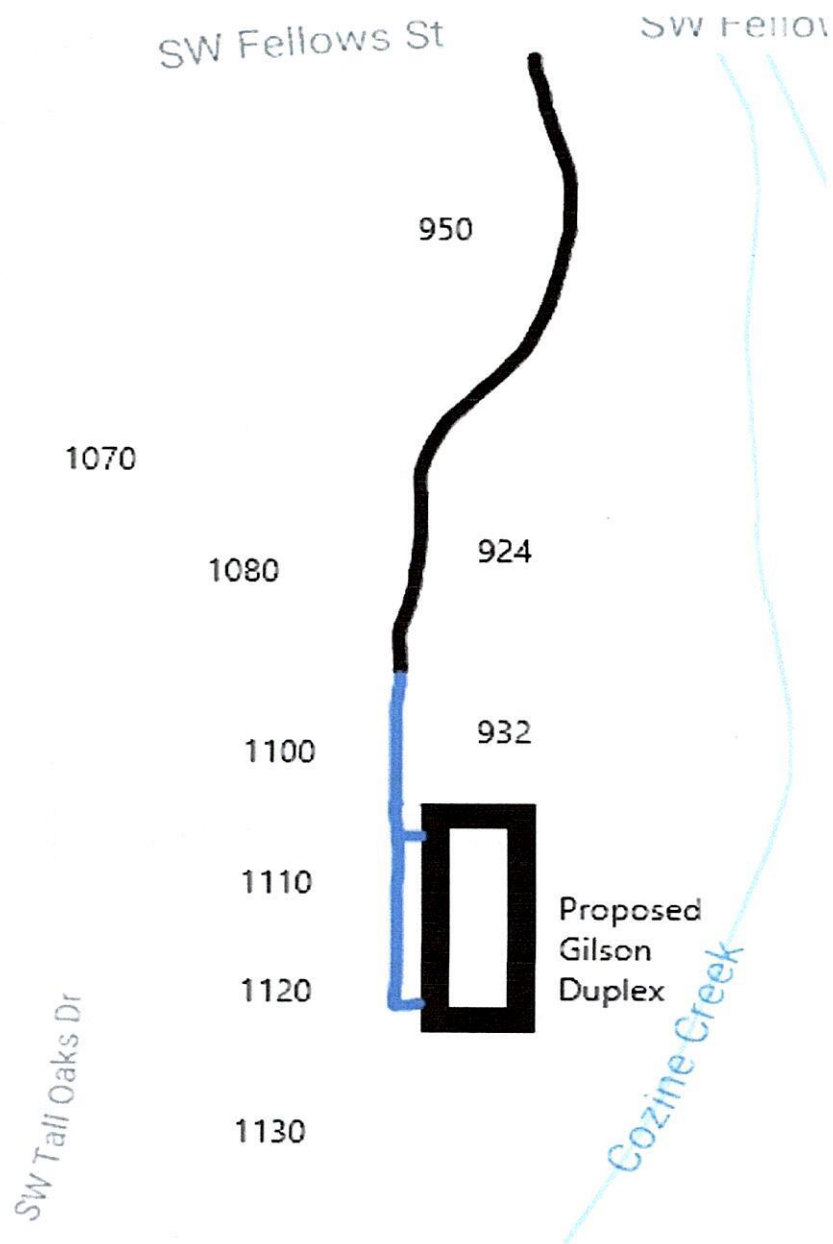
	Print Full Name	Date	Address	Signature
1	Carole T. Hansen	5/14/21	1110 SW Tall Oaks Drive	Carole T. Hansen
2	BRAD ROBISON	5/14/21	1150 SW Tall Oaks DR.	Brad Robison
3	Shirley Robison	5/14/21	1150 SW Tall Oaks Dr	Shirley K. Robison
4	LINDA M. JORDAN	5/14/21	1125 SW TALL OAKS DR.	Linda M. Jordan
5	Jay Jordan	5-14-21	1125 SW Tall Oaks Dr	Jay Jordan
6	BERTHA BISKER	5-14-21	1145 SW Tall Oaks Dr	Bertha Bisker

Petition in Opposition to MP 6-20

Petition in Opposition continued

	Print Full Name	Date	Address	Signature
7	GARY KINION	5/14/21	1140 SW TALL OAKS	Gary Kinion
8	Cheryl Lambright	5/14/21	1130 SW Tall Oaks Dr.	Cheryl Lambright
9	JAMES LAMBRIGHT	5/14/21	1130 SW TALL OAKS DR	James Lambright
10	Robert Tracey	5/14/21	1160 SW Tall Oaks Dr.	Robert Tracey
11	Carole T. Hansen	5/15/21	110 SW Tall Oaks Dr.	Carole T. Hansen
12	Susan E. Perez	5/15/21	1080 SW Tall Oaks Dr	Susan E. Perez
13	Ryo Perez	5/15/21	11	Ryo Perez
14	Trina Harris	5-16-21	1120 SW Tall Oaks Dr	Trina Harris
15	Ryan Harris	5-16-21	1120 SW Tall Oaks Dr	Ryan Harris
16	Sara Harris	5-16-21	1135 SW Tall Oaks Dr.	Sara Harris
17	Brandon Harris	5-16-21	1135 SW Tall Oaks Dr.	Brandon Harris
18	Cathy Stephens	5-16-21	1070 SW Tall Oaks Dr.	Cathy Stephens
19	Mike Stephens	5-16-21	1070 SW Tall Oaks Dr.	Mike Stephens
20	Rich Custer	5-16-21	1230 SW Tall Oaks	Rich Custer
21	Ann Custer	5-16-21	1230 SW Tall Oaks	Ann Custer
22	Earl H. Anderson	5-18-21	1100 SW Tall Oaks Drive	Earl H. Anderson
23	Sheryl A Anderson	5-18-21	1100 SW Tall Oaks Drive	Sheryl Anderson
24	Damon Schulze	5-19-21	1060 Tall Oaks Dr.	Damon Schulze
25	Susie Schulze	5-19-21	1060 Tall Oaks Dr.	Susie Schulze
26				
27				
27				
29				
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Petition in Opposition to MP 6-20



Note: This map is an approximation only to illustrate surrounding properties that are adjacent and abutting the proposed Parcel 2 (0.31 Acres) in Steve & Mary Allen's Tentative Partition Block L "Gilson Duplex" (MP 6-20).

Date: 19 May 2021

Heather Richards
Planning Director
Community Development Center
231 NE Fifth Street
McMinnville, OR 97128

Reference: **Formal Request for Public Hearing regarding Minor Partition (MP 6-20) – 835 SW Hilary Street**

Dear Director Richards,

Per MMC Section 17.72.120, I formally request a public hearing be convened to allow in person testimony regarding Minor Partition MP 6-20. The basis for my request is as follows:

Help mitigate the impact of the Right of Way to save as many trees as possible.

Respectfully,


Cheryl A. Lambright
1130 SW Tall Oaks Drive
McMinnville, OR 97128
Email: cheryllambright@hotmail.com
Phone: 971-261-9006

CL/ea

CC: Jamie Fleckenstein, Associate Planner, McMinnville Planning Department, 231 NE Fifth Street
McMinnville, OR 97128 Jamie.fleckenstein@mcminnvilleoregon.gov



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

**PUBLIC HEARING NOTICE
PLANNING COMMISSION REVIEW OF A
TENTATIVE PARTITION
835 SW HILARY STREET**

NOTICE IS HEREBY GIVEN that an application for a partition of land has been submitted to the McMinnville Planning Department, and a public hearing has been requested. The purpose of this notice is to provide an opportunity for surrounding property owners to submit comments regarding this application or to attend the public meeting of the Planning Commission where this request will be reviewed and a public hearing will be held. Please contact Jamie Fleckenstein, Associate Planner, with any questions at (503) 474-4153 or jamie.fleckenstein@mcminnvilleoregon.gov.

DOCKET NUMBER: MP 6-20 (Minor Partition)

REQUEST: Approval to partition an approximately 7.22-acre parcel of land into three (3) parcels, approximately 6.43, 0.31, and 0.48 acres in size to allow for residential development. The proposed 0.31-acre parcel would be accessed by private easement from SW Fellows Street while the 6.43- and 0.48-acre parcels would be accessed from SW Hilary Street.

APPLICANT: Steve and Mary Allen

SITE LOCATION(S): 835 SW Hilary Street (see attached map)

MAP & TAX LOT(S): R4429AB01600

ZONE(S): R-2/R-3/FP (Single-Family Residential/Two-Family Residential/Flood Plain)

MMC REQUIREMENTS: McMinnville Municipal Code (MMC) Title 17 (Zoning Ordinance); MMC Chapter 17.53 (Land Division Standards); MMC Chapter 17.15 (R-2 Single-Family Residential Zone); MMC Chapter 17.18 (R-3 Two-Family Residential Zone); MMC Chapter 17.48 (F-P Flood Area Zone)

NOTICE DATE: May 27, 2021

PUBLIC HEARING DATE: June 17, 2021 at 6:30 P.M.

HEARING LOCATION: Zoom Online Meeting:
<https://mcminnvilleoregon.zoom.us/j/92712511996?pwd=Z2ZXUXFsVHV1Wkpzb2FhYjJrd20xUT09>

Meeting ID: 927 1251 1996 Passcode: 593914

(See below for instructions on how to join Zoom meeting)

Proceedings: A staff report will be provided at least seven days before the public hearing. The Planning Commission will conduct a public hearing, take testimony, and then make a decision to either recommend approval of the application to the McMinnville City Council or deny the application.

Persons are hereby invited to attend (via Zoom – please see instructions below) the McMinnville Planning Commission hearing to observe the proceedings, and to register any statements in person (via Zoom – please see instructions below), by attorney, or by mail to assist the McMinnville Planning Commission in making a decision. Should you wish to submit comments or testimony on this application prior to the public meeting, please call the Planning Department office at (503) 434-7311, forward them by mail to 231 NE 5th Street, McMinnville, OR 97128, or by email to jamie.fleckenstein@mcminnvilleoregon.gov.

The decision-making criteria, application, and records concerning this matter are available on the Planning Department's portion of the City of McMinnville webpage at www.mcminnvilleoregon.gov. The materials can also be made available at the McMinnville Planning Department office at 231 NE 5th Street, McMinnville, Oregon. However, due to the COVID-19 public health emergency, the Planning Department office is closed to walk-in customers. If you cannot access the materials electronically, please call the Planning Department at (503) 434-7311 to request a copy of the materials, and staff will assist in making the materials available physically by appointment and in a manner that meets social distancing requirements.

Appeal: Failure to raise an issue in person or by letter prior to the close of the public hearing with sufficient specificity precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the Commission to respond to the issue precludes an action for damages in circuit court.

Invitation to Zoom Meeting: The public is invited and welcome to attend the Planning Commission meeting. Due to the COVID-19 public health emergency and in accordance with Governor Kate Brown's Executive Order, the Planning Commission meeting is being held virtually through the Zoom meeting software to avoid gatherings and allow for social distancing. The Planning Department encourages those that are interested in participating and have access to technology to access the Zoom meeting online or through the call-in options (see below for details).

The public may join the Zoom meeting online here:

<https://mcminnvilleoregon.zoom.us/j/92712511996?pwd=Z2ZXUXFsVHV1Wkpzb2FhYjJrd20xUT09>

Meeting ID: 927 1251 1996

Passcode: 593914

The public may also join the Zoom meeting by phone by following the instructions below:

+1 669 900 9128

Meeting ID: 927 1251 1996

If you do not have access to a telephone or computer to participate in the meeting, a conference room with access to a computer to participate in the Zoom Online Meeting can be provided at the Community Development Center at 231 NE 5th Street, McMinnville, OR 97128. Please call the Planning Department at (503) 434-7311 at least 24 hours in advance of the meeting for assistance. Participation in the conference room will be limited to accommodate social distancing guidelines and will be provided on a first-come, first-served basis.

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.

REVIEW CRITERIA:

MMC Chapter 17.53 (Land Division Standards):

All applicable standards and criteria in Chapter 17.53 apply to this request. In particular, the following sections of Chapter 17.53 apply to this request:

17.53.060 – Submission of Tentative Partition Plat

- 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.

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. [...] 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). [...]

17.53.100-140 – Approval of Streets and Ways

17.53.153 – Improvement Requirements. The following improvements shall be installed at the expense of the subdivider:

- A. Water supply system [...]
- B. Electrical system [...]
- C. Sewer system [...]
- D. Drainage [...]
- E. Streets [...]

MMC Chapter 17.15 (R-2 Single-Family Residential Zone):

All applicable standards and criteria in Chapter 17.15 apply to this request. In particular, the following sections of Chapter 17.15 apply to this request:

17.15.030 Lot size. In an R-2 zone, the lot size shall not be less than seven thousand square feet except as provided in Section 17.15.010(C) of this ordinance.

MMC Chapter 17.18 (R-3 Two-Family Residential Zone):

All applicable standards and criteria in Chapter 17.18 apply to this request. In particular, the following sections of Chapter 17.18 apply to this request:

17.18.030 Lot size. In an R-3 zone the lot size shall not be less than six thousand square feet except as provided in Section 17.18.010(C) of this ordinance.

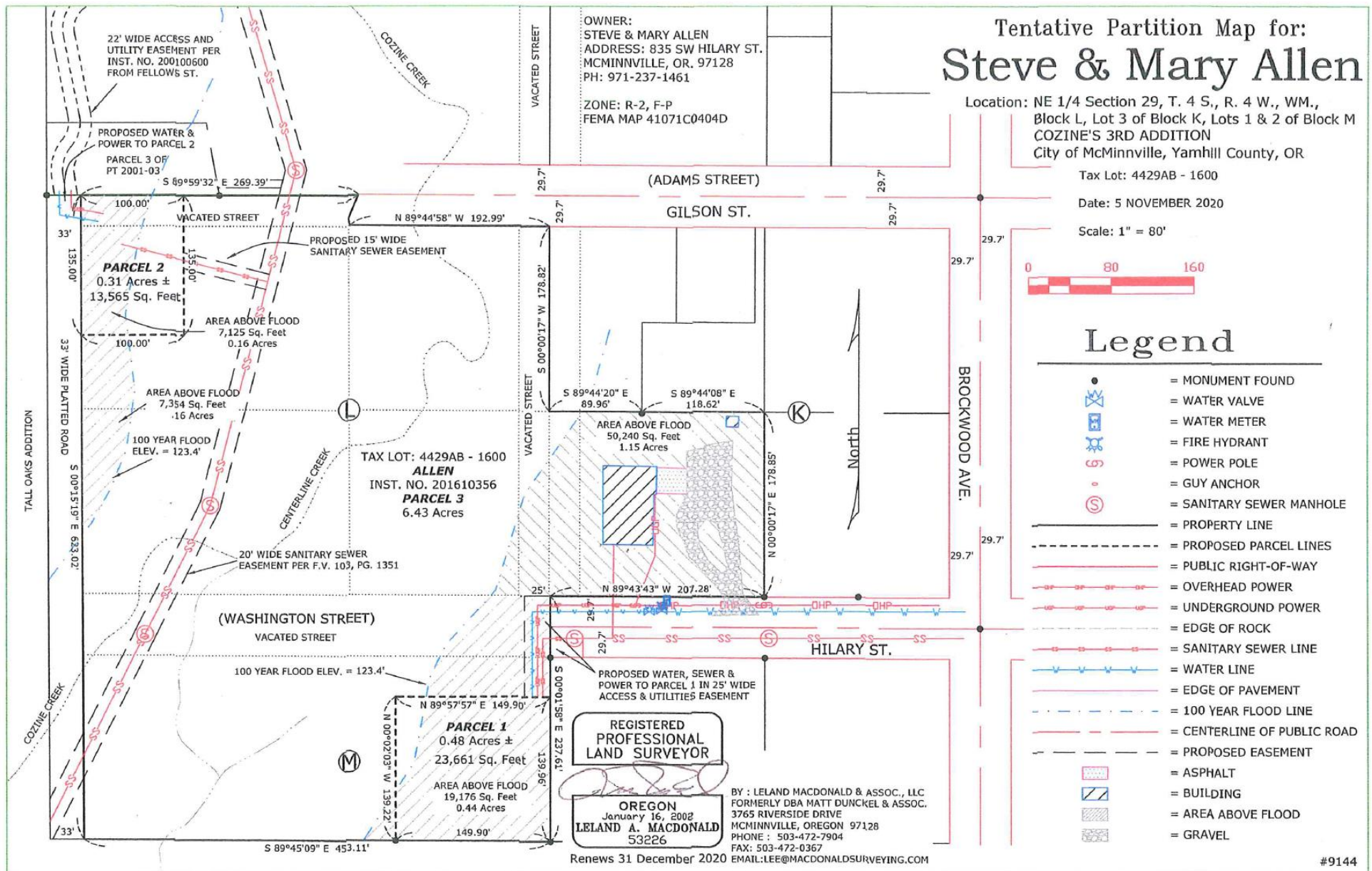
MMC Chapter 17.48 (F-P Flood Area Zone):

All applicable standards and criteria in Chapter 17.48 apply to this request.

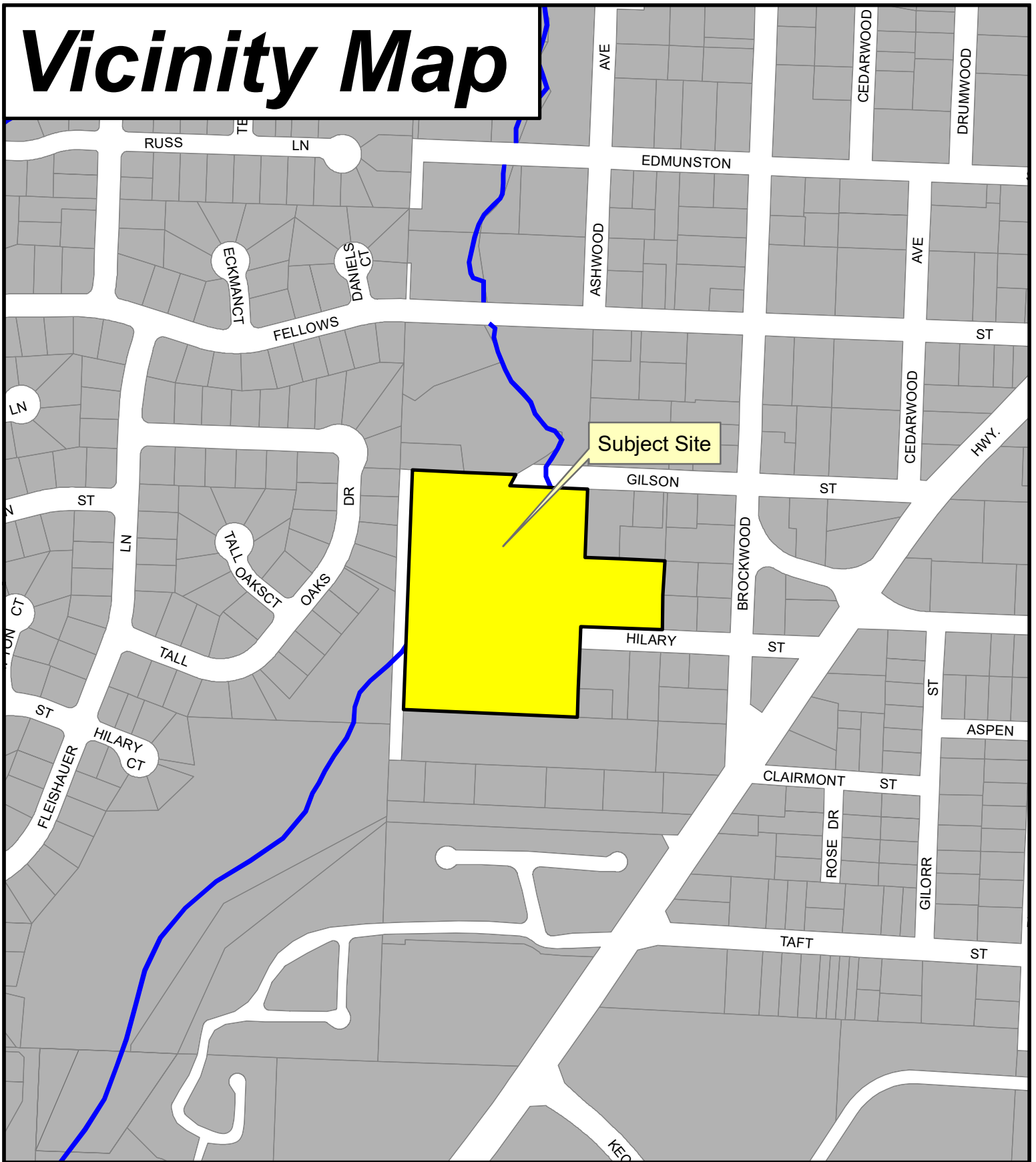
Comprehensive Plan Goals and Policies:

All applicable goals and policies apply to this request.

Proposed Partition Plan



Vicinity Map



Geographic Information System



275 137.5 0 275 Feet

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

Map No	Tax Lot	Site Address	Owner	Attn:	Mailing Address	City	State	Zip
1	R4420CD01702	840 SW FELLOWS ST	WOOD ADRIANNE M	BLANKENBILLER ANNE M	840 SW FELLOWS ST	MCMINNVILLE	OR	97128
2	R4420CD01704	836 SW FELLOWS ST	HARRIS RICHARD J TRUSTEE	HARRIS MARY P TRUSTEE	832 SW FELLOWS ST	MCMINNVILLE	OR	97128
3	R4420CD01800	827 SW GILSON ST	PAUDA FRANCISCO	PAUDA MARA	827 SW GILSON ST	MCMINNVILLE	OR	97128
4	R4420CD01900	823 SW GILSON ST	MONTEMAYOR GEORGE L		823 SW GILSON ST	MCMINNVILLE	OR	97128
5	R4420CD02000	1021 SW BROCKWOOD AVE	SUMNER CAROL L		25390 SW GRIMM LN	SHERWOOD	OR	97140
6	R4420CD02200	1049 SW BROCKWOOD AVE	5TH STREET RENTAL LLC		32300 NE OLD PARRETT MTN RD	NEWBERG	OR	97132
7	R4420CD02300	950 SW FELLOWS ST	EAGAN MATTHEW D	EAGAN ALICIA K	950 SW FELLOWS ST	MCMINNVILLE	OR	97128
8	R4420CD02301	924 SW FELLOWS ST	MACY STEVEN D	MACY JACELAINE	924 SW FELLOWS ST	MCMINNVILLE	OR	97128
9	R4420CD02302	932 SW FELLOWS ST	MACY STEVEN D	MACY JACELAINE	924 SW FELLOWS ST	MCMINNVILLE	OR	97128
10	R4420CD02400	910 SW FELLOWS ST	STRODE THOMAS	STRODE PAMELA	910 SW FELLOWS ST	MCMINNVILLE	OR	97128
11	R4420CD05100	1060 SW FELLOWS ST	THOMPSON SHAWN W	THOMPSON KATIE L	1060 SW FELLOWS ST	MCMINNVILLE	OR	97128
12	R4420CD05200	1080 SW FELLOWS ST	MCGREW STEPHEN R		1675 MAXWELL RD	COOS BAY	OR	97420
13	R4420CD06500	1050 SW TALL OAKS DR	DONOVAN COLLEEN &	JACOPETTI HOBART	2225 NW HIGH HEAVEN RD	MCMINNVILLE	OR	97128
14	R4420CD06600	1060 SW TALL OAKS DR	SCHULZE DAMON R	SCHULZE SUSIE Y	1060 SW TALL OAKS DR	MCMINNVILLE	OR	97128
15	R4420CD06700	1070 SW TALL OAKS DR	STEPHENS FAMILY TRUST	STEPHENS MICHAEL D TRUSTEE	1070 SW TALL OAKS DR	MCMINNVILLE	OR	97128
16	R4420CD06800	1080 SW TALL OAKS DR	PEREZ RIGOBERTO R	PEREZ SUSAN E	1080 SW TALL OAKS DR	MCMINNVILLE	OR	97128
17	R4420CD06900	1100 SW TALL OAKS DR	ANDERSON EARL H		1100 SW TALL OAKS DR	MCMINNVILLE	OR	97128
18	R4429 00103	1501 SW BAKER ST	SOUTHWEST TERRACE LLC		PO BOX 194	LAKE OSWEGO	OR	97034
19	R4429 00108		MCMINNVILLE CITY OF		535 NE 5TH ST	MCMINNVILLE	OR	97128
20	R4429 00400	1501 SW BAKER ST 27	SOUTHWEST TERRACE LLC		PO BOX 194	LAKE OSWEGO	OR	97034
21	R4429 03200		MCMINNVILLE CITY OF		535 NE 5TH ST	MCMINNVILLE	OR	97128
22	R4429AB00300	1104 SW BROCKWOOD AVE	WHITELEY JEFF	WHITELEY RUTH	806 NE DAVIS ST UNIT 2A	MCMINNVILLE	OR	97128
23	R4429AB00500							
24	R4429AB00800	1103 SW BROCKWOOD AVE	HOMEN KATHLEEN M		1103 SW BROCKWOOD AVE	MCMINNVILLE	OR	97128
25	R4429AB00900	822 SW GILSON ST	JACKSON SETH H	SUZANNE REBECCA	822 SW GILSON ST	MCMINNVILLE	OR	97128
26	R4429AB01000	1125 SW BROCKWOOD AVE 1-3	WILLAMETTE RENTALS LLC		PO BOX 280	DAYTON	OR	97114
27	R4429AB01100	1129 SW BROCKWOOD AVE	HARRIS JOHN	HARRIS LISA	1129 SW BROCKWOOD AVE	MCMINNVILLE	OR	97128
28	R4429AB01101	1137 SW BROCKWOOD AVE	YU YANYI	YU BO	1137 SW BROCKWOOD AVE	MCMINNVILLE	OR	97128
29	R4429AB01200	825 SW HILARY ST	SCHMIDT MICHAEL D	SCHMIDT TERRY E	825 SW HILARY ST	MCMINNVILLE	OR	97128
30	R4429AB01201	1149 SW BROCKWOOD AVE	FENDALL LONNY &	FENDALL RAELENE	120 MELODY LAND LN	NEWBERG	OR	97132
31	R4429AB01300	826 SW GILSON ST	MORTON RONNIE G & PRISCILLA R TRUSTEES	MORTON FAMILY TRUST	5401 SE RICE LN	AMITY	OR	97101
32	R4429AB01400		SKOWRUP NANCY		301 SW VALLEYS EDGE ST	MCMINNVILLE	OR	97128
33	R4429AB01500	828 SW GILSON ST	CUMMINS LORETTA R		PO BOX 1485	MCMINNVILLE	OR	97128
34	R4429AB01600	835 SW HILARY ST	ALLEN STEVEN D TRUSTEE	ALLEN MARY B TRUSTEE	835 SW HILARY ST	MCMINNVILLE	OR	97128
35	R4429AB01700	1205 SW BAKER ST	HEGNA TYRUS E TRUSTEE FOR LIVING TRUST		226 SW BILLS ST	MCMINNVILLE	OR	97128
36	R4429AB01800	1207 SW BROCKWOOD AVE	HARMON ANNABELL S TRUSTEE FOR	HARMON ANNABELL S LIVING TRUST	1207 SW BROCKWOOD AVE	MCMINNVILLE	OR	97128
37	R4429AB01900		VOLL PROPERTIES LLC		PO BOX 164	LAFAYETTE	OR	97127
38	R4429AB02000	1223 SW BROCKWOOD AVE	KRYSKALLA SCOTT		1223 SW BROCKWOOD AVE	MCMINNVILLE	OR	97128
39	R4429AB02100	840 SW HILARY ST	VOLL PROPERTIES LLC		PO BOX 164	LAFAYETTE	OR	97127

40	R4429AB02101	820 SW HILARY ST 1-8	VOLL PROPERTIES LLC		PO BOX 164	LAFAYETTE	OR	97127
41	R4429AB02102	820 SW HILARY ST 9-16	VOLL PROPERTIES LLC		PO BOX 164	LAFAYETTE	OR	97127
42	R4429AB02200	1235 SW BROCKWOOD AVE	VALLEY CREEK INVESTMENTS LLC		111 NW 29TH ST	CORVALLIS	OR	97330
43	R4429AB02201		VALLEY CREEK INVESTMENTS LLC		111 NW 29TH ST	CORVALLIS	OR	97330
44	R4429AB02300	935 SW COZINE LN	MEDINA JESSICA M		935 SW COZINE LN	MCMINNVILLE	OR	97128
45	R4429AB02301		MCMINNVILLE CITY OF		230 E 2ND ST	MCMINNVILLE	OR	97128
46	R4429AB02400	915 SW COZINE LN	YODER ALLEN J & ANITA M TRUSTEES FOR	YODER ALLEN J & ANITA M JOINT RLT	915 SW COZINE LN	MCMINNVILLE	OR	97128
47	R4429AB02500	835 SW COZINE LN	SCOTT CHRISTOPHER		835 SW COZINE LN	MCMINNVILLE	OR	97128
48	R4429AB02600	815 SW COZINE LN	VALLEY CREEK INVESTMENTS LLC		111 NW 29TH ST	CORVALLIS	OR	97330
49	R4429AB02601	1249 SW BAKER ST	TESORO WEST COAST COMPANY		PO BOX 592809	SAN ANTONIO	TX	78259
50	R4429AB02700		MCMINNVILLE CITY OF		535 NE 5TH ST	MCMINNVILLE	OR	97128
51	R4429BA00100	1110 SW TALL OAKS DR	HANSEN CAROLE T TRUST	HANSEN CAROLE T TRUSTEE	1110 SW TALL OAKS DR	MCMINNVILLE	OR	97128
52	R4429BA00200	1120 SW TALL OAKS DR	EASON WARD R & ANNA M TRUSTEES FOR	EASON FAMILY TRUST	1910 NW WALLACE RD	MCMINNVILLE	OR	97128
53	R4429BA00300	1130 SW TALL OAKS DR	LAMBRIGHT JAMES M	LAMBRIGHT CHERYL A	1130 SW TALL OAKS DR	MCMINNVILLE	OR	97128
54	R4429BA00400	1140 SW TALL OAKS DR	KINION SANDRA L		1140 SW TALL OAKS DR	MCMINNVILLE	OR	97128
55	R4429BA00500	1150 SW TALL OAKS DR	ROBISON BRADLEY P & SHIRLEY K TRUSTEES	ROBISON FAMILY REVOCABLE LIVING TRUST	1150 SW TALL OAKS DR	MCMINNVILLE	OR	97128
56	R4429BA00600	1160 SW TALL OAKS DR	TRACEY ROBERT K TRUSTEE	TRACEY LIVING TRUST	PO BOX 53	MCMINNVILLE	OR	97128
57	R4429BA00700	1170 SW TALL OAKS DR	LEODORO SALVATORE	LEODORO NATALIE E	1170 SW TALL OAKS DR	MCMINNVILLE	OR	97128
58	R4429BA00800	1180 SW TALL OAKS DR	VOIGT SUSAN		1180 SW TALL OAKS DR	MCMINNVILLE	OR	97128
59	R4429BA00900	1200 SW TALL OAKS DR	MILLER KATHARINE C REVOCABLE LIVING	MILLER KATHARINE CHARLOTTE TRUSTEE	1200 SW TALL OAKS DR	MCMINNVILLE	OR	97128
60	R4429BA02700	1055 SW TALL OAKS DR	BONOFILIO MICHEAL SR	BONOFILIO PATTI J	1055 SW TALL OAKS DR	MCMINNVILLE	OR	97128
61	R4429BA02800	1125 SW TALL OAKS DR	JORDAN JAY C	JORDAN LINDA M	1125 SW TALL OAKS DR	MCMINNVILLE	OR	97128
62	R4429BA02900	1135 SW TALL OAKS DR	HARRIS BRANDON	HARRIS SARA ANN	1135 SW TALL OAKS DR	MCMINNVILLE	OR	97128
63	R4429BA03000	1145 SW TALL OAKS DR	BISKEY BERTHA M		1145 SW TALL OAKS DR	MCMINNVILLE	OR	97128
64	R4429BA03100	1153 SW TALL OAKS CT	DIETZEL ELVA		21690 HIGHWAY 47	YAMHILL	OR	97148
65	R4429BA14190		THE PUBLIC		535 NE 5TH ST	MCMINNVILLE	OR	97128
legal			WALT GOWELL	HAUGEBERG, RUETER, GWELL, FREDRICKS & HIGGINS	PO BOX 480	MCMINNVILLE	OR	97128
Petition			TRACIA & RYAN HARRIS		1120 SW TALL OAKS DR	MCMINNVILLE	OR	97128
Petition			ANN & RICH CUSTER		1230 SW TALL OAKS DR	MCMINNVILLE	OR	97128



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

EXHIBIT 2 - STAFF REPORT

DATE: June 17, 2021
TO: Planning Commission Members
FROM: Jamie Fleckenstein, Associate Planner
SUBJECT: Variance application (VR 2-21) to allow more than 3 lots to be accessed by a private easement

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

OBJECTIVE/S: Strategically plan for short and long-term growth and development that will create enduring value for the community

Report in Brief:

This proceeding is a quasi-judicial public hearing of the Planning Commission to consider an application for a variance to the number of lots allowed to be accessed via private easement, which the Zoning Ordinance limits to three (3), to support a future partition of the subject property allowing two existing commercial structures to be on their own lots. The subject site is located at 2185/2191 NW 2nd Street (Parcel 1 of Partition Plat 2005-06; Tax Lot 502, Section 19AC, T. 4 S., R. 4 W., W.M.) and shares an access easement with two other parcels.

The Planning Commission will make a final decision on the application. A final decision of the Planning Commission may be appealed to the City Council as provided in Section 17.72.180 of the Zoning Ordinance. The Planning Commission hearing is conducted in accordance with quasi-judicial hearing procedures, and the application is subject to the 120-day processing timeline.

Background:

Subject Property & Request

The Applicant's request is for a variance to allow an increase in the number of lots permitted to be accessed by private easement, thereby allowing a future partition of the subject site to allow the two (2) commercial medical office buildings to be on their own lots. This will allow the sale of the lot(s) and office building(s) to the long-term lease holder(s) currently using the office space(s).

Attachments:

Attachment A: VR 2-21 Decision Document

The subject property is a 1.46 acre lot located at 2185/2191 NW 2nd Street at the northwest corner of NW 2nd Street and NW Hill Road, and is more specifically described as Parcel 1 of Partition Plat 2005-06, and Tax Lot 502, Section 19AC, T. 4 S., R. 4 W., W.M. The property is zoned C-3 (General Commercial) and is developed with two medical office buildings. The property shares an access easement from NW 2nd Street with the two adjacent lots to the east, each zoned C-3 (General Commercial) and each is developed with a medical office building. Together, the three (3) lots with four (4) office buildings form the Yamhill Valley Wellness Plaza. The access easement provides shared access and parking for all three (3) lots and four (4) office buildings. No access to the subject site or into the plaza complex is provided from Hill Road. **See Exhibits 1 and 2.**

Section 17.53.100(C)(1) of the Zoning Ordinance limits the number of parcels that can be served by private access easement to three (3):

“If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access [...]”

The access easement in question is an existing easement from NW 2nd Street that provides shared access and parking to Parcels 1, 2, and 3 of Partition Plat 2005-06. **See Exhibit 3.**

Exhibit 1. Vicinity Map & Aerial Photo

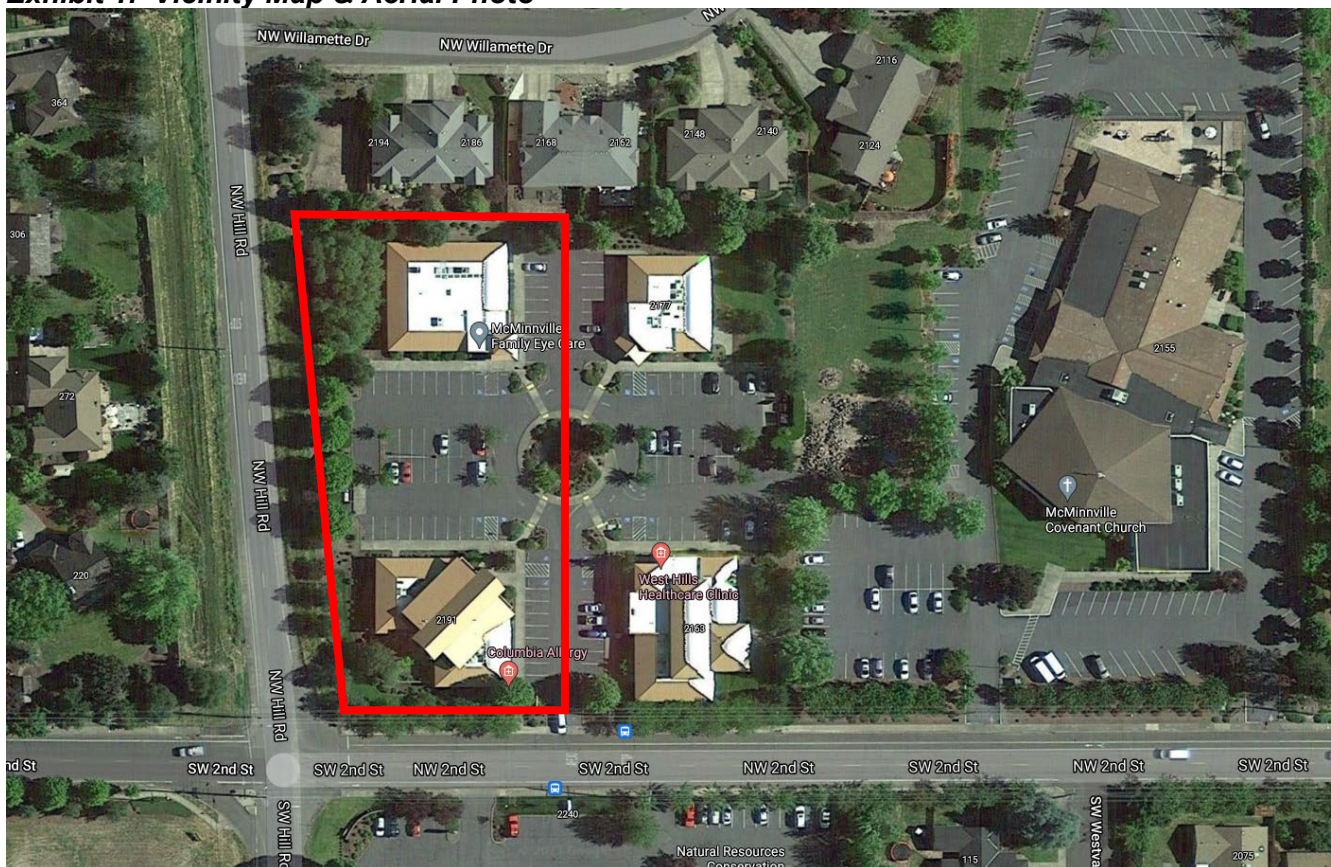


Exhibit 2. Zoning Map

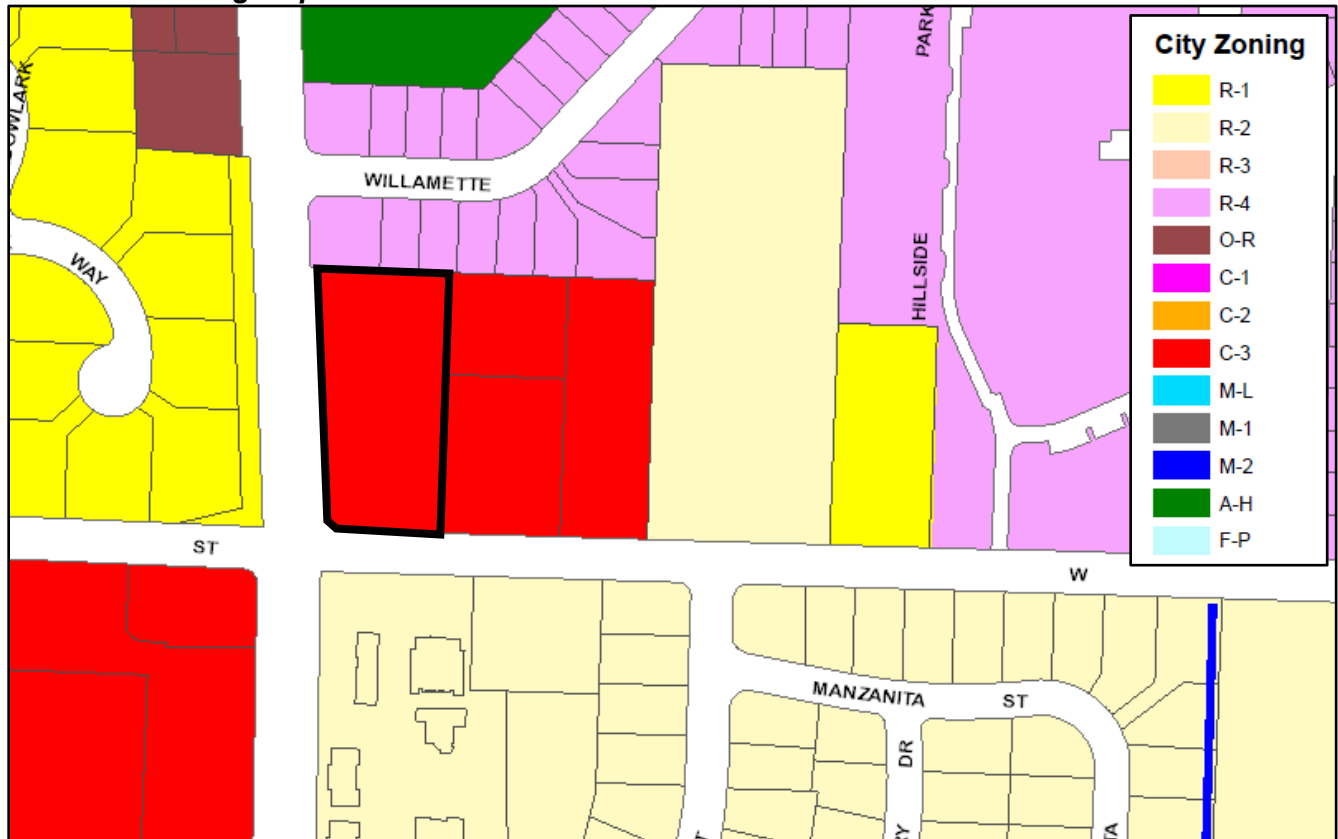
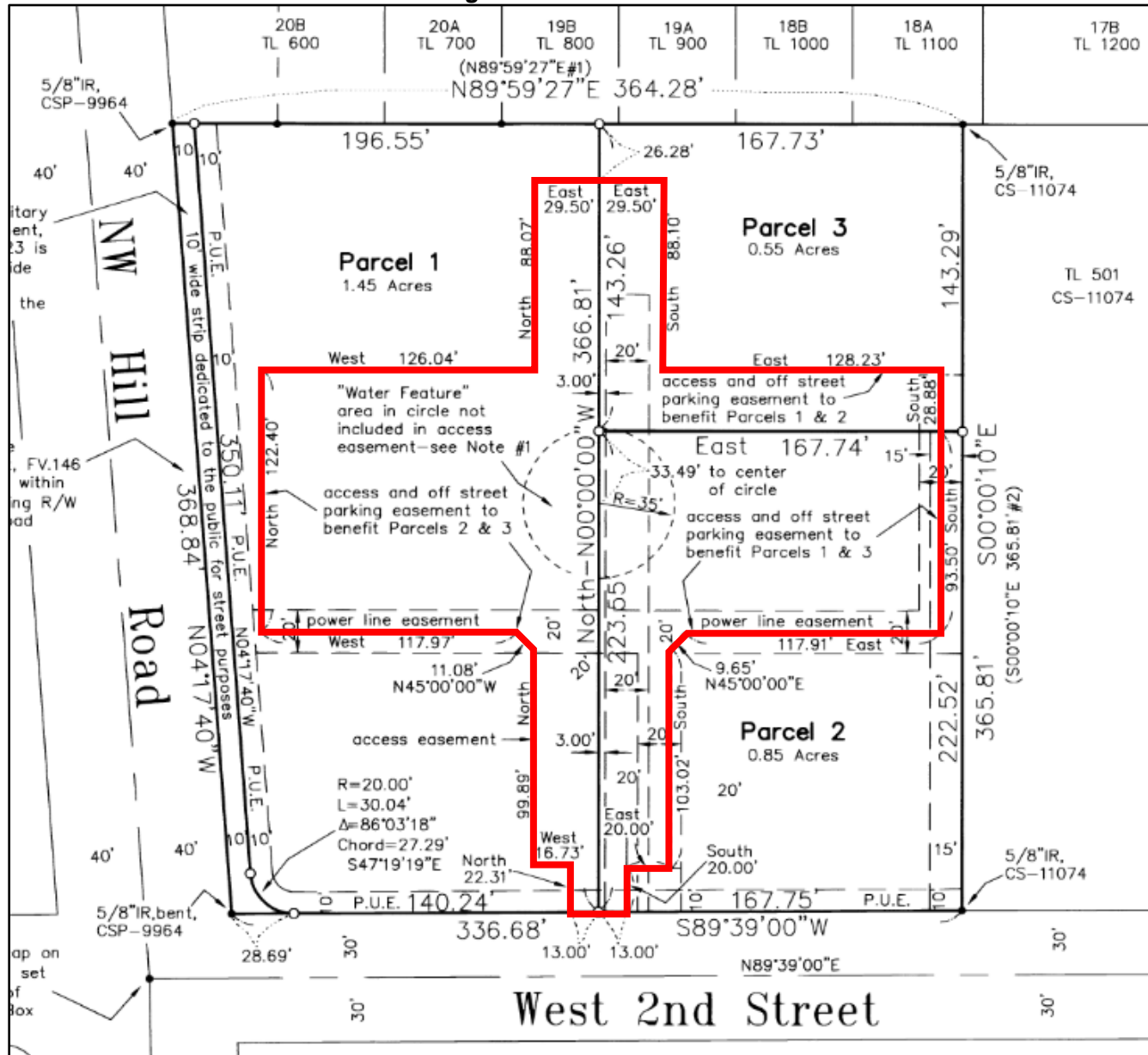


Exhibit 3. Partition Plat 2005-06 Parking and Access Easement



Neighborhood Meeting

Before a variance application can be submitted, an applicant must hold a neighborhood meeting as specified in Chapter 17.72 of the Zoning Ordinance. The applicant conducted the required neighborhood meeting on April 6, 2021 in accordance with these requirements and submitted the necessary documentation of the neighborhood meeting with the application, including a list of attendees and meeting notes.

The neighborhood meeting notes indicate that, in addition to the applicant, two people attended the meeting. One attendee represented another development in the Yamhill Valley Wellness Plaza, and the other resides on Willamette Drive, north of the property. The meeting notes indicate both attendees were in favor of the variance request and were present to lend their support. The notes indicate no concerns were presented.

Attachments:

Attachment A: VR 2-21 Decision Document

Discussion:

The applicable criteria for a variance to the number of lots permitted access via private easement are as follows:

- **Comprehensive Plan:** The goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.
- **Zoning Ordinance (Title 17 of the McMinnville Code):**
 - MMC Section 17.53.100(C). Creation of Streets
 - MMC Section 17.74.100. Variance – Planning Commission Authority;
 - MMC Section 17.74.110. Conditions for Granting Variance;

The criteria for a variance are generally intended to provide for equity in the application of general standards to a property with unique circumstances, given consideration of other properties which are similarly situated. The variance criteria are also intended to ensure that in granting a variance, the approval doesn't confer special rights to a property; the variance is the minimum necessary to address the unique circumstance; and granting the variance isn't detrimental to the City's policies or the public interest. Conditions may be imposed to protect the best interests of the surrounding property or neighborhood.

The findings in the Decision Document provide more detailed discussion about the interpretation of the variance criteria. The applicant has not demonstrated that the subject site would qualify for a private access easement under the conditions of MMC Section 17.53.100(C), or that the conditions that would qualify the site for a private access easement are unique in relation to other properties in the surrounding area or zone. The applicant did provide findings to show the variance would not be detrimental to the City's policies or the surrounding area, and that the variance requested is the minimum necessary to address the circumstance.

In sum, the applicant has not shown that all the criteria necessary for a variance approval have been met, therefore, staff does not support approval of the application at this time. The Applicant has requested a continuance of the public hearing to be able to provide additional information. Staff does support continuation of the application and public hearing to allow the applicant the opportunity to provide revised application materials that better respond to the specific variance criteria.

Public Comments

Notice of the proposed application was mailed to property owners and published in the newspaper. As of the date of this Staff Report, no public comments were received.

Agency Comments

Notice of the proposed application was sent to affected agencies and departments. The McMinnville Engineering Department and McMinnville Water and Light responded that they had no comments.

Attachments:

Attachment A: VR 2-21 Decision Document

Attachments:

Attachment A: VR 2-21 Decision Document

Planning Commission Options (for Quasi-Judicial Hearing):

- 1) **APPROVE** of the application as proposed by the applicant with the conditions recommended in the attached Decision Document, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the denial, specifying which criteria are not satisfied, or specifying how the applicant has failed to meet the burden of proof to demonstrate all criteria are satisfied, in the motion to deny.

Staff Recommendation:

Staff has reviewed the proposal for consistency with the applicable criteria. Absent any new evidence or findings to the contrary presented during the hearing, staff finds that the application submitted by the applicant and the record do not contain sufficient evidence to find the applicable criteria are satisfied at this time.

The Applicant has requested a continuance of the public hearing to have the opportunity to provide revised application materials. Staff **RECOMMENDS CONTINUANCE** of the VR 2-21 public hearing as requested.

Suggested Motion:

I MOVE THAT THE PLANNING COMMISSION CONTINUE THE VARIANCE APPLICATION VR 2-21 TO THE PLANNING COMMISSION MEETING SCHEDULED FOR JULY 15, 2021 AT 6:30PM.

Attachments:

Attachment A: VR 2-21 Decision Document



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

503-434-7311

www.mcminnvilleoregon.gov

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE
APPROVAL OF A VARIANCE TO ALLOW AN INCREASE IN THE NUMBER OF LOTS PERMITTED
TO BE ACCESSED BY PRIVATE EASEMENT AT 2185/2191 NW 2ND STREET**

DOCKET:	VR 2-21 (Variance)
REQUEST:	Application for a variance to allow an increase in the number of lots permitted to be accessed by private easement to support a future partition of the subject property, allowing two existing commercial structures to be on their own lots.
LOCATION:	2185/2191 NW 2 nd Street (Parcel 1 of Partition Plat 2005-06, and Tax Lot 502, Section 19AC, T. 4 S., R. 4 W., W.M.)
ZONING:	C-3 (General Commercial)
APPLICANT:	Nora Collins (property owner)
STAFF:	Jamie Fleckenstein, Associate Planner
DATE DEEMED COMPLETE:	May 14, 2021
HEARINGS BODY & ACTION:	The McMinnville Planning Commission makes the final decision, unless the Planning Commission's decision is appealed to the City Council.
HEARING DATE & LOCATION:	May 20, 2021, Civic Hall, 200 NE 2 nd Street, McMinnville, Oregon, and Zoom Online Meeting 927 1251 1996.
PROCEDURE:	An application for a variance is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. The application is reviewed by the Planning Commission in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.
CRITERIA:	The applicable criteria for a variance the number of lots permitted to be accessed by private easement are provided as follows: Zoning Ordinance (Title 17 of the McMinnville Code): MMC Section 17.74.100. Variance – Planning Commission Authority; MMC Section 17.74.100. Conditions for Granting Variance; MMC Section 17.53.100-Creation of Streets, Subsection (C). In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified

in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.

APPEAL: The Planning Commission's decision is final unless appealed to the City Council. Such an appeal must be filed within 15 calendar days of the date the written notice of decision is mailed.

If the Planning Commission's decision is appealed to City Council, the City Council's final decision may be appealed to the Oregon Land Use Board of Appeals as specified in State Statute. The City's final decision is subject to the 120 day processing timeline, including resolution of any local appeal.

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.

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are not satisfied and **DENIES** the variance (VR 2-21).

////////////////////////////////////

DECISION: DENIAL

////////////////////////////////////

Planning Commission: _____
Roger Hall, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date:_____

Attachments :

Attachment 1 – Application and Attachments

I. APPLICATION SUMMARY & BACKGROUND:

Subject Property & Request

The subject property is a 1.46 acre lot located at 2185/2191 NW 2nd Street at the northwest corner of NW 2nd Street and NW Hill Road, and is more specifically described as Parcel 1 of Partition Plat 2005-06, and Tax Lot 502, Section 19AC, T. 4 S., R. 4 W., W.M. The property is zoned C-3 (General Commercial) and is developed with two medical office buildings. The property shares an access easement from NW 2nd Street with the two adjacent lots to the east, each zoned C-3 (General Commercial) and each is developed with a medical office building. Together, the three (3) lots with four (4) office buildings form the Yamhill Valley Wellness Plaza. The access easement provides shared access and parking for all three (3) lots and four (4) office buildings. No access into the plaza complex is provided from Hill Road. **See Exhibits 1 and 2.**

Section 17.53.100(C)(1) of the Zoning Ordinance limits the number of parcels that can be served by private access easement to three (3):

“If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access [...]”

The access easement in question is an existing easement from NW 2nd Street that provides shared access and parking to Parcels 1, 2, and 3 of Partition Plat 2005-06. **See Exhibit 3.**

The Applicant's request is for a variance to allow an increase in the number of lots permitted to be accessed by private easement, thereby allowing a future partition of the subject site to allow the two (2) commercial medical office buildings to be on their own lots. This will allow the sale of the lot(s) and office building(s) to the long-term lease holder(s) currently using the office space(s). The following describing of the nature of the request is excerpted from the application:

“The subject property is located at 2185/2191 NW 2 Street, and is more specifically described as Parcel I of Partition Plat 200 5-06, and as Tax Lot 502, Section 19AC, R. 4 S., T. 4 W., W.M. (the "Property"). The Property is shown on the site plan attached as Exhibit A.

Applicant requests a variance from Section 17.53.100(C)(1) of the McMinnville Municipal Code, which has been interpreted by the City to limit the number of parcels that may be served by a private easement to three (3). The ordinance currently reads:

If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access and said access shall be not less than 15 (fifteen) feet in width and shall have a hard surfaced drive of 10 (ten) feet width minimum ... [emphasis added by Applicant]

The Property is currently served by a private easement that serves two other parcels. The Property currently has two lawful commercial buildings on it, each housing different businesses. Applicant has made application to partition the Property into two parcels, placing each commercial building on a separate lot, with each new lot serviced by the existing private easement for a total of four (4).

This variance is appropriate under applicable criteria because the development and configuration of Applicant's property pre-dates the City's current ordinance and is causing

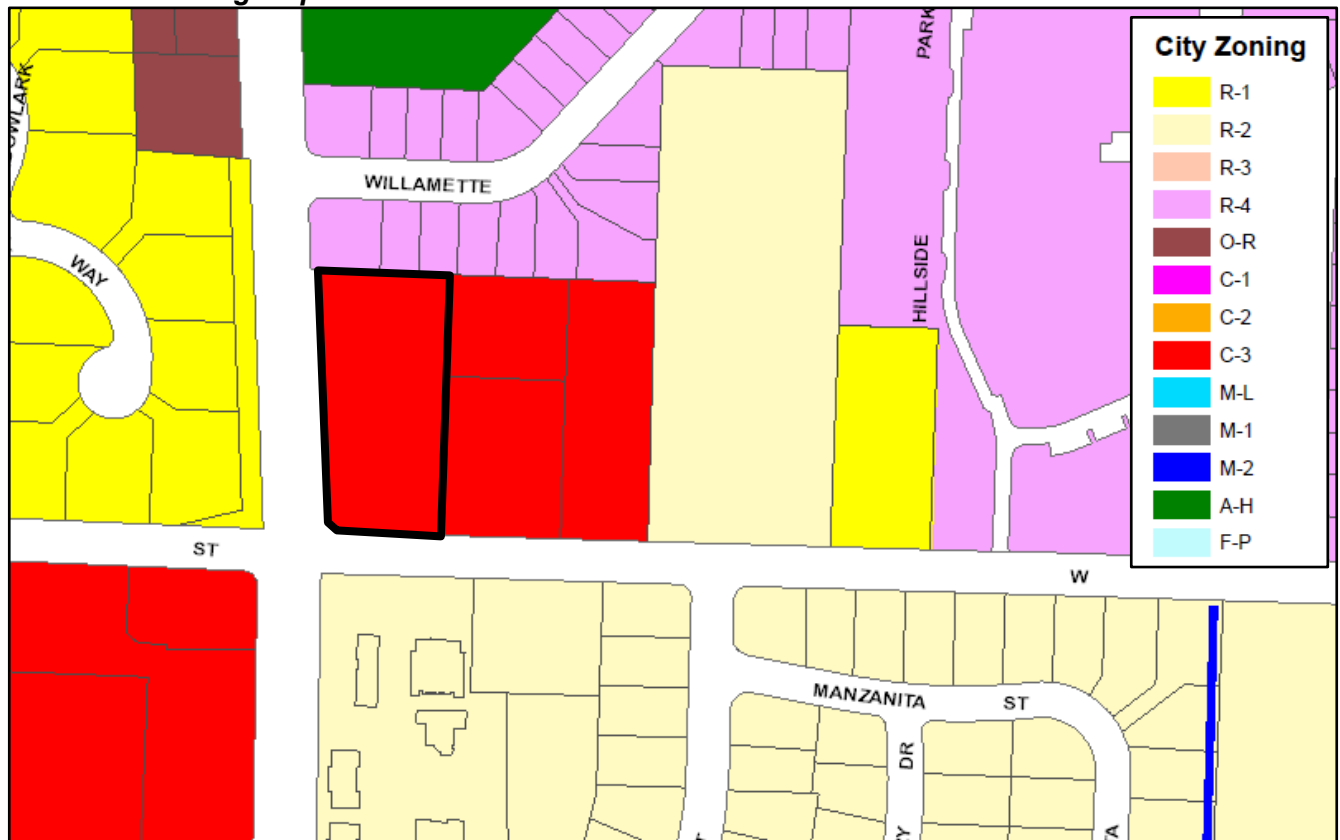
Attachments :

Attachment 1 – Application and Attachments

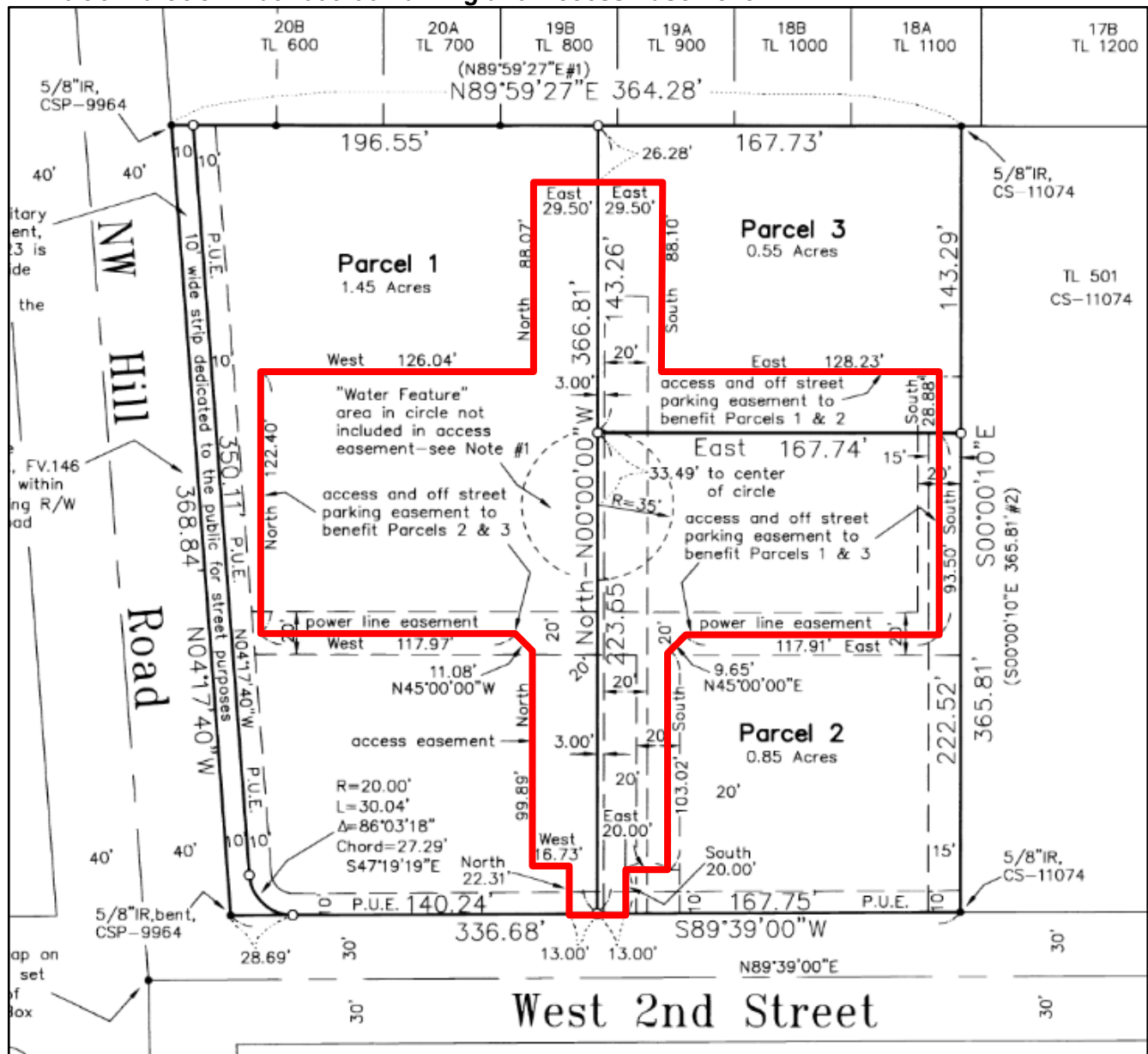
Applicant undue hardship. Applicant's buildings were lawfully constructed in 2005, and each building is lawfully accessed by the private easement. At the time the buildings were constructed, Section 17.53.100(C)(1) of the McMinnville Municipal Code did not restrict use of an easement to only 3 parcels. At that time, Section 24(C)(1) of Ordinance 4471 was controlling and read as follows:

If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels (e.g., a total of not more than three (3) parcels including the original may then exist) that may be provided with access and said access shall be not less than 15 feet in width and shall have a hard surfaced drive of 10 feet width minimum ... [emphasis added by Applicant]

When Applicant lawfully constructed the two commercial buildings on the Property, the language "(e.g. a total of not more than three (3) parcels including the original may then exist)" was separated as a parenthetical and hypothetical phrase; it was not a mandatory restriction on the use of private easements. The relevant language was taken out of the parenthetical and listed in its current form in 2009 with the adoption of Ordinance 4905. The old Ordinance 4471, which was controlling when Applicant constructed the commercial buildings, supported Applicant's use of the existing easement to access both parcels resulting from the partition proposed above, making a variance appropriate in this case."

Exhibit 1. Vicinity Map & Aerial Photo**Exhibit 2. Zoning Map****Attachments :**

Attachment 1 – Application and Attachments

Exhibit 3. Partition Plat 2005-06 Parking and Access Easement**Summary of Criteria**

The applicable criteria for a variance to the number of lots permitted access via private easement are as follows:

- **Comprehensive Plan:** The goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.
- **Zoning Ordinance (Title 17 of the McMinnville Code):**
 - MMC Section 17.53.100(C). Creation of Streets
 - MMC Section 17.74.100. Variance – Planning Commission Authority;

Attachments:

Attachment 1 – Application and Attachments

- MMC Section 17.74.110. Conditions for Granting Variance;

Interpreting the Variance Criteria

Some communities have variance criteria that serve strictly as a “relief valve” in the event a land use regulation would preclude all reasonable use of a property when the regulation is applied to a property that has unique characteristics that don’t generally apply to other properties subject to the same regulations. As a result, application of a standard to a specific property could result in a regulatory taking absent a variance process to allow reasonable use of the property. With such variance criteria, the bar to address the criteria is very high.

Other communities have less restrictive variance criteria which are intended to provide for equity; those criteria are intended to provide for reasonable use and development of a property for intended uses, where there is a unique circumstance associated with the property. Such criteria typically provide for a comparison of the subject property to other similarly situated properties to allow for an adjustment to a general standard which isn’t tailored to each unique situation that might arise on a property, where strict application of a standard might be unreasonable in a specific context. Often, this relates to unique size, shape, or topography of a property. In short, a limited variance to such a standard would allow for development with certain reasonable expectations about the use and development that are customary for the enjoyment of the property for intended uses.

The variance criteria in the McMinnville Zoning Ordinance include a comparison to other properties “in the same zone or vicinity.” Therefore, the intent of the variance provisions of the McMinnville Zoning Ordinance are more consistent with the latter philosophy.

In either case, the unique situation associated with a property that creates the need for a variance shouldn’t be a self-created hardship and shouldn’t confer an additional special right to the property that isn’t available to other properties (or wouldn’t be available to another property with similar unique circumstances through a comparable variance application). Further, a variance shouldn’t typically substitute for a legislative change that may be needed. For example, if a standard is always varied upon request no matter the context, then it would be more appropriate to change the standard so a variance isn’t required. Otherwise, the standard wouldn’t appear to serve a valid public purpose or appropriately implement policy if it is routinely varied.

II. CONDITIONS:

Not Applicable.

III. ATTACHMENTS:

- A. V 2-21 Application and Attachments (on file with the Planning Department)

IV. COMMENTS:

Agency 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, and Northwest Natural Gas. The following comments have been received:

- Comcast

We do have conduit and active lines on the property, but I don’t see it as being in conflict.

Attachments :

Attachment 1 – Application and Attachments

- McMinnville Building Division

No building code issues.

- McMinnville Engineering Department

No comments on the variance. Both buildings already have direct connections to the public sanitary sewer.

- McMinnville Water & Light

MW&L does not have any comments on this permit.

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was provided in the News Register on Friday, June 11, 2021. As of the date of the issuance of this Decision Document to the Planning Commission on Thursday, June 10, 2021, no public testimonies have been received by the Planning Department:

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant and property owner, Nora Collins, submitted the application on April 14, 2021.
2. The applicant held a neighborhood meeting in accordance with Section 17.72.095 of the Zoning Ordinance on April 6, 2021.
3. The application was deemed complete on May 14, 2021.
4. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: 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. Comments received from public agencies are addressed in the Decision Document.
5. Notice of the application and the June 17, 2021 Planning Commission public hearing was mailed to property owners within 100 feet of the subject property on May 27, 2021 in accordance with Section 17.72.120 of the Zoning Ordinance.
6. Notice of the application and the June 17, 2021 Planning Commission public hearing was published in the News Register on Friday, June 11, 2021, in accordance with Section 17.72.120 of the Zoning Ordinance.

No public testimony was submitted to the Planning Department prior to the issuance of this document.

7. On June 17, 2021, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT - GENERAL FINDINGS

Attachments :

Attachment 1 – Application and Attachments

1. **Location:** 2185/2191 NW 2nd Street (Parcel 1 of Partition Plat 2005-06, and Tax Lot 502, Section 19AC, T. 4 S., R. 4 W., W.M.)
2. **Lot Size:** 1.46 acres
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3 (General Commercial)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Two (2) medical office buildings
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None Identified
8. **Other Features:** The site is generally level with no significant features.
9. **Utilities:**
 - a. **Water:** The site is served by a water main in NW Hill Road. Water is provided to both office buildings on site.
 - b. **Sewer:** The site is served by a sewer main in NW 2nd Street. Sewer is provided to both office buildings on site.
 - c. **Stormwater:** The site is served by a storm drain line in NW 2nd Street.
 - d. **Other Services:** Other services are available to the property. An existing access and utility easement provides shared utility access from 2nd Street and Hill Road to the site and parcels 2 and 3 of PT 2005-06.
10. **Transportation:** NW Hill Road and NW 2nd Street are classified as Minor Arterials in the 2010 McMinnville Transportation System Plan. Hill Road has an 80 foot right-of-way. 2nd Street has an 80 foot right-of-way, and a 40-foot curb-to-curb width. Sidewalk, curbs, gutters, and a bike lane are present adjacent to the property. Hill Road is improved with sidewalk, curbs, and gutters adjacent to the property. An existing private access easement from 2nd Street provides access to Parcels 1, 2, and 3 of Partition Plat 2005-06. No access to the subject site is provided from Hill Road.

VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a variance to front yard setback requirements are as follows:

- **Comprehensive Plan:** The goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.
- **Zoning Ordinance (Title 17 of the McMinnville Code):**
 - MMC Section 17.74.100. Variance – Planning Commission Authority;
 - MMC Section 17.74.100. Conditions for Granting Variance;

Comprehensive Plan Volume II:

Attachments :

Attachment 1 – Application and Attachments

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, policies, and proposals as they apply to this application. Therefore, where applicable standards exist, subsequent findings regarding the parallel comprehensive plan policies are not made when they are duplicative or a restatement of the specific standards which achieve and implement the applicable goals and policies.

The following additional findings are made relating to specific Goals and Policies. Policies applicable to this variance application are addressed through implementation standards, except as provided below.

CHAPTER X. CITIZEN INVOLVEMENT AND PLAN AMENDMENT

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.

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The process for a Variance provides an opportunity for citizen involvement through the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials prior to the McMinnville Planning Commission's review of the request. All members of the public have access to provide testimony and ask questions during the public hearing process.

McMinnville Zoning Ordinance

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

- 17.53.100(C). Creation of Streets
- 17.74.100. Variance – Planning Commission Authority
- 17.74.110. Conditions for Granting Variance

Section 17.53.100. Creation of Streets

C. An easement providing access to property and which is created to allow the partitioning of land for the purpose of lease, transfer of ownership, or building development, whether immediate or future, shall be in the form of a street in a subdivision, except that a private easement to be established by deed without full compliance with these regulations may be approved by the Planning Director under the following conditions:

1. If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access and said access shall be not less than 15 (fifteen) feet in width and shall have a hard surfaced drive of 10 (ten) feet width minimum;

Attachments :

Attachment 1 – Application and Attachments

APPLICANT'S RESPONSE: N/A

FINDING: NOT SATISFIED. The Application is requesting a variance to the number of parcels allowed to be accessed via private easement. The Applicant has not demonstrated that the subject site is unusually deep or has an unusual configuration such that it would qualify for a private access easement instead of public right of way to access the lots. The Applicant failed to provide any evidence in its Application that such a circumstance exists.

Section 17.74.100. Variance – Planning Commission Authority

The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

Owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship.

APPLICANT'S RESPONSE: (N/A)

FINDING: NOT SATISFIED. As described in more detail in the finding below for 17.74.110(A) the applicant has not provided sufficient evidence that special and unusual circumstances exist for the subject site.

No variance shall be granted to allow the use of property for a purpose not authorized within the zone

APPLICANT'S RESPONSE: (N/A)

FINDING: SATISFIED. The subject site is developed with two medical office buildings, an allowed use in the C-3 zone. The variance would not change the existing use on either proposed parcel.

In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

APPLICANT'S RESPONSE: (N/A)

FINDING: NOT APPLICABLE.

17.74.110. Conditions for Granting Variance

A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;

APPLICANT'S RESPONSE: As detailed above, the ordinance from which Applicant seeks a variance did not exist in its current form when Applicant constructed two commercial buildings on the Property. The Property was of such a size to permit the construction of two commercial

Attachments :

Attachment 1 – Application and Attachments

buildings and Applicant lawfully constructed those buildings with all requisite authority. At the time Applicant constructed the two commercial buildings, the relevant zoning language would not have restricted use of the private easement to three parcels and supported use of the existing easement to serve both parcels resulting from the partition proposed by Applicant. Applicant had no control of the passage of Ordinance 4905, which changed the applicable zoning language to applicant's detriment.

FINDING: NOT SATISFIED. Applicant must prove that exceptional or extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity relating to the lot size, shape, topography, or other circumstance outside of the Applicant's control. Applicant does not provide any evidence that the property has some unique or unusual physical characteristic as the criteria requires such as a difficult shape or topography. Applicant's sole basis for meeting this criteria is based on an alleged change of the Zoning Ordinance where Applicant argues that private access easements for more than three (3) properties used to be allowed under the McMinnville Code, but is no longer allowed. Although Applicant's basis is unfounded (as explained further below), the alleged change in the Code did not result in a change to the configuration, shape, topography, or any other physical characteristics of the property. When an applicant is required to demonstrate extraordinary circumstances, as the case here, the applicant must show that there are physical characteristics that pose barriers to the development of the property. In other words, the Code expressly requires evidence of some exception or extraordinary circumstance related to the specific characteristics of the property to qualify for a variance.

Applicant argues that the City's prior zoning ordinance, Ordinance No. 4471, could theoretically allow more than three (3) lots to be accessed by a private access easement. The Applicant now claims that MMC 17.53.100(C)(1), the current counterpart to the prior provision in Ordinance No. 4471, limits the number of lots that could be accessed from a private access easement to three (3) or fewer lots, including the lot where the access originates. The Applicant's argument is based on the change from "e.g." to "i.e."

"E.g." is the abbreviation for the Latin phrase *exempli gratia*, which means "for example," while "i.e." is the abbreviation for the Latin phrase *id est*, which means "that is." E.g. is used to provide an example of the previous statement, where i.e. is used to restate or clarify what was previously stated. When Ordinance No. 4471 stated "e.g., a total of not more than three (3) parcels including the original may then exist..." the example was that a total of not more than three (3) parcels would be allowed to have access through a private access easement. While the current Code has changed to "i.e.," the result is the same – the Code does not allow more than three (3) parcels to have access through a private access easement.

Furthermore, under both the prior Ordinance No. 4471 and MMC 17.53.100(C)(1), the Applicant must demonstrate that the lot is unusually deep or has an unusual configuration to have a private access easement instead of public right of way to access the lots. The Applicant failed to provide any evidence in its Application that such a circumstance exists. Under either the prior or current Code provisions, the Applicant does not meet the requirements to qualify for a private access easement.

Finally, even assuming, without admitting, that a change in the Code could qualify for a variance, every property within the City that is accessed through a private access easement could be impacted by the change. Thus, the circumstance is not extraordinary or exceptional to Applicant's specific property.

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

Attachments :

Attachment 1 – Application and Attachments

APPLICANT'S RESPONSE: Granting the variance would preserve the right of Applicant to seek a partition that would allow Applicant to own and convey the two separate commercial buildings separately, as was permitted when Applicant constructed them. The imposition of the three-parcel restriction with the passage of Ordinance 4905 took away Applicant's right.

FINDING: SATISFIED. Staff concurs with the Applicant's finding in part, in that the variance would allow a request for partition of the property. A partition application for this parcel would require demonstrating access compliant with 17.53.100(C), the portion of code for which the variance is requested. Staff does not concur with the Applicant's assertion that the passage of the current Zoning Ordinance denied a right of the Applicant held under the prior Zoning Ordinance.

- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

APPLICANT'S RESPONSE: Granting this variance request will not be detrimental to the surrounding area because it won't change the existing use of the Property. As detailed above, the Property and its two commercial buildings are already accessed by the private easement, so granting the variance will not increase the use of the easement or the Property. Granting the request will simply allow Applicant to seek to partition the Property for the purpose of placing each commercial building on a separate lot.

Allowing a variance to Section 17.53.100(C)(1) would promote the Property's commercial zoning and commercial comprehensive plan by removing an unnecessary access restriction that is preventing the Applicant from placing two lawfully existing commercial buildings on separate lots. This prohibition has the actual effect of restricting otherwise lawful commercial uses because the existing commercial buildings are required to remain on one lot.

FINDING: SATISFIED. Staff concurs that the variance would not be detrimental to the surrounding area because it would not change the existing use of the site, or the intensity of the use. The property was previously developed in 2005 in accordance with City policies and plans. The variance would support a partition to allow a change in land ownership and would not alter any of the development characteristics that previously complied with City plans and policies.

- D. The variance requested is the minimum variance which would alleviate the hardship.

APPLICANT'S RESPONSE: This variance is the minimum variance necessary to alleviate Applicant's hardship because no other variance would alleviate the hardship. Other points of access to the subject property, namely from Hill Road, are not feasible and could create hazards to the existing flow of pedestrian traffic on the newly constructed sidewalks. Granting this variance would also allow access to remain in its current configuration without requiring additional access points that could increase/change traffic patterns in the surrounding area, particularly the intersection of Hill Road and 2nd Street.

FINDING: SATISFIED. Staff concurs with the applicant's finding. Additionally, the applicant is requesting to increase the number of parcels allowed to be accessed by private easement by one (1) which is the minimum variance that could be requested.

JF

**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. VR 2-21
 Date Received 4-14-21
 Fee 1743.75
 Receipt No. 203850
 Received by SK

Zoning Variance Application

Applicant Information

Applicant is: ☒ Property Owner ☐ Contract Buyer ☐ Option Holder ☐ Agent ☐ Other _____

Applicant Name Nora Collins/N Collins Properties LLC Phone 503-730-4642

Contact Name Nora Collins Phone _____
 (If different than above)

Address 243 East Scott Drive

City, State, Zip Stelton, WA 98584

Contact Email nora.collins@gmail.com

Property Owner Information

Property Owner Name N Collins properties LLC Phone 503-730-4642
 (If different than above)

Contact Name Nora Collins Phone _____

Address 243 East Scott Dr.

City, State, Zip Stelton WA 98584

Contact Email nora.collins@gmail.com

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 2185/2191 N.W. 2nd St. McMinnville, OR 97128

Assessor Map No. R4 419 - AC-00503 Total Site Area 1.46

Subdivision _____ Block _____ Lot 63

Comprehensive Plan Designation Can Zoning Designation C3

Parcel 1 of Partition Plat 2005-2006, tax lot 502, Section 19 AC R 45, T4W. WM.

The type of variance requested is for one access for four tax lots.

1. Describe the nature of the request in detail:

The subject property is located at 2185/2191 NW 2nd Street, and is more specifically described as Parcel 1 of Partition Plat 2005-06, and as Tax Lot 502, Section 19AC, R. 4 S., T. 4 W., W.M. (the "Property"). The Property is shown on the site plan attached as Exhibit A.

Applicant requests a variance from Section 17.53.100(C)(1) of the McMinnville Municipal Code, which has been interpreted by the City to limit the number of parcels that may be served by a private easement to three (3). The ordinance currently reads:

If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels, i.e., a total of not more than three (3) parcels including the original may then exist, that may be provided with access and said access shall be not less than 15 (fifteen) feet in width and shall have a hard surfaced drive of 10 (ten) feet width minimum . . . [emphasis added by Applicant]

The Property is currently served by a private easement that serves two other parcels. The Property currently has two lawful commercial buildings on it, each housing different businesses. Applicant has made application to partition the Property into two parcels, placing each commercial building on a separate lot, with each new lot serviced by the existing private easement for a total of four (4).

This variance is appropriate under applicable criteria because the development and configuration of Applicant's property pre-dates the City's current ordinance and is causing Applicant undue hardship. Applicant's buildings were lawfully constructed in 2005, and each building is lawfully accessed by the private easement. At the time the buildings were constructed, Section 17.53.100(C)(1) of the McMinnville Municipal Code did not restrict use of an easement to only 3 parcels. At that time, Section 24(C)(1) of Ordinance 4471¹ was controlling and read as follows:

If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels (e.g., a total of not more than three (3) parcels including the original may then exist) that may be provided with access and said access shall be not less than 15 feet in width and shall have a hard surfaced drive of 10 feet width minimum . . . [emphasis added by Applicant]

When Applicant lawfully constructed the two commercial buildings on the Property, the language "(e.g. a total of not more than three (3) parcels including the original may then exist)" was separated as a parenthetical and hypothetical phrase; it was not a mandatory restriction on the use of private easements. The relevant language was taken out of the parenthetical and listed in its current form in 2009 with the adoption of Ordinance 4905. The old Ordinance 4471, which was controlling when Applicant constructed the commercial buildings, supported Applicant's use of the existing easement to access both parcels resulting from the partition proposed above, making a variance appropriate in this case.

¹ A copy of Ordinance 4471 is attached as Exhibit B.

2. What exceptional or extraordinary circumstances apply to the property which do not apply generally to other property in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this ordinance, topography, or other circumstance over which the applicant has no control?

As detailed above, the ordinance from which Applicant seeks a variance did not exist in its current form when Applicant constructed two commercial buildings on the Property. The Property was of such a size to permit the construction of two commercial buildings and Applicant lawfully constructed those buildings with all requisite authority. At the time Applicant constructed the two commercial buildings, the relevant zoning language would not have restricted use of the private easement to three parcels and supported use of the existing easement to serve both parcels resulting from the partition proposed by Applicant. Applicant had no control of the passage of Ordinance 4905, which changed the applicable zoning language to applicant's detriment.

3. What property right would be preserved by granting the variance?

Granting the variance would preserve the right of Applicant to seek a partition that would allow Applicant to own and convey the two separate commercial buildings separately, as was permitted when Applicant constructed them. The imposition of the three-parcel restriction with the passage of Ordinance 4905 took away Applicant's right.

4. What unnecessary hardship would be avoided by granting the variance?

Granting the variance will avoid the hardship of Applicant being forced to leave two lawful commercial buildings on one lawful parcel and will allow Applicant to seek a partition of the Property, as was Applicant's right before imposition of the ordinance from which a variance is sought.

5. Why won't this request be detrimental to the surrounding area?

Granting this variance request will not be detrimental to the surrounding area because it won't change the existing use of the Property. As detailed above, the Property and its two commercial buildings are already accessed by the private easement, so granting the variance will not increase the use of the easement or the Property. Granting the request will simply allow Applicant to seek to partition the Property for the purpose of placing each commercial building on a separate lot.

Allowing a variance to Section 17.53.100(C)(1) would promote the Property's commercial zoning and commercial comprehensive plan by removing an unnecessary access restriction that is preventing the Applicant from placing two lawfully existing commercial buildings on separate lots. This prohibition has the actual effect of restricting otherwise lawful commercial uses because the existing commercial buildings are required to remain on one lot.

6. Please explain how this would be the minimum variance necessary to alleviate the hardship?

This variance is the minimum variance necessary to alleviate Applicant's hardship because no other variance would alleviate the hardship. Other points of access to the subject property, namely from Hill Road, are not feasible and could create hazards to the existing flow of pedestrian traffic on the newly constructed sidewalks. Granting this variance would also allow access to remain in its current configuration without requiring additional access points that could increase/change traffic patterns in the surrounding area, particularly the intersection of Hill Road and 2nd Street.

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.

Nava Collins
Applicants signature

April 14, 2021
Date

Nava Collins
Property Owner's Signature

April 14, 2021
Date

Tentative Partition Map for:

N Collins Property LLC

Location: NE 1/4 Section 19, T. 4 S., R. 4 W., WM.,
Parcel 1 PT 2005-06, in a portion of the
Solomon Beary DLC #54, & the William Davis
DLC #69, City of McMinnville, Yamhill County, OR

Tax Lot: 4419AC - 0502

Date: 11 September 2020

OWNER: N COLLINS PROPERTY LLC
NORMA COLLINS, MANAGING MEMBER

SITE: 2191 NW 2ND ST.
MCMINNVILLE, OR 97128

ZONING: C-3

OWNER CONTACT: NORMA COLLINS
PH: 503-7300-4642

Legend

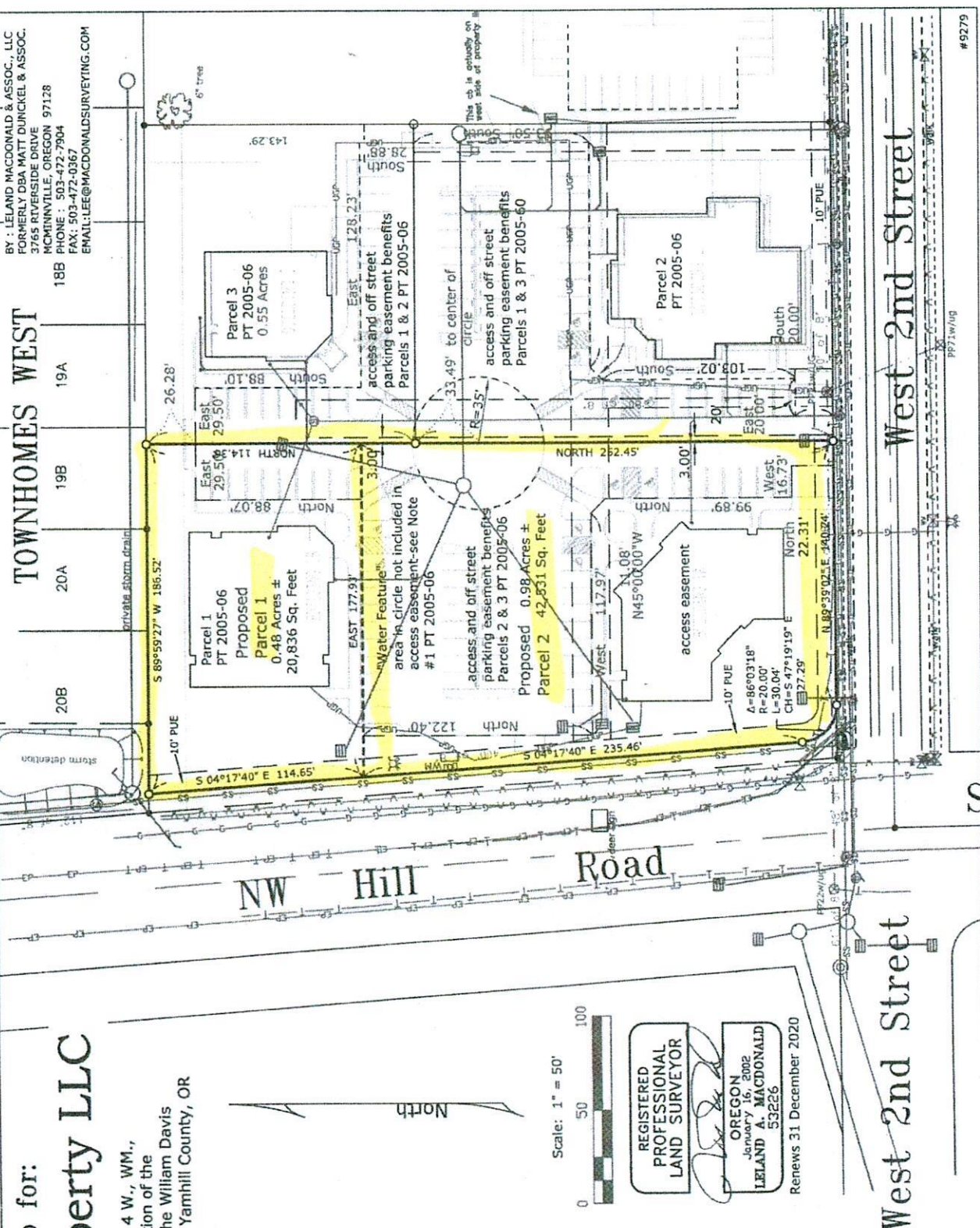
- = existing property line
- = proposed parcel lines
- = water valve, hydrant, meter
- = existing water main line
- = existing fog stripe
- = existing NW Natural Gas
- = existing NW Natural Gas Valve
- = existing concrete curb
- = existing gutter
- = existing back of walk
- = existing telephone
- = existing tree
- = existing power pole
- = sign
- = existing edge of pavement
- = existing culvert
- = existing underground power
- = overhead power
- = existing storm drain
- = catch basin, area drain
- = existing sanitary main line
- = existing sewer manhole

Scale: 1" = 50'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
January 16, 2002
LELAND A. MACDONALD
53226
Renews 31 December 2020

EXHIBIT A



West 2nd Street

BY : LELAND MACDONALD & ASSOC., LLC
FORMERLY DBA MATT DUNICKEL & ASSOC.
3765 RIVERSIDE DRIVE
MCMINNVILLE, OREGON 97128
PHONE : 503-472-7904
FAX : 503-472-0367
EMAIL: LEE@MACDONALDSURVEYING.COM

#9279

ORDINANCE NO. 4471

An Ordinance amending Ordinance 3702 by supplanting the terms and provisions of said ordinance as adopted in 1981 by Ordinance 4129, by supplanting all subsequent amendments thereto, and declaring an emergency.

The City of McMinnville in 1981 adopted Ordinance 3702 which has been referred to as the land division ordinance. From time to time thereafter, various amendments to this ordinance have been enacted. This ordinance supplants the terms contained in the original land division ordinance and in all of the amendments thereto. It is the desire of the Planning Commission, staff, and the City Council that the number "3702" be continued in existence for reference purposes. However, this 1990 land division ordinance amends and brings up-to-date all of the terms, conditions, and standards pertaining to the creation of subdivisions and is in accordance with Oregon Revised Statutes, McMinnville ordinances, and the goals and policies established in the McMinnville Comprehensive Plan; now therefore,

THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the City Council adopts the terms and conditions of the land division ordinance which is attached hereto and incorporated herein by this reference as the 1990 version of the City's land division regulations.

Section 2. That the terms and provisions of the land division ordinance as enacted in Ordinance 3702 and subsequently amended are hereby supplanted by the terms contained in the documents attached hereto and incorporated herein by this reference.

Section 3. Because the City's land division ordinance is currently in conflict with ORS Chapter 92 and adoption of this ordinance will resolve those conflicts, an emergency is hereby declared to exist and this ordinance shall be in full force and effect upon its passage by the Council.

Passed by the Council this 22nd day of May, 1990 by the following votes:

Ayes: Hansen, Johnstone, Wilson, Whitehead

Nays: _____

Approved this 22nd day of May, 1990.

Edward J. Formley
MAYOR

Attest:

Coole W. Stevens
RECORDER

McMINNVILLE, OREGON
ORDINANCE NO. 3702

LAND DIVISION

An Ordinance providing land division standards and procedures, providing penalties for the violation thereof, and declaring an emergency.

Section 1. Purpose. The purpose of this ordinance is to establish standards and procedures for the partitioning and subdividing of land in the City. These regulations are necessary to provide uniform procedures and standards for the subdivision and partitioning of land, to assure adequate width and arrangement of streets, to coordinate proposed development with plans for utilities and other public facilities, to avoid undue congestion of population, to assure adequate sanitation and water supply, to provide for the protection, conservation, and proper use of land, for securing safety from fire, flood, slides, pollution, drainage or other dangers, for providing adequate light and air, recreation, education, adequate transportation, to promote energy conservation through solar access, to protect in other ways the public health, safety, and welfare, and to promote the goals and policies of the McMinnville Comprehensive Plan.

Section 2. Definitions. As used in this ordinance, unless it is apparent from the context that different meanings are intended, the words and phrases below shall have the following meanings:

- (a) "Abut" To border on a given line, e.g., a given street right-of-way;
- (b) "Building line" A line on a plat indicating the limit beyond which buildings or other structures may not be erected;
- (c) "City" The City of McMinnville, Oregon;
- (d) "McMinnville Comprehensive Plan" A plan developed by the City to implement the statewide planning goals of the Land Conservation and Development Commission, including amendments which may be made from time to time;
- (e) "Dwelling unit" Dwelling unit means one or more rooms designed for occupancy for one family;
- (f) "Easement" A grant of the right to use a strip of land for specific purposes, e.g., utility easement;
- (g) "Family" Family means an individual or two or more persons related by blood, marriage, adoption, or legal guardianship, living together as one housekeeping unit, and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five (5) unrelated persons, excluding servants, living together as one housekeeping unit;
- (h) "Lot" Lot means a unit of land that is created by a subdivision of land;

- (1) "Corner lot" A lot in which at least two (2) adjacent sides abut streets other than alleys;
- (2) "Through lot" A lot having frontage on two parallel or approximately parallel streets other than alleys. Refer to Section 32, subsection (C), below;
- (3) "Flag lot" A lot, the main body of which is some distance from the street, which is connected to the street and takes access from the street via a narrow (usually 25 feet in width) strip of land. Also known as panhandle lots.
- (i) "Major partition" Major Partition means a partition which includes the creation of a road or street;
- (j) "Minor partition" Minor partition means a partition that does not include the creation of a road or street;
- (k) "Parcel" Parcel means a unit of land that is created by a partitioning of land;
- (l) "Partition" Partition means either an act of partitioning land or an area or tract of land partitioned as defined in this section;
- (m) "Partition land" means to divide land into two or three parcels of land within a calendar year, but does not include:
 - (1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; or
 - (2) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance; or
 - (3) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213(2)(q) to (s) and 215.283(2)(p) to (r).
- (n) "Partition plat" includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a major or minor partition;
- (o) "Pedestrian way" A right-of-way for pedestrians and/or bicyclists traffic;

- (p) "Person" An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof;
- (q) "Planning Commission" The Planning Commission of the City;
- (r) "Plat" includes a final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision plat, replat or partition plat;
- (s) "Replat" includes a final map of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the descriptions, location, specifications, dedications and provisions and information concerning a recorded subdivision;
- (t) "Right-of-way" The area between boundary lines of a street or other easement;
- (u) "Road or street" Road or street means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes, and further, that the width of a street or road shall be as set forth in Section 24, subsection (c) or (d), and Section 30, subsection (b) of this ordinance; or as approved by the Planning Commission and the City Council under the provisions of a planned development.
 - (1) "Alley" A narrow street through a block primarily for access by service vehicles to the back or side of properties fronting on another street;
 - (2) "Arterial" A major arterial - Regional routes linking major population centers. They are designed mainly for through-traffic but also normally perform a secondary land service function. A minor arterial - Streets that serve to connect different sections of the City. They are designed for through-traffic and land service functions;
 - (3) "Collectors" Major or minor streets that serve as the main routes within neighborhoods. They are designed to connect local streets and abutting properties or arterials;
 - (4) "Cul-de-sac (dead-end street)" A short street with one end open to traffic and the other terminated by a vehicle turn-around;

- (5) "Half street" A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision;
- (6) "Frontage road" A service road parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic;
- (7) "Local streets" (Includes cul-de-sacs and all other streets.) Streets that serve primarily to provide direct access to adjacent properties. Through traffic is discouraged.
- (v) "Sidewalk" A pedestrian walkway with permanent surfacing;
- (w) "Subdivide land" Subdivide land means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year;
- (x) "Subdivision" Subdivision means either an act of subdividing land or an area or tract of land subdivided as defined in this section;
- (y) "Subdivision plat" includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

Section 3. Scope of Regulations. Subdivision plats and streets or ways created for the purpose of partitioning land shall be approved and accepted by the Planning Commission or Planning Director, as appropriate, in accordance with these regulations. A person desiring to subdivide land, to make a major or minor partition of land, or to sell any portion not the whole of a parcel of land shall submit tentative plans and final documents for approval as provided in this ordinance and state law. The applicant shall meet all of the requirements set forth in ORS, Chapters 92 and 227.

Section 4. Fees.

- (a) For all applications concerning a major partition a minor partition, or subdivision, a fee as established by the official City fee schedule shall be charged for a review and investigation of the proposed plat.
- (b) A fee as established by official City fee schedule and in no case less than allowed by ORS 92.100(2) shall be charged for the review of a final plat by the city surveyor as required by this ordinance. In the event a final plat must be reviewed again because of error in the original documents as submitted by the applicant, the city surveyor shall charge an additional fee as established in the fee schedule.

Section 5. Planned Development. The subdivision of land in accordance with the planned development section of the City of McMinnville Ordinance No. 3380 may result in the terms and requirements of this ordinance being waived, altered, or otherwise changed as determined by action of the Planning Commission and approval by the Common Council.

Tentative Subdivision Plan

Section 6. Submission of Tentative Subdivision Plan. A subdivider shall prepare a tentative plan together with improvement plans and other supplementary material required to indicate his general program and objectives, and shall submit twenty-two (22) copies of the tentative plan and supplementary data to the Planning Director's office at least forty (40) days prior to the Planning Commission meeting at which consideration of the plan is desired (see Section 15). The tentative plan need not be a finished drawing, but shall show pertinent information to scale in order that the Planning Commission may properly review the proposed development.

Section 7. Scale. The tentative plan shall be drawn on a sheet eighteen (18) by twenty-four (24) inches in size at a scale of one inch equals 100 feet, or a reasonable engineer's scale for the sheet size.

Section 8. General Information. The following general information shall be shown on the tentative plan:

- (a) Proposed name of subdivision. No plan of a subdivision shall be approved which bears a name which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the contiguous subdivision plat of the same name last filed;
- (b) Date, north point, and scale of drawing;
- (c) Appropriate identification clearly stating the plan is a tentative plan;
- (d) Location of the subdivision sufficient to define the location and boundaries of the proposed tract;
- (e) Names and addresses of the owner(s), subdivider, engineer, and surveyor;
- (f) In the event the subdivider plans to utilize the provisions of ORS 92.060 as pertains to "Post Monumentation" he shall notify the city surveyor and Planning Commission and report said fact on the tentative plan;

- (g) A subdivision guarantee report issued by a title insurance company in the name of the owner(s) of the land, showing all parties whose consent is necessary and their interest in the premises and all encumbrances, covenants and other restrictions pertaining to the subject property.

Section 9. Existing Conditions. The following existing conditions shall be shown on the tentative plan:

- (a) The location, widths, and names of both opened and unopened streets within or adjacent to the tract, together with easements and other important features, such as section lines, city boundary lines, and monuments;
- (b) The direction of slope by means of arrows or other suitable symbol;
- (c) The location of at least one temporary bench mark, on established city datum, within 200 feet of the plat boundaries;
- (d) The location and direction of water courses, and the location of areas subject to flooding on a probability frequency of ten (10) percent or greater;
- (e) Natural features such as rock outcroppings, marshes, wooded areas, and isolated preservable trees. Areas noted in the Comprehensive Plan, Volume I Background Element, Chapter VII, Parks and Recreation and Open Space Sections, as potential open space lands should be identified;
- (f) Existing uses of the property, including location of existing structures to remain on the property after platting.

Section 10. Proposed Plan of Subdivision. The following information shall be included on the tentative plan:

- (a) The location, width, names, approximate grades, and radii of curves of streets. The relationship of streets to any existing streets and to any projected streets as shown on the McMinnville Comprehensive Plan Map 1980, as amended, or as identified in the McMinnville Comprehensive Plan text, or as may be suggested by the Planning Commission in order to assure adequate traffic circulation;
- (b) The location, width, and purpose of easements;
- (c) The location and approximate dimensions of lots and the proposed lot and block numbers;
- (d) Sites, if any, allocated for purposes other than single-family dwellings, such as multiple-family dwelling, parkland, open space, common areas, etc.

Section 11. Partial Development. If the tentative subdivision plan pertains to only part of the tract owned or controlled by the subdivider, the Planning Commission may require a sketch of a tentative layout for streets in the unsubdivided portion. Refer to Section 24 below.

Section 12. Explanatory Information with Tentative Subdivision Plan. The following information shall be required by the Planning Commission or staff, and if it cannot be shown practicably on the tentative plan, it shall be submitted in separate statements accompanying the tentative plan.

- (a) A vicinity plan, showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision, and showing how proposed streets and utilities may be extended to connect to existing streets and utilities.
- (b) Proposed deed restrictions, if any, in outline form.
- (c) The location of existing sewers, water mains, culverts, drain pipes, and electric lines and elevations of sewers at points of probable connections within the subdivision and in the adjoining streets and property.
- (d) Special studies of areas which appear to be hazardous due to local conditions such as inundation or slippage.
- (e) Contour lines related to an established bench mark on city datum, and having minimum intervals as follows:
 - (1) For slopes of less than five (5) percent: show the direction of slope by means of arrows or other suitable symbol together with not less than four (4) spot elevations per acre, evenly distributed;
 - (2) For slopes of five (5) percent to fifteen (15) percent: Five (5) feet;
 - (3) For slopes of fifteen (15) percent to twenty (20) percent: ten (10) feet;
 - (4) For slopes of over twenty (20) percent: twenty (20) feet.

Section 13. Supplemental Plans with Tentative Subdivision Plans. Any of the following plans may be required by the Planning Commission or staff to supplement the plan of subdivision.

- (a) Approximate center line and right-of-way profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of the streets and the nature and extent of street construction. Where any cut or fill will exceed three (3) feet in depth, cross section of the road shall also be submitted.

- (b) Proposals for storm water drainage and flood control, including profiles of proposed drainage ways.
- (c) If lot areas are to be graded, a plan showing the nature of cuts and fills exceeding five (5) feet, and information on the character of the soil.

Section 14. Preliminary Review of Tentative Subdivision Plan. Upon receipt, the city surveyor shall distribute copies to appropriate officials and agencies designated by the city. In addition, coordination of the tentative plan should be made with affected counties, state, federal agencies, and all affected special districts. These officials and agencies shall be given a reasonable time to review the plan and to suggest any revisions that appear to be indicated in the public interest. The Planning Commission shall conduct a public hearing on the proposed subdivision and give notice as required in Section 15.

Section 15. Preliminary Approval of Tentative Subdivision Plan.

- (a) It shall be the responsibility of the Engineering Department and Planning Department to review a tentative plan to insure that it substantially conforms to the requirements of this ordinance prior to the submittal of the plan to the Commission. The Planning Director may refuse to submit a tentative plan to the Commission if it is found that it does not substantially conform to the ordinance requirements. All decisions of the Planning Director may be appealed to the Planning Commission.
- (b) Upon finding that a tentative plan substantially conforms to the requirements of this ordinance, the Planning Director shall submit the plan along with the reports of appropriate officials and agencies to the Commission for review at their earliest practicable meeting.
- (c) The Planning Commission shall hold at least one public hearing on an application for tentative plan approval.
 - (1) Notice of the public hearing shall be published in a newspaper of general circulation in the City not less than 5 days nor more than 15 days prior to the date of hearing.
 - (2) Written notice of the public hearing shall be mailed to all owners of property within 300 feet of the exterior boundary of the property for which the approval has been requested. Notice shall be mailed not fewer than 20 nor more than 30 days prior to the date of the hearing.
 - (3) Public hearings shall be conducted as per the requirements of McMinnville Ordinance No. 3682, as amended.

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- (4) Any public hearing may be continued to a specific date by oral pronouncement prior to the close of such hearing and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.
- (5) A decision of the Commission shall become final 15 days after the date it is made provided that an appeal is not filed. For appeals procedures, see Section 44.
- (d) Approval of the tentative plan shall indicate approval for preparation of the of the final plat if there is no substantial change in the plan of the subdivision and if the subdivider complies with the requirements of this ordinance.
- (e) The action of the Planning Commission shall be noted on two copies of the tentative plan, including reference to any attached documents describing conditions. One copy shall be returned to the applicant, and the other shall be retained by the City of McMinnville.

Final Subdivision Plat

Section 16. Submission of Final Plat. Within twelve (12) months after approval of the tentative plan, the subdivider shall prepare a final plat in conformance with the tentative plan as approved. The subdivider shall submit the original drawing and two exact copies and any supplementary information to the city surveyor. If the subdivider wishes to proceed with the subdivision after the expiration of the twelve (12) months' period following approval of the tentative plan by the Planning Commission, he must resubmit his tentative plan to the Planning Commission and make any revisions considered necessary to meet changed conditions.

Section 17. Information on Final Plat. In addition to that specified by ORS 92.050 and ORS 209.250, the following information shall be shown on the final plat and/or complied with:

- (a) The date, scale, north point, legend, controlling topography such as bluffs, creeks, and other bodies of water, and existing cultural features such as highways and railroads;
- (b) Legal description of the tract boundaries;
- (c) Name of the owner, subdivider, and surveyor;
- (d) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
 - (1) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;

- (2) Adjoining lot corners of adjoining subdivisions;
 - (3) O.R.S. 93.360, Oregon Coordinate System;
 - (4) Error of closure throughout the subdivision shall not exceed one foot in 10,000 feet;
 - (5) Measurement error shall not exceed 0.10 of a foot between monuments, or 1/5,000 of distance shown on the subdivision plat, whichever is greater.
 - (6) Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this ordinance.
- (e) The exact location, deflection angle, and width of streets and easements intercepting the boundary of the tract. The width of the portion of streets being dedicated and the width of existing right-of-way. For streets on curvature, curve data shall be based on the street center line. In addition to showing bearings in degrees, minutes, and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision either on the face of the map or in a separate table:
1. Arc length;
 2. Chord length;
 3. Chord bearing;
 4. Radius; and
 5. Central angle.
- (f) Tract, block, and lot boundary lines and street right-of-way and center lines, with dimensions, bearing and deflection angles, radii, arcs, points of curvature, and tangent bearings. Flood-plain and normal high water lines for any creek, or other body of water. Tract boundaries and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used;
- (g) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication;
- (h) Lot numbers beginning with the number "1" and numbered consecutively in each block. Paired lots shall be identified as such, e.g., 1A and 1B;

- (i) Area of each lot shall be shown on the face of the plat, with acreage calculated to 1/100 acre or square footage to nearest square foot, when area is less than one acre.
- (j) Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision;
- (k) Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale;
- (l) The following certificates which may be combined where appropriate;
 - (1) A certificate signed and acknowledged by all parties having any recorded title or interest in the land, consenting to the preparation and recording of the plat;
 - (2) A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for public use except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants, and servants;
 - (3) A certificate with the seal of the surveyor responsible for the survey and final map;
 - (4) Other certifications, deed restrictions or covenants as now or hereafter may be required by law.
- (m) A statement of water right, if appropriate, and, if a water right is appurtenant, a copy of the acknowledgement from the Water Resources Department must be attached before the County recording officer may accept the plat of the subdivision for recording (ORS 92.120).

Section 18. Supplementary Information with Final Subdivision Plat. The following data shall accompany the final plat:

- (a) An amended subdivision guarantee report issued by a title insurance company in the name of the owner(s) of the land, showing all parties whose consent is necessary and their interest in the premises;
- (b) Sheets and drawings showing the following:

- (1) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any, prior to adjustment;
- (2) The computation of all distances, angles, and courses shown on the final map;
- (3) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, state highway stationing, and Oregon Coordinate System;
- (c) A copy of any deed restrictions applicable to the subdivision;
- (d) A copy of any dedication requiring separate documents;
- (e) Written proof that all taxes and assessments which have become a lien on the tract are paid;
- (f) A certificate by the City Engineer that the subdivider has complied with the requirements of Sections 20 and 21.

Section 19. Technical Review.

- (a) Upon receipt of the final plat and accompanying data, the City Surveyor shall review the final plat and documents to determine that the plat conforms with the approved tentative plan, and that there has been compliance with provisions of the law and of this ordinance.
- (b) The City Surveyor shall examine the plat for compliance with requirements for accuracy and completeness and shall collect such fees as are provided by this ordinance. He shall make checks in the field to verify that the plat is sufficiently correct on the ground, and he may enter the property for this purpose. If he determines that there has not been full conformity, he shall advise the subdivider of the changes or additions that must be made, and afford the subdivider an opportunity to make such changes or additions.
- (c) If the City Surveyor determines that full conformity has been made, he shall so certify.

Section 20. Agreement for Improvements. Before Planning Commission approval is certified on the final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision; or execute and file with the City an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed. The agreement shall provide that if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense thereof

from the subdivider. The agreement may provide for the construction of the improvements in units and for an extension of time under specified conditions.

Section 21. Bond.

- (a) The subdivider will be required to file with the agreement for improvement as required in Section 20 above, to assure his full and faithful performance thereof, one of the following:
 - (1) A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney;
 - (2) File with the City a copy of instructions to a qualified escrow agent, providing that said agent shall withhold any amounts due or to become due to the subdivider in amount sufficient to cover the cost of all public improvements to be completed or installed by the subdivider, in a form approved by the City Attorney;
 - (3) Cash.
 - (4) Letter of credit or loan commitment in a form approved by the City Attorney.
- (b) Such assurance of full and faithful performance shall be for a sum determined by the City Engineer as sufficient to cover the cost of the improvements and repairs, including related city expenses.
- (c) If the subdivider fails to carry out provisions of the agreement and the City has unreimbursed costs or expense resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for the difference.

Section 22. Approval of Final Subdivision Plat. If the City Surveyor determines that the final plat conforms fully with all applicable regulations and standards, the City Surveyor shall so advise the chairman of the Planning Commission. If the final plat is not in full conformance, it shall be submitted to the Planning Commission. If the final plat is referred to the chairman of the Planning Commission, the chairman may elect either to sign the plat or submit it to the Planning Commission for further review. When submitted to the Planning Commission for review, approval of the final plat shall be by a majority of those present. If the plat is signed without further review by the Planning Commission, the action shall be reported to the Planning Commission at the next regular meeting. In the absence of the chairman, his duties and powers with respect to action on final plats shall be vested in the vice-chairman.

Section 23. Filing of Final Subdivision Plat. The subdivider shall, without delay, submit the final plat for signatures of other public officials required by law, e.g., County Commissioners, County Assessor, County Clerk, and Tax Collector. Approval of the final plat shall be null and void if the plat is not recorded within thirty (30) days after the date of the last required signature has been obtained.

Approval of Streets and Ways

Section 24. Creation of Streets.

- (a) The creation of streets shall be in conformance with requirements for subdivision except, however, the Planning Commission shall recommend the creation of a street to be established by deed if any of the following conditions exist:
 - (1) The establishment of the street is initiated by the City Council and is declared essential for the purpose of general traffic circulation, and the partitioning of land is an incidental effect rather than the primary objective of the street;
 - (2) The tract in which the street is to be dedicated is an isolated ownership of one acre or less;
 - (3) The tract in which the street is to be dedicated is an isolated ownership of such size and condition as to make it impractical to develop more than three (3) lots;
- (b) In those cases where approval of a street is to be established by deed, a copy of the proposed deed shall be submitted to the City Engineer at least fifteen (15) days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Sections 25 to 30 of these regulations, shall be recommended for approval with such conditions as are necessary to preserve these standards;
- (c) An easement providing access to property and which is created to allow the partitioning of land for the purpose of lease, transfer of ownership or building development, whether immediate or future, shall be in the form of a street in a subdivision, except that a private easement to be established by deed without full compliance with these regulations may be approved by the Planning Director under the following conditions:
 - (1) If it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration that is large enough to warrant partitioning into two more new parcels (e.g., a total of not more than three (3) parcels including the original may then exist) that may be provided with access and said access shall be

not less than 15 feet in width and shall have a hard surfaced drive of 10 feet width minimum;

- (2) The Planning Director shall require the applicant to provide for the improvement and maintenance of said access way; and to file an easement for said access way which includes the right to passage and the installation of utilities.; Such requirements shall be submitted to and approved by the City Attorney.
 - (3) Access easements shall be the preferred form of providing access to the rear lots created by minor partition if the alternative is the creation of a flag lot.
- (d) A private way/drive which is created to allow the subdivision of land shall be in the form of common ownership, provide on-street parking or parking bays to replace that displaced by limited parking area, be approved by the Planning Commission in the form of a planned development, and meet the following conditions:
- (1) If it is the only reasonable method by which the rear portion of the existing parcel can be provided with access, or because of unusual topography, vegetative cover (preservable trees), lot size, or shape, it is the most feasible way to develop the parcel,
 - (2) The Planning Commission shall require the subdivider to provide the improvements to standards as set forth in Section 30(p) and maintenance of said private way/drive; and to establish binding conditions upon each parcel taking access over said private way/drive, not limited to only the required maintenance but to include adherence to the limited parking restrictions imposed by the individual planned development ordinance; and to provide necessary easements for the installation, operation, and maintenance of public utilities.
 - (3) Provisions must be made to assure that the private streets will be properly maintained over time and that new purchasers of homes or lots within the subdivision are notified, prior to purchase, that the street is private, and that maintenance fees may be charged. Such provisions must meet with the approval of the Planning Commission.
 - (4) Street sign posts on private streets must contain a sign stating that the street is private. The design and location of such signs must be approved by the City Engineer.

Tentative Minor Partition Plan

Section 25. Submission of Tentative Minor Partition Plan. Land partitioning other than major partition or subdivision shall be approved under the following procedure:

- (a) There shall be submitted to the Planning Director a tentative plan with sufficient information to show the following:
 - (1) The date, north point, scale, and a copy of recorded deed and any conveyed rights to define the location and boundaries of the parcel to be partitioned;
 - (2) Name and address of the recorded owner(s);
 - (3) Approximate acreage 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 minor 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) Lot layout showing size and relationship to existing or proposed streets and utility easements;
 - (7) Such additional information as required by the Planning Director.
- (b) The plans shall be submitted to the Planning Director for review and determination that the proposal will be compatible with the comprehensive development plan. 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 two 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.

Section 26. Preliminary Approval of Tentative Minor Partition Plan.

- (a) It shall be the responsibility of the Engineering Department and Planning Department to review a tentative plan to insure that it substantially conforms to the requirements of this ordinance. The Planning Director may reject a tentative plan if it is found that it does not substantially conform to the ordinance requirements. All decisions of the Planning Director may be appealed to the Planning Commission.
- (b) Approval of the tentative plan shall indicate approval for preparation of the of the final plat if there is no substantial change in the plan of minor partition and if the subdivider complies with the requirements of this ordinance.
- (c) The action of the Planning Director shall be noted on two copies of the tentative plan, including reference to any attached documents describing conditions. One copy shall be returned to the applicant, and the other shall be retained by the City of McMinnville.

Final Minor Partition Plat

Section 27. Submission of Final Minor Partition Plat. Within twelve (12) months after approval of the tentative plan, the subdivider shall prepare a final plat in conformance with the tentative plan as approved. The subdivider shall submit the original drawing and two exact copies thereof, and any supplementary information to the city surveyor. If the subdivider wishes to proceed with the minor partition after the expiration of the twelve (12) months' period following approval of the tentative plan by the Planning Director, he must resubmit his tentative plan to the Planning Director and make any revisions considered necessary to meet changed conditions.

Section 28. Filing of Final Minor Partition Plat. The subdivider shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within thirty (30) days after the date of the last required signature has been obtained.

Major Partitions

Section 29. Major Partitioning Procedure for Approval. Major partitioning shall be approved under the procedures outlined in this ordinance for subdivision approval. These include:

- (a) Submission of Tentative Major Partition Plans. See Section 6.
- (b) Scale. See Section 7.
- (c) General Information. See Section 8.
- (d) Existing Conditions. See Section 9.

- (e) Proposed Plan of Major Partition. See Section 10.
- (f) Partial Development. See Section 11.
- (g) Explanatory Information with Major Partition Plan. See Section 12.
- (h) Supplemental Plans with Major Partition Plans. See Section 13.
- (i) Preliminary Review of Tentative Major Partition Plans. See Section 14.
- (j) Preliminary Approval of Tentative Major Partition Plans. See Section 15.
- (k) Submission of Major Partition Final Plat. See Section 16.
- (l) Information on Final Plat. See Section 17.
- (m) Supplementary Information with Final Major Partition Plat. See Section 18.
- (n) Technical Review. See Section 19.
- (o) Agreement for Improvements. See Section 20.
- (p) Bond. See Section 21.
- (q) Approval of Final Major Partition Plat. See Section 22.
- (r) Filing of Final Major Partition Plat. See Section 23.

Section 30. Streets.

- (a) General. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. Where location is not shown in a comprehensive plan, the arrangement of streets in a subdivision shall:
 - (1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - (2) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; or
 - (3) Maximize potential for unobstructed solar access to all lots or parcels. Streets providing direct access to abutting

lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features. The east-west orientation of streets shall be integrated into the design.

- (b) Minimum right-of-way and roadway widths. The width of rights-of-way and roadways shall be adequate to fulfill city specifications as provided in Section 38 of this ordinance, and, unless otherwise indicated on a comprehensive plan or otherwise varied through the planned development process, shall not be less than the minimum widths in feet shown in the following table:

<u>Type of Street</u>	<u>Minimum Right of Way^a</u>	<u>Minimum Roadway</u>
Major arterials	100	Varies ^b
Minor arterials	60	Varies ^b
Collector street and continuous residential and industrial/commercial	60	36 ^c
Discontinuous local streets not extending over 1,800' in length	50	34 ^c
Eyebrows shall have a maximum length of 125', serving no more than 3 dwelling units	50	36
Radius for turn-around at end of residential cul-de-sac	50	40 ^d
Radius for end of eyebrow	25	18
Alley	20	20

- a. Exclusive of side slope easement which may be required in addition for cuts and fills in rough terrain.
- b. Width standards will be defined in improvement specifications adopted by the city.
- c. The minimum roadway width may be varied by the action of the Council taking into consideration the unique characteristics of the land, to include geography, topography, and its relation to land developments already present in the area.
- d. The turnaround radius of commercial/industrial streets will be dependent upon the types of vehicle traffic to be served.

Where existing conditions, such as the topography or the size or shape of land parcels, make it otherwise impractical to provide buildable lots, the Planning Commission may accept a narrower right-of-way, ordinarily not less than fifty (50) feet. If necessary, special slope easements may be required;

- (c) Reserve strips. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the Planning Commission under conditions approved by them;
- (d) Alignment. As far as practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet;
- (e) Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision; and the resulting dead-end streets may be approved without a turn-around. Reserve strips and street plugs may be required to preserve the objectives of street extensions;
- (f) Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than sixty (60) degrees unless there is a special intersection design. The intersection of an arterial or collector street with another street shall have at least 100 feet of tangent, measured from right-of-way adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty (50) feet of tangent measured from property line adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than eighty (80) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of twenty (20) feet and maintain a uniform width between the roadway and the right-of-way line;
- (g) Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision;

- (h) Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets;
- (i) Cul-de-sacs. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve no more than eighteen (18) dwelling units. A cul-de-sac shall terminate with a turn-around;
- (j) Street names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the city; street names shall be subject to the approval of the Planning Commission;
- (k) Grades and curves. Grades shall not exceed six (6) percent on arterials, ten (10) percent on collector streets, or twelve (12) percent on any other street. Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other street, and shall be to an even ten (10) feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept steeper grades and sharper curves;
- (l) Streets adjacent to a railroad right-of-way. Wherever the subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel with and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation, and to provide sufficient depth to allow screen planting along the railroad right-of-way;
- (m) Frontage roads/streets. Where a subdivision or partition abuts or contains an existing or proposed arterial street, the Planning Commission may require frontage streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property lines, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic;
- (n) Alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-

street parking and loading facilities are approved by the Planning Commission;

- (o) Eyebrows. Where conditions do not warrant the use of cul-de-sacs and the land available in the proposed plan does not allow for a discontinuous minor street extension and where there are no more than three (3) dwelling units proposed to take access, the City Engineer may allow eyebrows. Eyebrows shall be limited to a maximum length of 100 feet, when measured from the main street right-of-way with which it takes access. The City Engineer may allow less than that required in (d) above, after taking into consideration the effects upon traffic flows. The right-of-way width shall be no less than thirty-six (36) feet, curb to curb, with an eighteen foot radius at the terminus;
- (p) Private way/drive. This type of street will be allowed when the conditions of Section 24(d) are met. A private drive shall be constructed to the same structural standards that would apply to a public street. Storm runoff will be controlled to prevent damage to adjacent properties. A storm drainage plan shall be approved by the City Engineer. The right-of-way width will be determined based on site conditions and proposed use and will be approved by the Planning Commission.
- (q) Bikeways. Provisions shall be made for bikeways planned along arterial and collector streets and where shown on the Bikeway Master Plan. Arterial streets shall be designed to be wide enough to accommodate a five-foot wide bike lane adjacent to each outside traffic lane. Collector streets shall be designed so that bike lanes may be striped in the future. Where a proposed development abuts a collector street less than 44 feet in width, the Planning Commission may require that on-street parking be restricted to one side of the street only or that the deed(s) of the lot(s) adjacent to the street show that on-street parking will be eliminated in the future for bikeway development.

Section 31. Blocks.

- (a) General. The length, width, and shape of blocks shall take into account the need for adequate lot size and street width and shall recognize the limitations of the topography.
- (b) Size. No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street, or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.
- (c) Easements.
 - (1) Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever

necessary. The easements shall be at least ten (10) feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six (6) feet in width. Easements of ten (10) feet in width shall be required along all fifty (50) foot rights-of-way, and five (5) feet in width shall be required along all sixty (60) foot rights-of-way.

- (2) Water courses. If a subdivision is traversed by water courses such as a drainage way, channel, or stream, there shall be provided a storm unit easement or drainage right-of-way conforming substantially with the lines of the water course and of such width as will be adequate for the purpose, unless the water course is diverted, channelled or piped in accordance with plans approved by the City Engineer's office. Streets or parkways parallel to major water courses may be required.
- (3) Pedestrian ways. When desirable for public convenience, safety, or travel, pedestrian ways not less than ten (10) feet in width may be required to connect to cul-de-sacs, to pass through unusually long or oddly shaped blocks, to connect to recreation or public areas such as schools, or to connect to existing or proposed pedestrian ways.

Section 32. 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 lots 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 twenty-five (25) feet except those lots approved and created under the provisions of Section 24(c) above. Direct access onto a major collector or arterial streets 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 ten (10) 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.

Section 33. Lot Grading. Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards.

- (a) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- (b) Fill slopes shall not exceed two feet horizontally to one foot vertically.
- (c) The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.
- (d) The minimum elevation at which a structure may be erected, taking into consideration the topography of the lot, the surrounding area, drainage patterns, and other pertinent data shall be established by the City Building Official.
- (e) The City Engineer shall determine whether a storm drainage system is necessary to control, manage, and dispose of water lying on or running over a subdivision. In addition, the subdivider shall be required to meet other standards and conditions imposed by state laws and city ordinances.

Section 34. Building lines. If special building setback lines are to be established in the subdivision or partition, they shall be shown on the plat or included in the deed restrictions.

Section 35. Large Lot Subdivision. In subdividing tracts into large lots which at some future time are likely to be resubdivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into lots, and contain such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of smaller size.

Section 36. Left-over Land. Islands, strips, or parcel of property unsuited for subdividing and not accepted by the City for appropriate use shall not be left unsubdivided but shall be identified as required in Section 17(k) above.

Improvements

Section 37. Improvement Procedures. In addition to other requirements, improvements shall conform to the requirements of this ordinance and improvement standards or specifications adopted by the City, and shall be installed in accordance with the following procedure:

- (a) Work shall not be commenced until plans have been reviewed for adequacy and approved by the City. To the extent necessary for evaluation of the subdivision proposal, the plans shall be required before approval of the final plat. All plans shall be prepared in accordance with requirements of the City;
- (b) Work shall not be commenced until the City has been notified in advance, and if work has been discontinued for any reason it shall not be resumed until the City has been notified;
- (c) Required improvements shall be inspected by and constructed to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such change in the public interest;
- (d) Underground utilities, sanitary sewers and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to lengths that will avoid the need to disturb street improvements and utilities when service connections are made;
- (e) Plans showing public improvements as built shall be filed with the City Engineer within 30 days after acceptance of the improvements by the Engineer.

Section 38. Specifications for Improvements. The City Engineer has submitted and the City Council has adopted the standard specifications for public works construction, Oregon Chapter A.P.W.A. and has included those special provisions that are, by their very nature, applicable to the City of McMinnville. The specifications cover the following:

- (a) Streets including related improvements such as curbs and gutters, shoulders, and median strips, and including suitable provisions for necessary slope easements;
- (b) Drainage facilities;
- (c) Sidewalks in pedestrian ways;
- (d) Sewers and sewage disposal facilities.

Section 39. Improvement Requirements. The following improvements shall be installed at the expense of the subdivider:

- (a) Water supply system. All lots within a subdivision shall be served by the City water supply system;
- (b) Electrical system. All lots within a subdivision shall be served by the City electrical system;
- (c) Sewer system. All lots within a subdivision shall be served by the City sewer system;
- (d) Drainage. Such grading shall be performed and drainage facilities installed conforming to City specifications as are necessary to provide proper drainage within the subdivision and other affected areas in order to assure healthful, convenient conditions for the residents of the subdivision and for the general public. Drainage facilities in the subdivision shall be connected to drainage ways or storm sewers outside the subdivision. Dikes and pumping systems shall be installed, if necessary, to protect the subdivision against flooding or other inundations;
- (e) Streets. The subdivider shall grade and improve streets in the subdivision, and the extension of such streets to the paving line of existing streets with which such streets intersect, in conformance with City specifications. Street improvements shall include related improvements such as curbs, intersection sidewalk aprons, street signs, gutters, shoulders, and median strips to the extent these are required;
- (f) Pedestrian ways. A paved sidewalk not less than five (5) feet wide shall be installed in the center of pedestrian ways;
- (g) Private way/drive. The subdivider shall grade and improve to conform with City specifications in terms of structural standards.

Exceptions, Variances, and Enforcement

Section 40. Exceptions in Case of Large Scale Development. The Planning Commission may modify the standards and requirements of this ordinance if the subdivision plat comprises a planned development unit, a large-scale shopping center, or a planned industrial area. The Planning Commission shall determine that such modifications are not detrimental to the public health, safety, and welfare, and that adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest.

Section 41. Exceptions in the Case of Hillside Development. The Planning Commission may modify the standards and requirements of this ordinance if the subdivision is located on land of twenty (20) percent or greater slope. To minimize disturbance of the existing grade and to take advantage of natural building sites, modification may concern alignment width and improvement of streets and building site locations. If modification involves the creation of some lots of less than the minimum area, the average area of lots

in the subdivision shall equal the density established for the area under the zoning in effect.

Section 42. Variance Application. When necessary, the Commission may authorize conditional variances to the requirements of this ordinance. The Commission shall hold at least one public hearing on a variance application. Procedures for the public hearing shall be the same as those described in Section 15(c) (1, 2, 3, 4, & 5). Public hearings for variances may be held simultaneously with tentative plan hearings when the same property is affected. Applications shall be made on forms provided by the Planning Department. Before a variance may be granted, the Commission shall first determine that the following circumstances substantially exist:

- (a) That there are special conditions affecting the property that are not common to all property in the area;
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and extraordinary hardship would result from strict compliance with these regulations because of the special circumstances or conditions affecting the property;
- (c) That the variance complies with the spirit and intent of these regulations and will not be detrimental to the public health, safety, or welfare or injurious to other property in the vicinity;
- (d) The variance requested is the minimum variance which would alleviate the hardship.

Section 43. Failure to Receive Notice - Not to Impair Hearing. For the purposes of giving notice to affected parties, the names and addresses of owners as shown on the records of the County Assessor may be used. Failure of a person or persons to receive notice as prescribed in this article shall not impair the validity of the hearing.

Section 44. Enforcement. The administration and enforcement of this subdivision ordinance shall reside with the City Engineer and the City Planning Director.

Section 45. Appeal from Ruling of Commission. An action or ruling of the Commission pursuant to this title may be appealed to the Council within fifteen days after the Commission has rendered its decision. Written notice of the appeal shall be filed with the City Recorder and shall set forth in detail the basis for and issues raised in the appeal. If the appeal is not taken within the fifteen day period, the decision of the Commission shall be final. If the appeal is filed, the Council shall receive a report and recommendation thereon from the Commission and shall hold a public hearing on the appeal. Notice of a Council hearing on an appeal of a decision of the Commission shall take the form of that provided for in the initial application before the Commission.

- (a) The City Council shall hold a hearing on the appeal within forty (40) days from the time the appeal is filed. The Council may continue the hearing for good cause. Following the hearing, the Council may overrule or modify the decision or requirement made by the Planning Commission if the decision of the Council complies with the spirit and intent of the ordinance. The disposition of the appeal shall be final.

Section 46. Severability. If any provision of this ordinance shall for any reason be judged invalid or unconstitutional, the judgment shall not affect the validity of the rest of the ordinance.

Section 47. Violation - Procedure - Penalty.

- (a) A uniform complaint, or citation to appear, may be issued to the owner or developer of property being used in violation of this ordinance, requiring said owner or occupier to appear in court regarding a violation of the subdivision ordinance.
- (b) A trial shall be heard before the judge without a jury. No appeal from the decision may be taken. The standard of proof required shall be by a preponderance of the evidence.
- (c) A person convicted of violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500) for each offense.
- (d) A violation of this ordinance shall be considered a separate offense for each day that the violation continues.
- (e) In the event the owner/developer fails to pay any fine imposed upon conviction of a violation, the court may issue a Show Cause Order to the individual so charged and require his presence in court to set forth the reasons for said failure to pay. If good and sufficient reasons do not exist, the court may request the Council to adopt an ordinance making the amount a lien against the property.

Attn:	Mailing Address	City	State	Zip
	1685 NW EMERSON CT	MCMINNVILLE	OR	97128
	2155 NW 2ND ST	MCMINNVILLE	OR	97128
	243 E SCOTT DR	SHELTON	WA	98584
	2163 NW 2ND ST	MCMINNVILLE	OR	97128
	2194 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
	2186 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
HANES VICTORIA TRUSTEE	2168 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
MARCOULLIER CHARLES D	2162 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
SNYDER BEVERLY A	2148 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
LUTZ GLORIA J REVOCABLE LIVING TRUST	2140 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
	2124 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
	PO BOX 452	CARLTON	OR	97111
	14190 SW BARROWS RD #4	PORTLAND	OR	97223
	115 SW WESTVALE ST	MCMINNVILLE	OR	97128
	2264 MCGILCHRIST ST SE SUITE 210	SALEM	OR	97302
PLANNING DEPARTMENT	231 NE 5TH ST	MCMINNVILLE	OR	97128

Letters sent to all below postmarked
march 13, 2021

Map No	Tax Lot	Site Address	Owner
1	R4419AC00500	2177 NW 2ND ST	BITTERROOT LLC
2	R4419AC00501		MCMINNVILLE COVENANT CHURCH
3	R4419AC00502	2191 NW 2ND ST	N COLLINS PROPERTY LLC
4	R4419AC00503	2163 NW 2ND ST	RST DEVELOPMENT LLC
5	R4419AC00600	2194 NW WILLAMETTE DR	BARON LINDA
6	R4419AC00700	2186 NW WILLAMETTE DR	WINBOLT CALVIN
7	R4419AC00800	2168 NW WILLAMETTE DR	HANES DENNIS M SR TRUSTEE
8	R4419AC00900	2162 NW WILLAMETTE DR	MARCOULLIER MONIQUE T
9	R4419AC01000	2148 NW WILLAMETTE DR	SNYDER EDWIN E
10	R4419AC01100	2140 NW WILLAMETTE DR	LUTZ GLORIA J TRUSTEE FOR
11	R4419AC01200	2124 NW WILLAMETTE DR	CRAMER EVONNE
12	R4419AC01300	2116 NW WILLAMETTE DR	PEDRAZA JAMIE
13	R4419DB04801	2200 SW 2ND ST	E & A PROPERTY LLC - 1
14	R4419DB04900	115 SW WESTVALE ST	WALKER HEATHER
15	R4419DB90000	2240 N.W. 2nd ST	WESTVALE PROFESSIONAL CENTER LLC - hand delivered
			CITY OF MCMINNVILLE
16	TRACT A		

mailed March 13

March 12, 2021

To: Current neighbors of 2191 NW 2nd tax lot
From: N Collins properties LLC
RE: A Neighborhood meeting to share and discuss concerns and/or questions regarding a zoning variance request to be able to partition a single tax lot with two buildings (2191 and 2185) into two separate tax lots.
DATE: Tuesday April 6, 2021
Time: 6 pm pacific standard time
Place: Zoom meeting
Join Zoom Meeting
<https://us04web.zoom.us/j/77571479011?pwd=S2x2cVBUbW8yMmZBVEowQkQweXJ5dz09>

Meeting ID: 775 7147 9011
Passcode: SVk0k4

Dear Neighbors,

I am asking the Planning department for a partition on my tax lot 2191 that is 1.45 acres with two buildings on it. My lot is part of the Yamhill Valley Wellness Plaza. It was developed in 2005 and we are grateful to be part of the McMinnville community. I am asking for the partition into two separate tax lots so long term tenants have the opportunity to purchase the building they have been leasing.

The city of McMinnville has a restriction on three lots per access. This partition would create four lots with one access and hence, the variance I am asking for. This partition would not change anything about the long established Wellness plaza, no change in traffic patterns, no increased need for parking. All businesses would run as they have for the past 16 years, small businesses would have an opportunity to be owners.

Thank you for taking the time to read this and participate in the neighborhood zoom meeting. This is an opportunity to ask questions and voice concerns you may have about the variance to the zoning application I am filing. If you are unable to attend but have a concern or question, you can contact me by email at nc2ability@gmail.com or calling 503 538 2964.

Respectfully,


Nora Collins (N Collins Properties LLC)

Tentative Partition Map for:

N Collins Property LLC

Location: NE 1/4 Section 19, T. 4 S., R. 4 W., WM.,
Parcel 1 PT 2005-06, in a portion of the
Solomon Beary DLC #54, & the William Davis
DLC #69, City of McMinnville, Yamhill County, OR

Tax Lot: 4419AC - 0502

Date: 11 September 2020

OWNER: N COLLINS PROPERTY LLC
NORA COLLINS, MANAGING MEMBER

SITE: 2191 NW 2ND ST.
MCMINNVILLE, OR 97128

ZONING: C-3

OWNER CONTACT: NORA COLLINS
PH: 503-730-4642

Legend

- existing property line
- - - proposed parcel lines
- water valve, hydrant, meter
- existing water main line
- existing fog stripe
- existing NW Natural Gas
- existing NW Natural Gas Valve
- existing concrete curb
- existing gutter
- existing back of walk
- existing telephone
- existing tree
- existing power pole
- sign
- existing edge of pavement
- existing culvert
- existing underground power
- overhead power
- existing storm drain
- catch basin, area drain
- existing sanitary main line
- existing sewer manhole

Scale: 1" = 50'



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Leland A. Macdonald
OREGON
January 16, 2002
LELAND A. MACDONALD
53226

Renews 31 December 2020

NW Hill Road

West 2nd Street

West 2nd Street

TOWNHOMES WEST

BY: LELAND MACDONALD & ASSOC., LLC
FORMERLY DBA MATT DUNCKEL & ASSOC.
3765 RIVERSIDE DRIVE
MCMINNVILLE, OREGON 97128
PHONE: 503-472-0366
FAX: 503-472-7904
EMAIL: LEE@MACDONALDSURVEYING.COM

18B

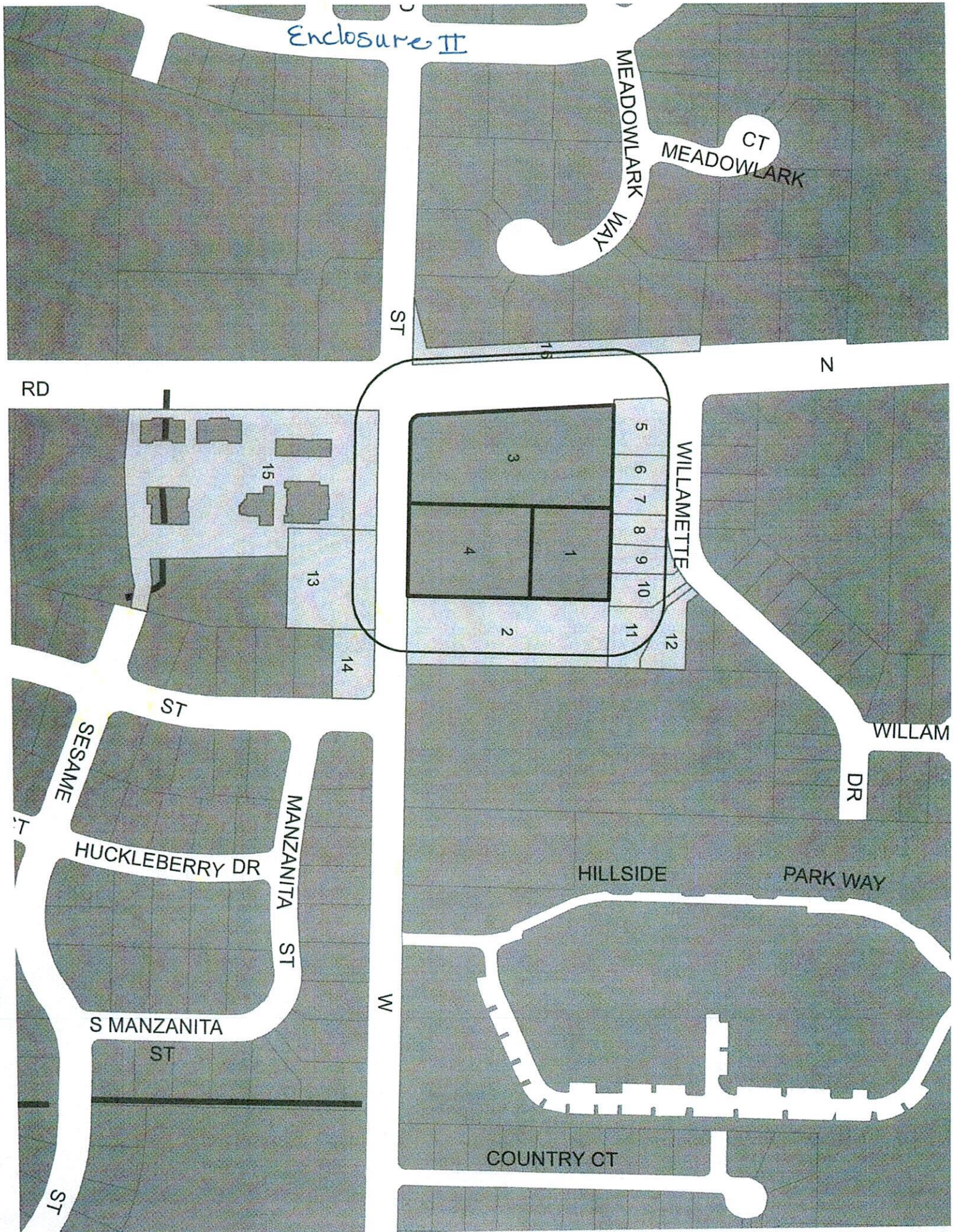
19A

19B

20A

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#9279



Neighborhood meeting for N Collins Properties LLC

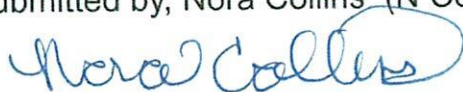
A Neighborhood meeting was held via zoom at 6 pm Tuesday, April 6, 2021. Those attending were Ashley Hyder representing RST Development LLC, 2163 NW 2nd and Gloria Lutz, representing Gloria Lutz J Trustee for, 2140 NW Willamette Dr.

Ashley and Gloria commented on how much the neighborhood liked the Wellness Plaza and felt that the variance to the zoning should be allowed by the city so that a partition of the current tax lot for 2191 NW 2nd and 2185 NW 2nd could proceed. They both stated that they would be willing to write letters to the city if needed to support approval of the zoning variance. Discussion of continuing the great rapport that the Yamhill Valley Wellness plaza has with each owner as well as the neighbors along Willamette drive was expressed by both participants.

The meeting ended at 630pm. No phone or emails were sent to N Collins Properties LLC prior to the meeting.

The only revisions that we made to the proposal based on comments received at the meeting were to point out the pedestrian safety that a second access would have and the confusion putting an access off Hill road would pose to drivers as well as pedestrians.

Respectfully submitted by, Nora Collins (N Collins Properties LLC)





23 feet





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

**PUBLIC HEARING NOTICE
PLANNING COMMISSION REVIEW OF A
VARIANCE REQUEST FOR
2185 & 2191 NW 2nd STREET**

NOTICE IS HEREBY GIVEN that an application for a variance has been submitted to the McMinnville Planning Department. The purpose of this notice is to provide an opportunity for surrounding property owners to submit comments regarding this application or to attend the public meeting of the Planning Commission where this request will be reviewed and a public hearing will be held. Please contact Jamie Fleckenstein, Associate Planner, with any questions at (503) 474-4153 or jamie.fleckenstein@mcminnvilleoregon.gov.

DOCKET NUMBER: VR 2-21 (Variance)

REQUEST: Approval of a variance to MMC Section 17.53.100(C)(1) to allow an increase in the number of lots permitted access by private easement to more than three (3) to support a future partition application.

APPLICANT: Nora Collins

SITE LOCATION(S): 2185 & 2191 NW 2nd Street (see attached map)

MAP & TAX LOT(S): R4419AC00502

ZONE(S): C-3 (General Commercial)

MMC REQUIREMENTS: McMinnville Municipal Code (MMC) Title 17 (Zoning Ordinance): Section 17.74.100. Variance – Planning Commission Authority; Section 17.74.110. Conditions for Granting Variance; MMC Chapter 17.53 (Land Division Standards); MMC Chapter 17.33 (C-3 General Commercial Zone)

NOTICE DATE: May 27, 2021

PUBLIC HEARING DATE: June 17, 2021 at 6:30 P.M.

HEARING LOCATION: Zoom Online Meeting:

<https://mcminnvilleoregon.zoom.us/j/92712511996?pwd=Z2ZXUXFsVHV1Wkpzb2FhYjJrd20xUT09>

Meeting ID: 927 1251 1996
Passcode: 593914

(See below for instructions on how to join Zoom meeting)

Proceedings: A staff report will be provided at least seven days before the public hearing. The Planning Commission will conduct a public hearing, take testimony, and then make a decision to either recommend approval of the application to the McMinnville City Council or deny the application.

Persons are hereby invited to attend (via Zoom – please see instructions below) the McMinnville Planning Commission hearing to observe the proceedings, and to register any statements in person (via Zoom – please see instructions below), by attorney, or by mail to assist the McMinnville Planning Commission in making a decision. Should you wish to submit comments or testimony on this application prior to the public meeting, please call the Planning Department office at (503) 434-7311, forward them by mail to 231 NE 5th Street, McMinnville, OR 97128, or by email to jamie.fleckenstein@mcminnvilleoregon.gov.

The decision-making criteria, application, and records concerning this matter are available on the Planning Department's portion of the City of McMinnville webpage at www.mcminnvilleoregon.gov. The materials can also be made available at the McMinnville Planning Department office at 231 NE 5th Street, McMinnville, Oregon. However, due to the COVID-19 public health emergency, the Planning Department office is closed to walk-in customers. If you cannot access the materials electronically, please call the Planning Department at (503) 434-7311 to request a copy of the materials, and staff will assist in making the materials available physically by appointment and in a manner that meets social distancing requirements.

Appeal: Failure to raise an issue in person or by letter prior to the close of the public hearing with sufficient specificity precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the Commission to respond to the issue precludes an action for damages in circuit court.

Invitation to Zoom Meeting: The public is invited and welcome to attend the Planning Commission meeting. Due to the COVID-19 public health emergency and in accordance with Governor Kate Brown's Executive Order, the Planning Commission meeting is being held virtually through the Zoom meeting software to avoid gatherings and allow for social distancing. The Planning Department encourages those that are interested in participating and have access to technology to access the Zoom meeting online or through the call-in options (see below for details).

The public may join the Zoom meeting online here:

<https://mcminnvilleoregon.zoom.us/j/92712511996?pwd=Z2ZXUXFsVHV1Wkpzb2FhYjJrd20xUT09>

Meeting ID: 927 1251 1996

Passcode: 593914

The public may also join the Zoom meeting by phone by following the instructions below:

+1 669 900 9128

Meeting ID: 927 1251 1996

If you do not have access to a telephone or computer to participate in the meeting, a conference room with access to a computer to participate in the Zoom Online Meeting can be provided at the Community Development Center at 231 NE 5th Street, McMinnville, OR 97128. Please call the Planning Department at (503) 434-7311 at least 24 hours in advance of the meeting for assistance. Participation in the conference room will be limited to accommodate social distancing guidelines and will be provided on a first-come, first-served basis.

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.

REVIEW CRITERIA:

Variance (VR 2-21)

MMC Section 17.74.100. Variance – Planning Commission Authority

The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

MMC Section 17.74.110. Conditions for Granting Variance

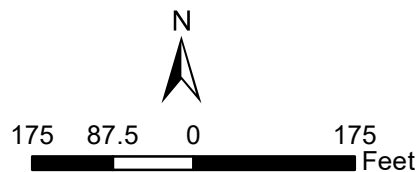
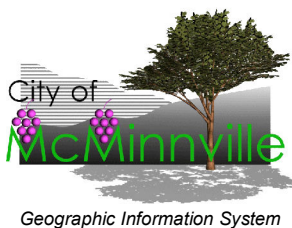
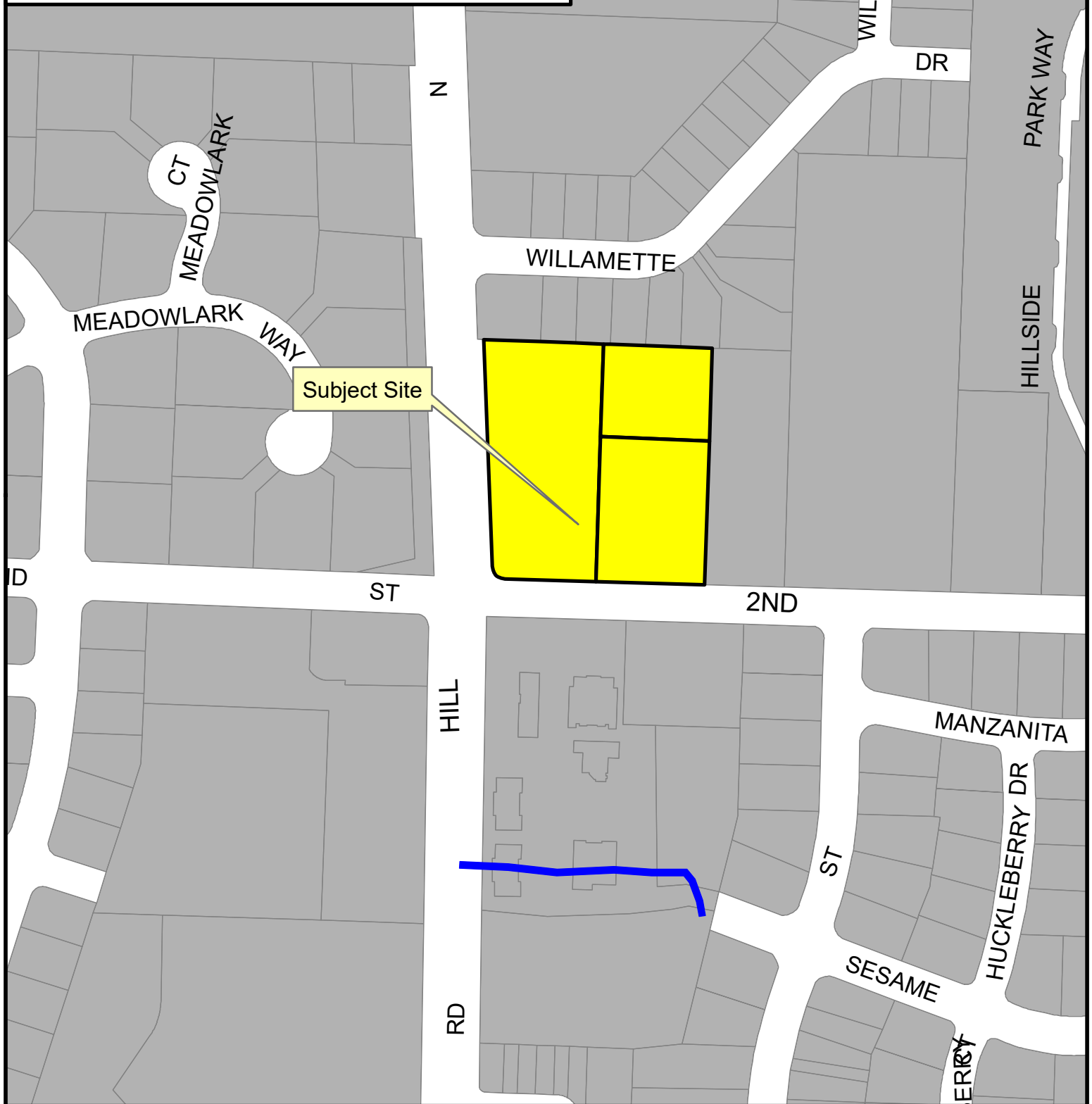
A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;
- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;
- D. The variance requested is the minimum variance which would alleviate the hardship.

Comprehensive Plan Goals and Policies:

All applicable goals and policies apply to this request.

Vicinity Map



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

Map No.	Tax Lot	Site Address	Owner	Attn:	Mailing Address	City	State	Zip
1	R4419AC00500	2177 NW 2ND ST	BITTERROOT LLC		1685 NW EMERSON CT	MCMINNVILLE	OR	97128
2	R4419AC00501		MCMINNVILLE COVENANT CHURCH		2155 NW 2ND ST	MCMINNVILLE	OR	97128
4	R4419AC00503	2163 NW 2ND ST	RST DEVELOPMENT LLC		2163 NW 2ND ST	MCMINNVILLE	OR	97128
5	R4419AC00600	2194 NW WILLAMETTE DR	BARON LINDA		2194 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
6	R4419AC00700	2186 NW WILLAMETTE DR	WINBOLT CALVIN		2186 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
7	R4419AC00800	2168 NW WILLAMETTE DR	HANES DENNIS M SR TRUSTEE	HANES VICTORIA TRUSTEE	2168 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
8	R4419AC00900	2162 NW WILLAMETTE DR	MARCOULLIER MONIQUE T	MARCOULLIER CHARLES D	2162 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
9	R4419AC01000	2148 NW WILLAMETTE DR	SNYDER EDWIN E	SNYDER BEVERLY A	2148 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
10	R4419AC01100	2140 NW WILLAMETTE DR	LUTZ GLORIA J TRUSTEE FOR	LUTZ GLORIA J REVOCABLE LIVING	2140 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
11	R4419AC01200	2124 NW WILLAMETTE DR	CRAMER EVONNE		2124 NW WILLAMETTE DR	MCMINNVILLE	OR	97128
12	R4419AC01300	2116 NW WILLAMETTE DR	PEDRAZA JAMIE		PO BOX 452	CARLTON	OR	97111
13	R4419DB04801	2200 SW 2ND ST	E & A PROPERTY LLC		14190 SW BARROWS RD #4	PORTLAND	OR	97223
14	R4419DB04900	115 SW WESTVALE ST	WALKER HEATHER		115 SW WESTVALE ST	MCMINNVILLE	OR	97128
15	R4419DB90000		WESTVALE PROFESSIONAL CENTER LLC		2264 MCGILCHRIST ST SE SUITE 210	SALEM	OR	97302
16	TRACT A							
Owner	R4419AC00502	2191 NW 2ND ST	N COLLINS PROPERTY LLC		243 E SCOTT DR	SHELTON	WA	98584