



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

www.mcminnvilleoregon.gov

**Planning Commission
ZOOM Online Meeting:
September 16, 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/88033487320?pwd=SzY5d3A2SDRlVU9VTnVPeHRHZZB1UT09>

Zoom ID: 880 348 7320

Zoom Password: 947797

**Or you can call in and listen via zoom: 1 699 900 9128
ID: 880 348 7320**

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
Roger Hall, Chair	6:30 PM – REGULAR MEETING
Lori Schanche, Vice-Chair	<ol style="list-style-type: none"> 1. Call to Order
Robert Banagay	<ol style="list-style-type: none"> 2. Approval of Minutes <ul style="list-style-type: none"> • August 19, 2021 (Exhibit 1)
Ethan Downs	<ol style="list-style-type: none"> 3. Citizen Comments
Gary Langenwalter	<ol style="list-style-type: none"> 4. Public Hearing:
Sylla McClellan	<ol style="list-style-type: none"> A. <u>Quasi-Judicial Hearing: Comprehensive Plan Map Amendment (CPA 2-20) and Zone Change, including Planned Development Overlay Designation (ZC 3-20) – (Exhibit 2)</u> (Continued from July 15, 2021 PC Meeting)
Brian Randall	<p style="text-align: center;"><u>Continuance Requested to October 21, 2021, PC Meeting</u></p>
Beth Rankin	<p>Request: Approval to amend the Comprehensive Plan Map from Industrial to Commercial, and an amendment to the Zoning Map from M-2 (General Industrial) to C-3 PD (General Commercial with a Planned Development Overlay), for approximately 37.7 acres of a 90.4-acre property.</p>
Dan Tucholsky	<p>The 37.7 acres includes 4.25 acres intended for right-of-way dedication for a future frontage road. The application also shows a portion of the area subject to the map amendment intended for a north-south extension of Cumulus Avenue and future east-west street connectivity.</p>
Sidonie Winfield	<p>The request is submitted per the Planned Development provisions in Section 17.51.010(B) of the Zoning Ordinance, which allows for a planned development overlay designation to be applied to property without a development plan; however, if approved, no development of any kind can occur on the portion of the property subject to the C-3 PD overlay until a final development plan has been submitted and approved in accordance with the Planned Development provisions of the Zoning Ordinance. This requires the application for the final development plan to be subject to the public hearing requirements again at such time as the final development plans are submitted.</p>
	<p>Location: The subject site is located at 3310 SE Three Mile Lane, more specifically described at Tax Lot 700, Section 26, T.4S., R 4 W., W.M.</p>
	<p>Application: Kimco McMinnville LLC, c/o Michael Strahs</p>

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.mcminvilleoregon.gov. You may also request a copy from the Planning Department.

B. Legislative Hearing: Proposed Amendments to the Zoning Ordinance and Establish a City Center Housing Overlay Zone (G 2-21) – (Exhibit 3)

Requests: This is a legislative amendment, initiated by the City of McMinnville, proposing amendments to the McMinnville Zoning Ordinance related to housing. The proposed amendments would (a) add provisions allowing existing single-family dwellings as a permitted use in the C-3 zone, (b) establish a City Center Housing Overlay Zone and associated provisions, and (c) add provisions allowing temporary use of an RV as a residence during construction of a permanent dwelling(s) on the same lot.

Applicant: City of McMinnville

C. Legislative Hearing: Proposed Annexation Requirements and Procedures (G 3-21) – (Exhibit 4)

Request: This is a legislative amendment, initiated by the City of McMinnville, proposing amendments to Title 16 and Title 17 of the McMinnville Municipal Code to establish requirements and procedures for annexation of lands to the City of McMinnville for compliance with the McMinnville Growth Management and Urbanization Plan (MGMUP) and ORS 222, which governs annexations of land into cities in Oregon.

Applicant: City of McMinnville

5. Commissioner/Committee Member Comments

6. Staff Comments

7. Adjournment



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

www.mcminnvilleoregon.gov

EXHIBIT 1 - MINUTES

August 19, 2021
Planning Commission
Regular Meeting

6:30 pm
Zoom Online Meeting
McMinnville, Oregon

Members Present: Roger Hall, Robert Banagay, Gary Langenwalter, Sylla McClellan, Brian Randall, Beth Rankin, Lori Schanche, Dan Tucholsky, and Sidonie Winfield

Members Absent: Ethan Downs – Youth Liaison

Staff Present: Heather Richards – Planning Director, Amanda Guile-Hinman – City Attorney, and Tom Schauer – Senior Planner

1. Call to Order

Chair Hall called the meeting to order at 6:30 p.m.

2. Approval of Minutes

- **July 15, 2021**

Commissioner Banagay moved to approve the July 15, 2021 minutes. The motion was seconded by Commissioner Langenwalter and passed 9-0.

3. Citizen Comments – None

4. Public Hearings:

A. Quasi-Judicial Hearing: Minor Partition (MP 6-20)

(Continued from June 17, and July 15, 2021 PC Meetings)

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: 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.

Application: Steve and Mary Allen, property owners

Chair Hall opened the public hearing and asked if any Commissioner had new ex parte contacts to declare.

Commissioner Schanche said she visited the site earlier today.

Staff Report: Planning Director Richards entered into the record public testimony from David Koch and corrections to the decision document. She reviewed the minor partition request. This was usually a Type II decision, however the Planning Department received a request for a public hearing. The approval criteria for the petition remained the same. A public hearing was held on June 17, and the applicant requested a continuance to provide additional information requested by oppositional testimony. Another hearing was held on July 15 and the applicant requested another continuance for a topographical study. For this hearing, a new title report, new survey maps, and additional findings had been provided. The issue submitted by Walt Gowell on behalf of his client had been resolved. She showed a map of the applicant's proposal to create three parcels. The zoning for Parcels 2 and 3 would be R-2 and the zoning for Parcel 1 would be R-3. She explained the site location and context, past land-use decisions to partition the lot, access easement to the southern property by the owners of the northern property, and how the partition plat was approved in 2000 which included the access and utilities easement. The current proposed partition utilized the easement for proposed Parcel 2. There was oppositional testimony submitted by David Koch on behalf of his clients claiming that the private access easement was not legitimate as it did not conform with current code. However, the City Council passed an ordinance requiring the access rights be provided and the partition was approved with the proposed access rights. The time to appeal that land-use decision had long since passed. The partition plat referenced a recorded instrument which included the Driveway Construction and Maintenance Agreement as the governing document for the access and utilities easement. There was oppositional testimony submitted by Walt Gowell on behalf of his clients wanting to ensure that the Driveway Construction and Maintenance Agreement was still valid. The City received an email from Walt Gowell on August 4, 2021, stating that they were comfortable with the proposed language in Condition of Approval #1.

Planning Director Richards discussed the review criteria. Parcel 1 met the size requirements for minimum lot size and depth, the access easement provided access from Hilary Street, and utilities were available from Hilary Street. Parcel 2 also met the minimum lot size and depth. Access would be from Fellows Street via private easement and undeveloped right-of-way. Water and electric were installed in the easement from Fellows Street. Sewer was available from the adjacent main. Minimal right-of-way improvements were required. Parcel 3 met the minimum lot size. The existing dwelling continued to meet the setbacks of the R-2 zone. There was existing access from Hilary Street and all existing utilities were from Hilary Street. The parcels met the clear and objective criteria for partitioning. Both written and oral testimony provided the following issues: loss of trees from the right-of-way and Parcel 2, increased traffic on existing private driveway, emergency vehicle access to Parcel 2, increase in safety issues on Fellows Street, impact of development on the floodplain, decreased property values, incomplete submittal, outdated title report, and need to extract park land. Regarding the concern about the loss of trees, some trees were likely to be removed to accommodate the driveway in the right-of-way and residential development on Parcel 2. There was no zoning code that prevented development of Parcel 2 to preserve the trees. Tree removal requests were subject to Chapter 17.58—Trees and replacement trees could be conditioned by the Landscape Review Committee. Recommended Condition #2 required review of the tree removal requests and to limit approvals to poor condition or severe impact by development. Regarding the concern about increased traffic, minimum standards for access easements were 15 feet wide with a 10 foot paved surface width. The existing access easement was 22 feet wide with 12-13 feet of paved surface width. Terms of the private easement agreement were for a 15 foot driveway width prior to occupancy of Parcel 2. The access easement/driveway was previously approved by the City to serve future additional lots and the Engineering and Fire Departments had the opportunity to comment on the current application. Regarding the concern about impact on the floodplain/sensitive lands, the City did not allow development in the floodplain and relied on state/federal agencies for regulatory authority of wetlands and other sensitive natural features. Conditions #8 and #10 required compliance with

all state/federal environmental permitting agency requirements. Regarding the concern about decreased property values, consideration of property value was not a regulatory criterion for land-use decisions. Per ORS 227.175, only clear and objective criteria could be used for housing land-use decisions. The subject site was designated residential on the City's Comprehensive Plan and was intended for development. Regarding an incomplete submittal, the title report was updated. Survey maps were updated to include: contour lines related to city datum and having minimum intervals of two feet, location and direction of water courses, location of natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards, and slopes greater than 25%. A future development plan had also been provided. Oppositional testimony discussed the potential presence of moderate and high landslide soils on the subject site that would render the new parcels unbuildable. The City did not yet have an adopted inventory of maps for landslide hazards nor did it have any policies or codes that stated soils with moderate or high landslide potential were not buildable. The West Hills was developed on high landslide soils. She discussed the City's addendum to the Yamhill County Natural Hazards Mitigation Plan and how the City was developing an action plan for landslides. Condition #3 said if any development was proposed for a slope of 15% or greater, a geotechnical report would be required to mitigate the potentiality of landslide hazards and any resulting recommendation of that report would need to be incorporated into the construction project. Regarding exacting park land for the Cozine Creek Trail, the City could not afford to move forward with the development of the trail at this time. There were some Commission questions, such as whether the twelve months for recording a final plat was a standard timeframe. The answer was yes. Another question was if they were approving a future Parcel 4 with this decision. The answer was no. Another question was if there were emergency vehicle provisions for the private access easement for Parcel 2. The answer was in the previous land-use decision, the Fire Marshal required that an emergency vehicle turnaround be constructed. There was also a letter from the Fire Marshal dated July 2019 that stated if the dwellings were sprinkled, no other improvements would be required. A condition of approval had been drafted requiring fire sprinklers be installed in all residential dwellings on Parcel 2. At this time, the findings for the clear and objective criteria supported approval of the application with conditions.

Questions: Commissioner Schanche asked if the Fire Marshal had already approved the emergency vehicle turnaround. Planning Director Richards said yes, for the partition that was approved in 2000.

Commissioner McClellan asked about the inventory and policies for landslide areas. If the City adopted a policy that development could not go on high landslide soils, what happened to the lots that had entitlement to development that were in that situation. City Attorney Guile-Hinman would have to research that.

Planning Director Richards noted that was not a current standard and the Commission did not have any authority to make a decision on whether something was buildable or not based on those policies. Some of the property was not in the high landslide soils.

Commissioner Randall asked if the neighbors would be notified when this went to the Landscape Review Committee. Planning Director Richards said the request would be a Type I application which did not require notice. It could be added as a condition of approval.

Commissioner Randall asked if they could add a condition to require an easement for the future Cozine Creek Trail. City Attorney Guile-Hinman thought they should steer away from requiring easements as there was no analysis for a finding to show how the development related to parks and the access and need for parks. The City did not have the funds to compensate the property owner for the easement.

Commissioner Schanche noted the property owner could donate the easement. She then suggested expanding Condition #3 to say the driveway would not be more than 15% slope.

Commissioner Rankin said currently garbage was picked up on Fellows Street and the garbage truck was not going onto the driveway.

Commissioner Tucholsky asked about lighting requirements for the driveway, especially for fire or police vehicles. Planning Director Richards said the City did not have any lighting requirements. The design of the driveway could be a question for the applicant.

Commissioner Winfield said there were mitigations to handle steep slopes for development and people could haul their garbage to the end of the driveway.

Applicant's Testimony: Steve and Mary Allen, property owners, said this application was not any different from what had been built in the City in regard to slope. Regarding the lighting, they could install a lighted driveway sign with the address. The driveway would be located on top of the property on flat ground. The house would have sprinklers. The turnaround was over halfway up the driveway and there was a fire hydrant at the driveway. They could see the possibility for the Cozine Creek Trail in the future. They did not want to remove any trees that did not have to be removed and would save what they could. It would be a safe home built to code.

Public Testimony:

Proponents: None

Opponents: David Koch, attorney representing three neighbors, said in prior testimony he had pointed out several deficiencies in the application. He reviewed what the applicant submitted and agreed that the deficiencies had been addressed. However, the application still did not meet all of the criteria. Significant portions of the upland area in Parcel 2 were on slopes greater than 25%. There might not be an adopted inventory of natural hazards, but this was a landslide area. They needed to consider not what had been done in the past, but what was being proposed for the future. Parcel 4 was not part of this application, but if they approved Parcel 2 they would be setting a precedent for Parcel 4. He agreed the easement was legitimate and the City had no authority over the agreement between the private parties. It was one thing to preserve an existing right of access through a private easement to a property, but it was quite another to say it created a blanket variance to allow any number of future parcels to be partitioned off the west side of the property. He thought a variance should be required in order to provide access to more than the existing number of parcels. Also the application did not meet Comprehensive Plan Policy 99 regarding the adequate level of public services related to the streets and Comprehensive Plan Policy 80 regarding building on slopes greater than 25% and on landslide soils. This was a heavily wooded area and a unique natural feature that the code intended to protect. The opposition was focused on Parcel 2 and whether the steep slope was suitable for development and if it met the purpose of the code. He did not think that it did.

Commissioner Winfield said if the Commission questioned the easement to the driveway, did that nullify all the other past easements they had in the City?

Mr. Koch said three accesses were allowed for an easement per code. Going beyond three required a variance. He thought they had misinterpreted the decision in 2000. It was not a land-use decision for this property to have access to an unlimited number of future parcels. The code required a variance after three accesses and no variance had been applied for.

Rebuttal: Mr. Allen said the land-use decision was approved 21 years ago. No one living on the driveway was objecting. All of the objections were coming from people in the neighborhood. The

house would be put in a safe place. The fourth partition was required to be on the shadow map because of the square footage. They also had two lots in their front yard that they never planned to develop but had to be put on the shadow map because of the square footage available. If another partition was requested, it would be addressed at that time. Regarding the landslides, the neighbors opposed were on the same type of land.

Opponents: Earl Anderson, McMinnville resident, said a petition went around 20 years ago to develop the property, but the neighbors did not sign it and thought that was the end of it. Many did not know that this property was going to be developed and some thought it was City land and protected. They bought their houses believing it would not be developed. This private drive was not finished to the extent that it did not extend through Parcel 3. A road still had to be created and on many occasions people had to back out of the driveway towards Fellows Street. He was concerned that it would be a safety hazard and two more houses would be built in the future. Adding more cars to this driveway would be a safety issue. It was dark at night and there was no space for emergency vehicles.

Cheryl Lambright, McMinnville resident, said the neighbors did not know about the decision 21 years ago and did not know to appeal. She was in strong opposition.

Carole Hansen, McMinnville resident, said Parcel 2 was directly behind her back fence. She was concerned about the road and the trees.

Rebuttal: Mr. Allen said he had tried to get neighbor consent for a vacation of the property, but was not trying to develop at that time. Ms. Lambright had talked to them about the trees before she bought her house and they told her that if there were dangerous trees or they wanted to build, some would have to be removed.

Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

Deliberation: Commissioner Schanche asked if the private access easement provided access to four different parcels. Planning Director Richards said yes, it did.

Commissioner Tucholsky clarified no variance was required. City Attorney Guile-Hinman said the land-use decision in 2000 allowed for four parcels to have access, one which was the Allen property.

Commissioner Langenwalter clarified there were no standards for landslide areas to give them a legal basis to deny the application. Planning Director Richards said that was correct. The whole parcel was not in a landslide area or on a slope. There was nothing in the City's code that stated they could not develop on landslide property or steep slopes. The floodplain area was considered a natural hazard and it was protected by the floodplain zone.

Commissioner Schanche asked if the Commission agreed to amend Condition #3 to include the driveway.

There was consensus to amend Condition #3.

Commissioner McClellan asked if the Commission agreed to amend Condition #2 to notify neighbors of any tree removals.

Commissioner Schanche suggested adding that the site would be inspected by staff before any trees were removed.

There was consensus amend Condition #2.

Based on the findings of fact, conclusionary findings for approval, materials submitted by the applicant, and evidence in the record, Commissioner Langenwalter MOVED to APPROVE MP 6-20 subject to the conditions of approval as amended. The motion was seconded by Commissioner Rankin and PASSED 8-0-1 with Commissioner Tucholsky abstaining due to technical difficulties.

5. Discussion Items

- **G 2-21, City Center Housing Proposed Code Amendments**

Senior Planner Schauer presented on the proposed code amendments. A public hearing on these amendments was scheduled for September 16. It would be a legislative hearing which would: allow existing single family dwellings as a permitted use in the C-3 zone, establish a City Center Housing Overlay Zone and associated provisions within the overlay (C-3 density, parking number and location, nonconforming setbacks), and allow temporary use of RVs during home construction. Currently single family dwellings were not a permitted use in the C-3 zone. The intent was to limit proliferation of lower density housing development and/or subdivisions on land designated for commercial use at appropriate locations. Existing single family dwellings were a nonconforming use in the C-3 zone and could not be expanded, such as adding a bedroom. Existing single family dwellings were not inherently in conflict with C-3 uses. The proposed amendment would designate existing single family dwellings in C-3 as a permitted use, subject to the following: lots for these uses would be limited to their current size and could not be expanded, the dwelling must not cease its residential use for more than a year or it lost its permitted use status, and short-term rentals and owner-occupied short-term rentals were considered residential use for purposes of determining continuation of residential use. A question to consider was should this also apply to existing duplexes in the C-3 zone.

Commissioner Langenwalter thought duplexes should be included.

Commissioner Randall asked if a single family home in C-3 could be modified to be a duplex. Senior Planner Schauer said no, a single family home would have to remain as a single family home.

Commissioner Randall asked if the house was torn down and rebuilt if that was considered a continuation. Planning Director Richards said yes, as long as the rebuild was within the year. If the use existed today, it was an outright permitted use into the future until it was not continued for a year.

Chair Hall thought allowing rebuilding of the housing would encourage long term skirting of the original intention of the rules.

Commissioner Tucholsky agreed. There would be people taking down old houses and rebuilding them to maximum size. He did not think it was the intent.

Commissioner Randall suggested limiting the size of the expansion, such as no more than 20% of the current footprint.

There was discussion regarding the intent of the C-3 zone, continuing the single family dwellings as nonconforming uses, not allowing expansion, limiting the size of expansion, and inventory of how many residences were in the C-3 zone.

Senior Planner Schauer said the code amendments would also establish a City Center Housing Overlay Zone. The City Center Housing Strategy recommended creating the overlay to potentially

increase and incentivize more housing within the city center area and the surrounding higher density residential zones where there might be more capacity for additional housing opportunities. The proposed amendments established the overlay where provisions applied and implemented initial action items that removed barriers, which would make a difference to housing development/redevelopment. He showed a map of the proposed overlay zone. The overlay zone and associated provisions would: establish boundary/applicability, the specific density provisions of the R-4 zone would not apply to multi-family or condominiums in the C-3 zone, reduce off-street parking to 1 space per dwelling unit, allow residential parking within 500 feet of the property vs. on-site with a recorded binding parking agreement, and allow nonconforming multi-family structures that were destroyed by a calamity to be replaced based on C-3 rather than R-4 setbacks without the current restriction of limiting to the same number of units.

Commissioner McClellan suggested less parking for some apartment complexes for people who did not have cars.

Commissioner Randall said people would still have to drive to work. He thought they should look at options for on-street parking. He did not think people would park 500 feet away.

Commissioner Winfield said she lived in an area where people did park further away because there was no available parking. She did not think the City was ready for no parking because there was not enough public or private transportation options. She suggested as it got more dense going into the corridor, to require less parking spots and increase the number as it went out a couple of blocks.

Commissioner Rankin thought they should allow four story construction and parking garages with roof gardens for recreation space instead of surface parking.

Senior Planner Schauer said the study area boundary included small low-density areas by Lafayette and 5th Street. This was in the NE Gateway Overlay and Urban Renewal District. Should this area be retained in the overlay zone or removed?

Commissioner Winfield thought that might be an area where the dwelling units would be turned into duplexes. She suggested keeping the area in the overlay zone.

Commissioner McClellan did not see any reason to change it.

Commissioner Randall suggested talking with the School District about their property in that area.

Senior Planner Schauer showed an example of the 500 feet for off-street parking.

Commissioner McClellan wanted to limit asphalt and come up with other alternatives.

Commissioner Randall asked if an on-street parking survey had been done. Planning Director Richards said in 2018 they did a parking utilization study. It showed hot spots where close to 85% capacity was being used on areas of 3rd Street, but the rest was still looking good, about 40-60% utilization.

Commissioner Schanche suggested allowing shared driveways.

Senior Planner Schauer said the code amendments would also allow temporary use of an RV as a residence on a property while a home was being constructed or a manufactured home was being installed on the same property. It would be cost-effective to be on one property during construction and allowed move out of previous housing making it available for others to occupy. It would be subject to certain requirements: intended to ensure it could only be occupied if there was no other occupied dwelling on the property, timeliness with a maximum of 18 months during construction, 6

months for manufactured home installation, and if it was not self-contained and connected on-site to sewer and water, the RV would need to be on compacted gravel or a paved portion of the site during the temporary use. He asked if the requirement for gravel or paved surface was too onerous.

Commissioner Langenwaller asked why they were limiting it to an RV. Why not a fifth wheel or trailer? Senior Planner Schauer said those would also be allowed.

Commissioner Randall thought if they were going to be there longer than 30 days, they should connect to the sewer. Planning Director Richards suggested finding out how other cities addressed connecting to services.

Commissioner Banagay thought the requirement for gravel or paved surface was reasonable.

Senior Planner Schauer reviewed questions and considerations that had been submitted in advance. These included clarification on removing properties with low-density zoning from the boundary not removing the housing, off-site parking, RVs could not be considered ADUs, enforcing the time limit on completing construction, and the economic impact of the reduced parking requirement.

Planning Director Richards suggested allowing an extension on the time limit for construction. Regarding parking downtown, there was historic housing that had been transferred to lodging. The City did not require parking for lodging which made some people opt to do lodging because of that.

- **G 3-21, Annexations Proposed Code Amendments**

This item was postponed to the public hearing on September 16.

6. Commissioner Comments

None

7. Staff Comments

Planning Director Richards discussed the Associate Planner recruitment process. A candidate was selected and he would begin work on October 1.

8. Adjournment

Chair Hall adjourned the meeting at 10:00 p.m.

Heather Richards
Secretary



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

EXHIBIT 2 - STAFF REPORT

DATE: September 16, 2021
TO: Planning Commission Members
FROM: Tom Schauer, Senior Planner
SUBJECT: Public Hearing (Docket CPA 2-20/ZC 3-20) – Kimco Map Amendment, Request for Continuance

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 agenda item is the Comprehensive Plan Map Amendment and Zone Change with a Planned Development Overlay (CPA 2-20/ZC 3-20) for the property owned by Kimco McMinnville LLC located at 3310 SE Three Mile Lane. Kimco has requested a continuance to the October 21, 2021 Planning Commission meeting.

Background and Discussion:

On July 14, Kimco requested a continuance to the September 16, 2021 Planning Commission hearing so they could continue to collaborate with their neighbors on coordinated applications for comprehensive plan/zoning map amendments. The continuance was approved by the Planning Commission.

On September 7, Kimco requested an additional continuance to October 21, 2021. **See Attachment A.** Kimco has met with and coordinated with the adjacent property owners of the properties to the east and west. The owners are working in coordination on proposed map amendments.

As noted in the attached email, “The three property owners are working toward having their applications considered concurrently. At this time, Stubblefield and Kirchner anticipate filing their applications around the end of this month/early October. Kimco has expressed willingness to request another continuance to the November PC hearing if the applications are filed in this timeframe and progress continues to be made.”

Attachments:
Attachment A – Continuance Request

Staff is supportive of the continuance request and the coordinated efforts occurring with the property owners. As part of the work on the Three Mile Lane Area Plan (3MLAP), the City also previously sponsored a charette for joint conceptual planning involving these properties. Staff supports the continued efforts of the property owners to coordinate regarding their properties. Staff also previously met with representatives from Kimco and ODOT to review and discuss Kimco traffic analysis and proposed mitigation. The continuance will also provide further opportunity for coordinated review of traffic analysis and proposed mitigation.

Attachments:

Attachment A: September 7, 2021 e-mail from Dana Krawczuk requesting continuance

Recommendation:

Staff recommends that the Planning Commission continue the public hearing to the October 21, 2021 Planning Commission meeting.

“I MOVE THAT THE PLANNING COMMISSION CONTINUE THE PUBLIC HEARING FOR DOCKET CPA 2-20/ZC3-20 TO THE OCTOBER 21, 2021 PLANNING COMMISSION MEETING.”

Attachments:

Attachment A – Continuance Request

Tom Schauer

From: Krawczuk, Dana L. <dana.krawczuk@stoel.com>
Sent: Tuesday, September 7, 2021 11:07 AM
To: Tom Schauer; Heather Richards
Cc: David Koch; mike@hathawaylarson.com; Strahs, Michael; Knutson, Samuel; Alan Roodhouse (amr@rpsdevco.com); Moeller, Merissa A.
Subject: CPA 2-20/ZC 3-20 Request for continuance to October 21 PC hearing

This message originated outside of the City of McMinnville.

Kimco requests that the Planning Commission hearing currently scheduled for September 16, 2021 be continued to October 21, 2021. The continuance will allow for Stubblefield and Kirchner to make additional progress on their applications.

The three property owners are working toward having their applications considered concurrently. At this time, Stubblefield and Kirchner anticipate filing their applications around the end of this month/early October. Kimco has expressed willingness to request another continuance to the November PC hearing if the applications are filed in this timeframe and progress continues to be made.

I understand that the City's typical practice is to receive all materials 30 days in advance of a hearing to allow time for staff review, evaluation and drafting your staff report. We will keep those timing needs in mind as we move forward.

Thank you for your assistance, and please let me know if you need anything from any of the property owners.

Dana

Dana Krawczuk | Partner
STOEL RIVES LLP | 760 SW Ninth Avenue, Suite 3000 | Portland, OR 97205
Direct: (503) 294-9218 | Mobile: (503) 504-8081 | Fax: (503) 220-2480
dana.krawczuk@stoel.com | www.stoel.com



This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any unauthorized review, use, or distribution is prohibited and may be unlawful.



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

EXHIBIT 3 - STAFF REPORT

DATE: September 16, 2021
TO: Planning Commission Members
FROM: Tom Schauer, Senior Planner
SUBJECT: Public Hearing (Docket G 2-21) – Housing-Related Amendments

STRATEGIC PRIORITY & GOAL:



HOUSING OPPORTUNITIES (ACROSS THE INCOME SPECTRUM)
Create diverse housing opportunities that support great neighborhoods.

OBJECTIVE/S: Collaborate to improve the financial feasibility of diverse housing development opportunities

Report in Brief:

This is a legislative public hearing for docket G 2-21, proposed City-initiated zoning ordinance amendments related to housing. The proposal is intended to increase housing opportunities and remove regulatory barriers associated with provision of housing, consistent with the Comprehensive Plan.

The proposed amendments address three main topics: (a) add provisions allowing existing single-family dwellings and duplexes as permitted uses in the C-3 zone subject to certain parameters, (b) establish a City Center Housing Overlay Zone and associated provisions, and (c) add provisions allowing temporary use of an RV as a residence during construction of a permanent dwelling(s) on the same lot. The proposed draft amendments are attached as **Exhibit B**.

On August 19, 2021, city staff hosted a work session with the Planning Commission to review the draft proposal. **Exhibit B** reflects some revisions from the initial draft, resulting from discussion and input at the August 19, 2021 Planning Commission work session.

Background:

Below is a summary of each of the three major topics. Please see the first page of **Exhibit B** for a summary of the specific sections proposed to be amended.

- 1. Add Existing Single-Family Dwellings and Duplexes as a permitted use in the C-3 zone.**
The C-3 commercial zone doesn't allow single-family dwellings or duplexes as permitted uses, since the primary purpose of the zone is to provide land for commercial use at appropriate locations. The C-3 zone does also allow multi-family development as a permitted use. If new

Attachments:

- Exhibit A – G 2-21 Decision Document
- Exhibit B – G 2-21 Proposed Code Amendments

single-family dwellings and duplexes were included as permitted uses in the C-3 zone, that would allow for development which is inconsistent with the purpose of the C-3 zone, opening the door to proliferation of lower-density housing types and subdivisions on C-3 zoned land.

Existing single-family dwellings and duplexes are therefore currently classified as nonconforming uses in the C-3 zone. As such, they are subject to the limitations for nonconforming uses. Nonconforming uses can continue as long as the use continues to operate without being discontinued for more than a year, but they can't be expanded, except to a limited extent within the existing building lines.

The City has recently received several requests for expansion of existing single-family dwellings within the C-3 zone to add on a room, and these requests have been subject to the limitations which apply to nonconforming uses.

By reclassifying existing single-family dwellings as a permitted use subject to certain parameters, the existing dwellings could expand on-site and operate in the same manner as permitted uses, as long as the use is continued. For purposes of determining continuation of use for single-family dwellings, the proposal would also allow for short-term rentals and owner-occupied short-term rentals to be considered a continuation of residential use.

These existing residential uses aren't inherently in conflict with other permitted uses in the C-3 zone, as typically is the case with other types of nonconformity uses. The proposed amendment is intended to provide greater "fine-grained" refinement in how this use is regulated by differentiating between existing single-family dwellings/duplexes and new single-family dwellings/duplexes within the C-3 zone. This would allow the existing uses to continue with less restriction, while addressing the purpose of the zone by preventing proliferation of new low-density residential development within the C-3 zone.

Of different available options, this approach is preferred to other actions such as lot-by-lot spot rezones that could be inconsistent with the long-term development goals of the area. However, some individual properties might also be candidates for rezoning to other zones such as the O-R office-residential zone, but the issue with this proposed amendment is slightly broader than would be addressed by individual rezones. This amendment would not preclude a property owner from applying for a rezone where something like the O-R zone could be appropriate.

- The original draft of the proposed amendment addressed only existing single-family dwellings in the C-3 zone, which has been the most common issue. However, the same issue also applies to existing duplexes in the C-3 zone. ***Based on input from the Planning Commission at the August 19, 2021 work session, the draft proposal has been updated to also allow existing duplexes as a permitted use in the C-3 zone in the same manner as would apply to single-family dwellings, except for provisions related to short-term rentals.***
- At the work session, the Planning Commission also discussed the amount of latitude that should be authorized for expansion and/or redevelopment of an existing single-family dwelling or duplex if allowed as a permitted use in the C-3 zone. Some of the concepts discussed at the work session could potentially result in provisions where some aspects could be more restrictive than what currently applies in terms of limitations for these uses as existing nonconforming uses, which could be a philosophically inconsistent implementation approach to the respective policy objectives.

Attachments:

Exhibit A – G 2-21 Decision Document

Exhibit B – G 2-21 Proposed Code Amendments

During the discussion, some Planning Commissioners expressed a desire for code provisions that would have some limitations on redevelopment or expansion of these uses, such that they might be phased out through attrition and redeveloped with other uses more quickly than might be achieved if they are allowed to be fully redeveloped or expanded on existing sites with no limitation on size or percentage increase over existing square footage. (Please note that limits on the size of expansion or restrictions on redevelopment are not necessarily indicative of the level of investment that may still occur through maintenance and/or remodeling, whether retained at the same size or expanded within specified parameters).

That approach is somewhat different than the proposed concept of granting these existing residential uses permitted use status, and more in line with regulating them as nonconforming uses, but with nonconforming use regulations which are less restrictive than currently exist.

However, if the Planning Commission favors a different policy objective/prioritization or implementation approach that differs from the staff recommendation, staff would suggest a narrower provision that addresses the maximum size/percentage of expansion allowed, rather trying to regulate the issue by prohibiting redevelopment or restricting the improvement value of redevelopment/expansion relative to the current value – issues which are challenging to administer over time and may not neatly fit with current provisions governing nonconforming uses in general.

Some of the concepts discussed by the Planning Commission potentially relate to broader policy considerations regarding nonconforming uses in general, which are beyond the intended limited scope of this amendment addressing only existing single-family dwellings and duplexes in the C-3 zone.

The draft proposal attached as Exhibit B doesn't currently incorporate any modifications from the original draft relative to this issue.

Staff is also researching whether we can readily determine the number of these existing units within the C-3 zone, and will provide any additional information at the hearing. We weren't able to obtain the information directly from the Assessor's Office. If the number of these existing uses is limited, the implications of different alternatives to address policy objectives may be very limited.

- 2. Establish a City Center Housing Overlay Zone and associated provisions.** On May 11, 2021, City Council adopted the City Center Housing Strategy Final Report by Resolution 2021-27. This was the culmination of work through a public process that began in 2019, guided by the McMinnville Urban Renewal Advisory Committee (MURAC) and an 18-member Project Advisory Committee, with a recommendation from both entities to City Council.

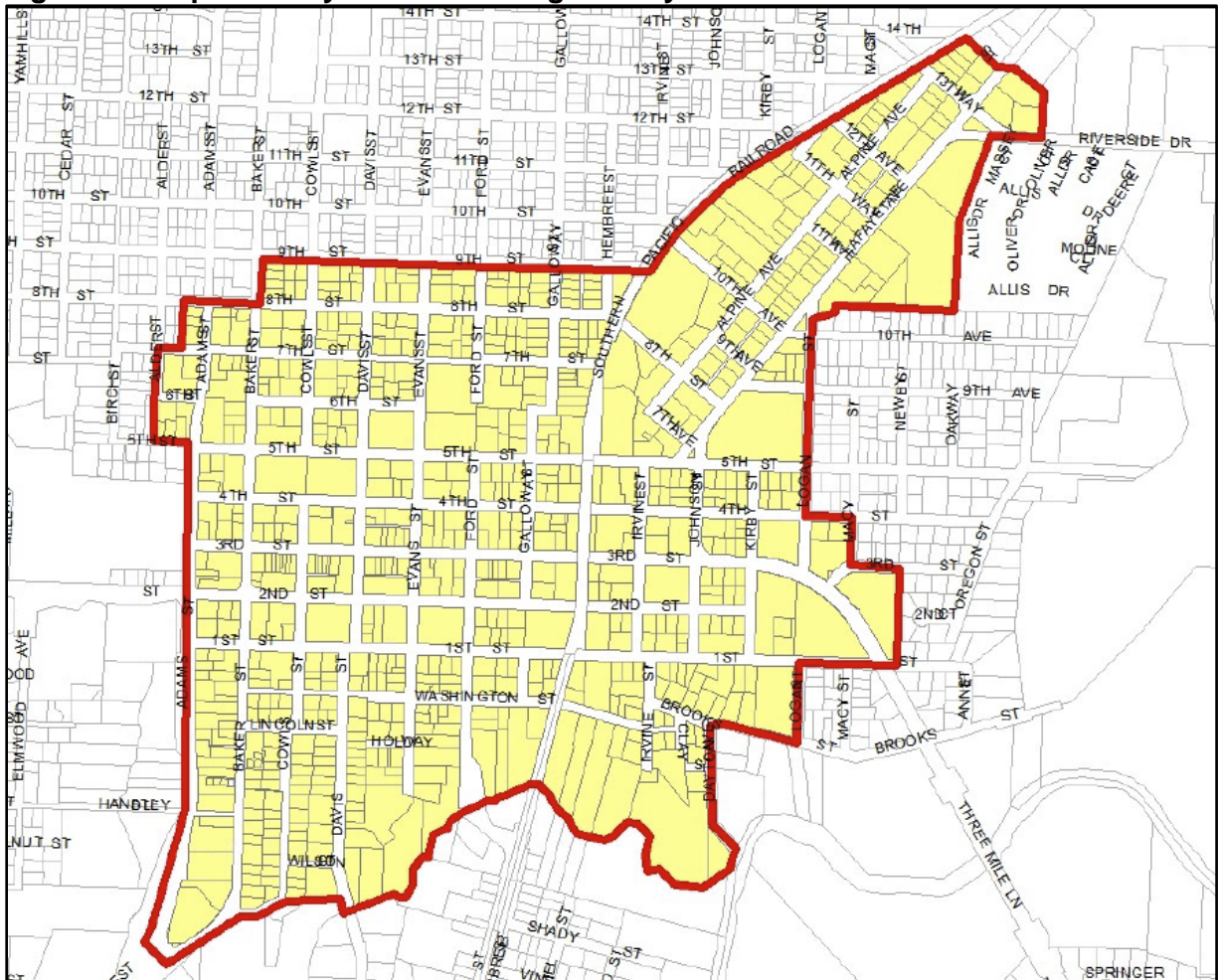
The purpose of the project was to create a strategy to potentially increase and incentivize more housing within the city center area and the surrounding higher density residential zones where there may be capacity for additional housing opportunities

The adopted resolution and final report are available at:

Attachments:
Exhibit A – G 2-21 Decision Document
Exhibit B – G 2-21 Proposed Code Amendments

The project included a study area. The boundary for the proposed Overlay Zone generally follows the study area boundary, but doesn't include areas with lower-density residential zoning on the southeast fringes of the study area and adds a commercial block on the southwest side, including property where a multi-family residential structure was damaged by fire. Some lower density residential properties on the east side of the study area are still included within the proposed boundary because they are within the Urban Renewal Area and Northeast Gateway Overlay Zone. The proposed boundary for the City Center Housing Overlay Zone is shown in **Figure 1** below.

Figure 1. Proposed City Center Housing Overlay Zone



A summary of the City Center Housing Strategy Action Plan is provided in the table in **Figure 2** below. Four categories of actions were identified, the first being removal of barriers to desired housing in the City Center.

The proposed amendment is a first step which establishes the overlay zone and addresses some of the initial barriers, including Actions 1.1 (density), 1.2 (minimum parking), and 1.3

(parking reduction area) below. It also partially addresses Action 1.4 (parking lot standards for small-scale development), by allowing residential parking within the Overlay Zone to be located on a nearby property, as already allowed for other uses. Other Action Items would be brought forward in subsequent steps. For example, Actions 1.5, 1.6, 1.7, and 1.8 below would be brought forward as a separate bundle of amendments together with the work underway on residential design standards. Some of those items have also already been discussed in previous work sessions.

- At the August 19, 2021 Planning Commission work session, there was discussion about whether or not to revise the boundary to remove the small area of lower-density R-2 zoning, which is located within the Urban Renewal District and Northeast Gateway PD Overlay Zone. The general concurrence of the Planning Commission was to retain this area within the proposed boundary. The area includes the School District administrative offices and is uniquely located within the Urban Renewal District and NE Gateway Overlay Zone. ***The proposed boundary has not been changed in the revised draft.***

At the work session, there was also discussion about some of the proposed standards that would be applicable within the City Center Housing Overlay, including the following:

- Opportunity for further parking reduction in the core area (less than 1 space per unit, or at least for smaller units, but not a reduction to 0 spaces per unit). ***The initial draft has been revised to allow for some additional parking reduction in the core area.***
- Whether the proposed 500' maximum distance for the off-site parking option was too far. ***The current draft retains the 500' distance. Most people walk a quarter mile in five minutes, so 500' represents a 2-minute walk.***
- Allow shared driveways. ***The initial draft has been revised to allow for shared driveways.***
- There was general concurrence regarding the proposed provisions allowing rebuilding a nonconforming multi-family residential structure that had been destroyed by calamity in the C-3 zone in the City Center Housing Overlay to modify the restriction on number of units if the structure met certain standards of the C-3 zone but if nonconforming to the current R-4 standards referenced in the C-3 zone. ***The revised draft has been amended slightly to further address this issue.***
- There was also an inquiry regarding existing parking studies. ***A copy of the 2018 parking utilization study has been distributed separately.***

Attachments:

Exhibit A – G 2-21 Decision Document

Exhibit B – G 2-21 Proposed Code Amendments

Figure 2. City Center Housing Strategy – Action Plan Summary Table

	Regulatory	Non Regulatory	Proposed Action
1.0 Remove barriers to desired housing in city center			
1.1	x		Remove density requirements*
1.2	x		Reduce residential parking minimums*
1.3	x		Extend the parking reduction area*
1.4	x		Revise parking lot standards for small scale development*
1.5	x		Permit townhouses in C3 zone*
1.6	x		Permit or conditionally permit SROs*
1.7	x		C3-specific setbacks for multi-family residential*
1.8	x		Residential-specific design standards*
2.0 Provide incentives and support to desired development			
2.1		x	City-led pilot projects in partnership with developer*
2.2		x	Subsidy gap financing from Urban Renewal funds
2.3		x	Evaluate SDC costs
2.4		x	Property Acquisition and Reduction of Land Costs
2.5		x	Fast-track system for permitting
2.6		x	Small-scale developer bootcamp
2.7		x	Developer guidebook of financial assistance
2.8		x	Developer Tours
3.0 Improve street character, connections, and walkability			
3.1		x	Improvements to 2nd and 4th streets
3.2		x	Streetscape improvements to Adams and Baker
3.3		x	Improvements to Lafayette
3.4		x	Strengthen connections between Alpine District + 3rd St
3.5		x	Continue façade improvement program
3.6		x	Free design assistance application
3.7		x	Urban open space network to support downtown housing
4.0 Align enforcement and programming efforts with City's housing goals			
4.1		x	Evaluate short term rental regulations
4.2		x	Transportation modeling of the city center
4.3		x	Parking management plan / shared parking plan
4.4		x	Review of school capacity and other public services
* Being addressed as part of the City Center Housing Strategy			

Attachments:
 Exhibit A – G 2-21 Decision Document
 Exhibit B – G 2-21 Proposed Code Amendments

3. **Allow temporary use of an RV as a residence during construction of a permanent dwelling(s) on the same lot.** Allowing temporary use of an RV during construction of a dwelling can allow a household to reduce their housing costs. With this option, a household doesn't need to own and/or rent separate properties while new construction is occurring. This option is currently allowed in some other cities and counties in Oregon, and other jurisdictions are currently considering this option.

At the August 19, 2021 Planning Commission work session, there was general support to allow this option, but there were some questions about the applicable provisions.

- Planning Commission members requested information about how other cities regulate these and how they address connection to services. Staff reviewed provisions from several cities and modeled the provisions most closely based on Prineville's approach. Staff contacted Prineville's Planning Director for additional information about their experience. ***The draft has been updated to clarify some provisions following that conversation.***
- There was also discussion about whether there should be a means of allowing an emergency extension for unforeseen circumstances. ***The draft has been updated to address this issue.***

Discussion:

Discussion items from the August 19, 2021 Planning Commission works session, and associated revisions incorporated into the draft proposal, are summarized in the background section above. Staff believes the updated draft incorporates revisions responsive to the issues where direction was provided at the work session.

Attachments:

- Exhibit A: Decision Document
- Exhibit B: Proposed Amendments

Fiscal Impact:

There is no immediate fiscal impact to the City of McMinnville with this action.

Recommendation:

Staff recommends the Planning Commission recommend the proposed code amendments to the McMinnville City Council for adoption.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY STAFF, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE THE PROPOSED ZONING ORDINANCE AMENDMENTS PRESENTED IN DOCKET G 2-21.”

Attachments:

Exhibit A – G 2-21 Decision Document

Exhibit B – G 2-21 Proposed Code Amendments



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

503-434-7311

www.mcminnvilleoregon.gov

**DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS
FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE CITY CODE,
TITLE 17, DOCKET G 2-21, RELATING TO HOUSING AND AMENDING CHAPTERS 17.33, 17.54,
17.60, 17.63, AND ADDING CHAPTER 17.66**

DOCKET: G 2-21

REQUEST: The City of McMinnville is proposing to amend the Zoning Ordinance to (a) add provisions allowing existing single-family dwellings and duplexes as permitted uses in the C-3 zone, (b) establish a City Center Housing Overlay Zone and associated provisions, and (c) add provisions allowing temporary use of an RV as a residence during construction of a permanent dwelling(s) on the same lot. The amendments would affect the following Chapters, as summarized in more detail in **Exhibit B**.

Amend:

- Chapter 17.33, C-3 General Commercial Zone
- Chapter 17.54, General Regulations
- Chapter 17.60, Off-Street Parking and Loading
- Chapter 17.63, Nonconforming Uses

Add:

- Chapter 17.66, City Center Housing Overlay Zone

LOCATION: N/A, Multiple. This proposal includes some provisions which amend standards and some provisions which would apply within a designated City Center Housing Overlay Zone shown in the Staff Report and in the proposed Chapter 17.66.

ZONING: N/A, Multiple

APPLICANT: City of McMinnville

STAFF: Tom Schauer, Senior Planner

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: September 16, 2021, 6:30pm. Meeting held virtually via Zoom meeting software: <https://mcminnvilleoregon.zoom.us/j/88033487320?pwd=SzY5d3A2SDRlVU9VTnVPeHRHZZB1UT09>

Zoom ID: 880 348 7320

Zoom Password: 947797

DECISION-MAKING

BODY: McMinnville City Council

DATE & TIME: TBD

PROCEDURE: The application is subject to the legislative land use procedures specified in Sections 17.72.120 - 17.72.160 of the McMinnville Municipal Code.

CRITERIA: Amendments to the McMinnville Zoning Ordinance must be consistent with the Goals and Policies in Volume II of the Comprehensive Plan and the Purpose of the Zoning Ordinance.

APPEAL: The Planning Commission will make a recommendation to the City Council. The City Council's decision on a legislative amendment may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code.

DECISION

Based on the findings and conclusions, the McMinnville Planning Commission recommends **APPROVAL** of the Zoning Ordinance legislative amendments (G 2-21) to the McMinnville City Council.

////////////////////////////////////
DECISION: APPROVAL
////////////////////////////////////

City Council: _____
Scott Hill, Mayor of McMinnville

Date: _____

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

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

I. APPLICATION SUMMARY

This application is a proposal initiated by the City of McMinnville to amend the Zoning Ordinance to (a) add provisions allowing existing single-family dwellings and duplexes as permitted uses in the C-3 zone, (b) establish a City Center Housing Overlay Zone and associated provisions, and (c) add provisions allowing temporary use of an RV as a residence during construction of a permanent dwelling(s) on the same lot.

The staff report provides more detailed background information regarding each of three topics. See **Page 1 of Exhibit B** for a summary of the Sections amended. See the remainder of **Exhibit B** for the proposed amendments,

II. ATTACHMENTS

- Exhibit B. Proposed Amendments.

III. FINDINGS OF FACT – GENERAL FINDINGS

1. Docket G 2-21 is a legislative package of City-initiated proposed zoning ordinance amendments related to housing. The proposal is intended to increase housing opportunities and remove regulatory barriers associated with provision of housing, consistent with the Comprehensive Plan.
2. On August 19, 2021, city staff hosted a work session with the Planning Commission to review the draft proposal. **Exhibit B** reflects some revisions from the initial draft, resulting from discussion and input at the August 19, 2021 Planning Commission work session.

IV. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. Notice of the application and the September 16, 2021 Planning Commission public hearing were provided to DLCD on August 5, 2021.
2. Notice of the application and the September 16, 2021 Planning Commission public hearing was published in the News Register on Wednesday, September 8, 2021, in accordance with Section 17.72.120 of the Zoning Ordinance.
3. On September 16, 2021, the Planning Commission held a duly noticed public hearing to consider the request.

V. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application.

Zoning Ordinance

The Purpose Statement of the Zoning Ordinance serves as a criterion for Zoning Ordinance amendments:

17.03.020 Purpose. The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to encourage appropriate and orderly physical development in the city through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, adequate

community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare.

FINDING: SATISFIED. The proposed amendments achieve these purposes as further articulated in the Comprehensive Plan, addressed in more detail below. Further, the City Center Housing Overlay provisions further achieve these goals in a manner which carries out some of the action items in the City Center Housing Strategy.

On May 11, 2021, City Council adopted the City Center Housing Strategy Final Report by Resolution 2021-27. This was the culmination of work through a public process that began in 2019, guided by the McMinnville Urban Renewal Advisory Committee (MURAC) and an 18-member Project Advisory Committee, with a recommendation from both entities to City Council.

The purpose of the project was to create a strategy to potentially increase and incentivize more housing within the city center area and the surrounding higher density residential zones where there may be capacity for additional housing opportunities.

Comprehensive Plan

As described in the Comprehensive Plan, the Goals and Policies of the Comprehensive Plan serve as criteria for land use decisions. The following Goals and Policies from Volume II of the McMinnville Comprehensive Plan are applicable to this request:

CHAPTER IV. ECONOMY OF MCMINNVILLE

GOAL IV 4: TO PROMOTE THE DOWNTOWN AS A CULTURAL, ADMINISTRATIVE, SERVICE, AND RETAIL CENTER OF McMINNVILLE.

Downtown Development Policies:

36.00 The City of McMinnville shall encourage a land use pattern that:

- 1. Integrates residential, commercial, and governmental activities in and around the core of the city;*
- 2. Provides expansion room for commercial establishments and allows dense residential development;*
- 3. Provides efficient use of land for adequate parking areas;*
- 4. Encourages vertical mixed commercial and residential uses; and,*
- 5. Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)*

FINDING: SATISFIED. The proposal is consistent with the applicable Goal and Policies of Chapter IV of the Zoning Ordinance. The proposed amendments include provisions to help achieve integration of residential use and development in the core, allow dense residential development, and provide more efficient use of land as the in addressing parking provisions.

CHAPTER V. HOUSING AND RESIDENTIAL DEVELOPMENT

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

General Housing Policies:

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

Housing Rehabilitation Policies:

- 62.00 *The maintenance, rehabilitation, and restoration of existing housing in residentially designated areas shall be encouraged to provide affordable housing.*

FINDING: SATISFIED. The proposal is consistent with Goal V.1 and associated policies of the Zoning Ordinance. The proposed amendments include City Center Housing Overlay provisions to help encourage retention of existing housing in the Overlay area, and to allow for retention, utilization, and restoration of existing housing in core areas.

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

Policies:

- 68.00 *The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the city center, to designated neighborhood activity centers, and to those areas where urban services are already available before committing alternate areas to residential use. (Ord. 5098, December 8, 2020)*
- 69.00 *The City of McMinnville shall explore the utilization of innovative land use regulatory ordinances which seek to integrate the functions of housing, commercial, and industrial developments into a compatible framework within the city.*
- 70.00 *The City of McMinnville shall continue to update zoning and subdivision ordinances to include innovative land development techniques and incentives that provide for a variety of housing types, densities, and price ranges that will adequately meet the present and future needs of the community.*

Multiple-family Development Policies:

- 86.00 *Dispersal of new-multi-family housing development will be encouraged throughout the City in areas designated for residential and mixed-use development to encourage a variety of housing types throughout the community and to avoid an undue concentration of multi-family development in specific areas of the community leading to a segregation of multi-family development in McMinnville from residential neighborhoods. Dispersal policies will be consistent with the Great Neighborhood Principles*

In areas where there are the amenities, services, infrastructure and public facilities to support a higher density of multi-family development, and the area is commensurate with a higher concentration of multi-family development without creating an unintended segregation of multi-family development, such as McMinnville's downtown, the area surrounding Linfield University and Neighborhood Activity Centers, a higher concentration of multi-family development will be encouraged. (Ord. 5098, December 8, 2020)

- 87.00 *Residential developments at densities beyond that normally allowed in the multiple-family zone shall be allowed in the core area subject to review by the City. These developments will be encouraged for (but not limited to) the provision of housing for the elderly.*
- 90.00 *Greater residential densities shall be encouraged to locate along major and minor arterials, within one-quarter mile from neighborhood and general commercial shopping centers or within neighborhood activity centers, and within a one-half mile wide corridor centered on existing or planned public transit routes. (Ord. 5098, December 8, 2020; Ord. 4840, January 11, 2006; Ord. 4796, October 14, 2003)*

FINDING: SATISFIED. The proposal is consistent with Goal V.2 and associated policies of the Zoning Ordinance. The proposed amendments remove barriers and promote efficient residential use within the City Center Housing Overlay, helping to provide opportunities for a variety of housing types, densities, and price ranges.

CHAPTER VI. TRANSPORTATION SYSTEM

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

PARKING

Policies:

- 126.00 *The City of McMinnville shall continue to require adequate off-street parking and loading facilities for future developments and land use changes.*
- 127.00 *The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.*
- 128.00 *The City of McMinnville shall continue to assist in the provision of parking spaces for the downtown area.*

FINDING: SATISFIED. The proposal is consistent with applicable Goal and Parking Policies of Chapter VI of the Zoning Ordinance. The proposed amendments provide opportunities for more efficient utilization of land for parking within the City Center Housing Overlay.

TRANSPORTATION SUSTAINABILITY

- 132.37.00 *Through implementation of the TSP and the Comprehensive Plan, the City of McMinnville will, to the extent possible, seek measures that simultaneously help reduce traffic congestion, pollution, crashes and consumer costs, while increasing mobility options for non-drivers, and encouraging a more efficient land use pattern. (Ord. 4922, February 23, 2010)*

FINDING: SATISFIED. The proposal is consistent with applicable Goal and Transportation Sustainability Policies of Chapter VI of the Zoning Ordinance. The proposed amendments provide opportunities to increase mobility options for non-drivers, as well as increased opportunities for some trips by other modes in the City Center area, and a more efficient land use pattern.

CHAPTER VIII. ENERGY

ENERGY CONSERVATION

GOAL VIII 2: TO CONSERVE ALL FORMS OF ENERGY THROUGH UTILIZATION OF LAND USE PLANNING TOOLS.

179.00 *The City of McMinnville shall amend pertinent ordinances to allow for design techniques which increase the efficient utilization of land and energy. Areas to examine shall include, but not be limited to:*

1. *The zoning ordinance requirements, including density, lot areas, and setbacks to increase utilizable space in lots, while maintaining health and safety standards.*
2. *The geographic placement of various uses (commercial, industrial, residential) on the Comprehensive Plan Map to encourage energy-efficient locations.*
3. *The zoning ordinance and planned development provisions to allow for cluster developments, individually owned, common-wall dwellings, and other design techniques that increase utilizable space and offer energy savings.*
4. *The subdivision and zoning ordinances to encourage energy-efficient design such as proper landscaping for solar heating and cooling, solar orientation of dwellings and other site design considerations.*
5. *The building codes to encourage energy-efficient residential, commercial, and industrial building design and construction techniques.*

FINDING: SATISFIED. The proposal is consistent with applicable Goal and Energy Conservation Policies of Chapter VIII of the Zoning Ordinance. The proposed amendments provide opportunities for more efficient use of land within the City Center Housing Overlay and core area.

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.

FINDING: SATISFIED. The proposal is consistent with applicable Goal of Chapter X of the Zoning Ordinance. The proposed amendments implement action items in the City Center Housing Strategy, developed through public engagement including work with the McMinnville Urban Renewal Advisory Committee (MURAC) and a Project Advisory Committee, both of which recommended the final report to City Council. The final report was adopted by City Council.

The McMinnville Affordable Housing Committee also recommended that land use proceedings be initiated for the package of proposed amendments.

The Planning Commission held a work session in August to review and discuss the draft amendments, and the proposal incorporates input from the Planning Commission.

The public hearing process provides further opportunity for consideration of citizen involvement and input and associated deliberation.

G 2-21. City of McMinnville Proposed Zoning Ordinance Amendments

- **City Center Housing Overlay Zone**
- **Existing Single-Family Dwellings in the C-3 Zone**
- **Temporary Use of an RV as a Residence During Home Construction on Same Lot**

Proposed amendments to the McMinnville Zoning Ordinance to (a) add provisions allowing existing single-family dwellings and duplexes as permitted uses in the C-3 zone, (b) establish a City Center Housing Overlay Zone and associated provisions, and (c) add provisions allowing temporary use of an RV as a residence during construction of a permanent dwelling(s) on the same lot, as follows:

- Amend **Chapter 17.33, C-3 General Commercial Zone**, as follows:
 - Amend Section 17.33.010 to allow existing single-family dwellings and duplexes as permitted uses in the C-3 zone based on the adoption date of this amendment.
 - Amend Section 17.33.010(3) to specify that the density provisions of the R-4 zone don't apply to residential use in the C-3 zone within the City Center Housing Overlay District.
 - Amend Section 17.33.020(F) to specify that residential use in the C-3 zone within the City Center Housing Overlay District which exceeds the density provisions of the R-4 zone is a permitted use in the C-3 zone under Section 17.33.010(3), not a conditional use.
- Amend **Chapter 17.54, General Regulations**, as follows:
 - Add a new Section 17.54.065, adding provisions to allow temporary use of an RV as a residence during construction of a permanent dwelling(s) on the same lot.
- Amend **Chapter 17.60, Off-Street Parking and Loading**, as follows:
 - Amend Section 17.60.050 regarding the location of off-street parking for residential use within the City Center Housing Overlay Zone. Off-street parking need not be on the same property as the residential use if it is located not farther than 500 feet of the building with the residential use, subject to a binding parking agreement.
 - Amend Section 17.60.100 to establish a modified minimum off-street parking standard for residential use within the City Center Housing Overlay Zone as 1 parking space per dwelling unit.
 - Allow for further parking reduction for multi-family residential use within the core area of 0.75 parking spaces per studio or 1 bedroom unit.
 - Add provisions to allow shared driveways subject to a shared access agreement.
- Amend **Chapter 17.63, Nonconforming Uses**, to specify that the limitation on the number of units applicable to replacement of a nonconforming multiple-family structure doesn't apply on property zoned C-3 in the City Center Housing Overlay Zone, when the nonconformity is relative the referenced setbacks of the R-4 zone, but the structure complied with the setbacks of the C-3 zone, and provided the replacement doesn't increase the extent of nonconformity relative to development standards.
- Add a new **Chapter 17.66, City Center Housing Overlay Zone**, to the Zoning Ordinance, establish a boundary for the Overlay Zone, and incorporate standards that apply to residential use within the City Center Housing Overlay Zone.

Note: Additional land-use actions in the City Center Housing Strategy will be considered for adoption at a future date.

Chapter 17.33

C-3 GENERAL COMMERCIAL ZONE

[...]

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

[...]

2. Existing lawfully established single-family dwellings built and occupied prior to [insert adoption date], 2021.

a. Lots for these uses will be limited to their current sizes and cannot be expanded.

b. If the single-family dwelling is not occupied for more than a year as a residential use, it is no longer considered a permitted use.

c. Short-term rentals and resident-occupied short-term rentals will be considered a continued residential use for this code provision.

3. Existing lawfully established two-family dwellings built and occupied prior to [insert adoption date], 2021.

a. Lots for these uses will be limited to their current sizes and cannot be expanded.

b. If the two-family dwelling is not occupied for more than a year as a two-family dwelling, it is no longer considered a permitted use.

24. Condominiums subject to the provisions of the R-4 zone, *except that within the City Center Housing Overlay Zone designated in Chapter 17.66, density limitations of the R-4 zone shall not apply, and any special development standards of the Overlay Zone shall supersede those of the R-4 zone.*

34. Multiple-family dwellings subject to the provisions of the R-4 zone, *except that within the City Center Housing Overlay Zone designated in Chapter 17.66, density limitations of the R-4 zone shall not apply, and any special development standards of the Overlay Zone shall supersede those of the R-4 zone.*

[...]

17.33.020 Conditional Uses. In a C-3 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74.

[...]

F. **Outside of the City Center Housing Overlay Zone, a** A multiple-family dwelling **or condominium** constructed to a higher density than normally allowed in the R-4 multiple-family zone provided that the following conditions are met. It is the applicant's burden to show that the conditions have been met:

[...]

Chapter 17.54

GENERAL REGULATIONS

[...]

17.54.065 Use of Recreational Vehicle (RV) As Temporary Residence During Residential Construction.

A recreational vehicle (RV) may be authorized as a temporary residence during construction of a new residential structure on the same lot or parcel if found to comply with the following conditions.

- a. Only one RV shall be allowed on a lot or parcel. The RV shall only be placed on a lot or parcel for which a building permit for a site-built dwelling(s) or a placement permit for a manufactured dwelling meeting the standards of the applicable zone has been obtained.**
- b. The RV shall only be placed on a vacant lot, or a lot on which any existing dwellings will be demolished or removed. If any existing dwellings on the lot are to be demolished, the RV shall only be allowed on the lot prior to demolition if a demolition permit is issued concurrently with the building permit or placement permit for the new home. Demolition of any site-built home shall begin, or removal of any manufactured home shall occur, within 30 days of placement of the RV.**
- c. The RV shall only be occupied by future residents of a dwelling under construction on the same lot. If the occupants are not the property owner, written authorization from the property owner shall be provided prior to placement of the RV.**
- c. The RV shall not be occupied concurrently with any dwelling on the lot, either prior to demolition or removal of any existing dwelling or upon completion or placement of a new dwelling.**
- d. The RV shall only be occupied during a period in which satisfactory progress is being made towards the completion of the site-built dwelling or placement of the manufactured dwelling for which a permit has been obtained, and in no case shall the time period exceed 18 months involving a site-built dwelling or 6 months involving a manufactured dwelling, including any applicable demolition or removal. The Planning Director may grant one or more emergency hardships extensions provided the building permit or installation permit remains active and upon finding continued progress toward completion.**
- e. The RV shall cease to be used as a temporary residence not later than one month following the completion of a new site-built dwelling or placement of a manufactured dwelling, as applicable.**
- f. Except in the case of a self-contained motorized RV, connections to public sewer and water or any authorized on-site systems shall be provided, as well**

as electric power. Any on-site connections shall require applicable permits and approvals.

g. There shall be no parking of a self-contained, motorized RV or any vehicles on any portion of the site which is not paved or improved with a compacted dust-free gravel surface.

h. The Planning Director may revoke authorization for use of the RV as a temporary residence upon finding noncompliance with the provisions of this Section, including evidence of unsatisfactory progress on construction or placement of the permanent dwelling unit(s).

i. Nothing in the Section is intended to preclude any other lawful use of an RV as otherwise authorized in the McMinnville Municipal Code, such as the Safe Overnight Parking Program.

[...]

Chapter 17.60

OFF-STREET PARKING AND LOADING

[...]

17.60.050. Spaces – Location.

~~Except for one or two upper-story residential dwelling units above a non-residential use, off-street parking spaces for dwellings shall be located on the same lot with the dwelling.~~

A. Except as provided below, required off-street parking spaces for dwellings shall be located on the same lot with the dwelling. For the following residential uses, off-street parking shall be located not farther than five hundred feet from the building or use they are required to serve, measured in a straight line from the building.

1. Off-street parking for one or two upper story residential dwelling units above a non-residential use

2. Off-street parking for residential uses in the City Center Housing Overlay Zone designated in Chapter 17.66

B. All other required parking spaces shall be located not farther than two hundred feet from the building or use they are required to serve, measured in a straight line from the building.

C. When parking is provided on a different lot than the use it is required to serve, the applicant shall provide evidence of a binding parking agreement for use of the property for off-street parking consistent with the provisions of this Chapter for as long as the parking is required to serve the property. If the property is in different ownership or subsequently conveyed to a different owner, the parking agreement shall be recorded.

[...]

17.60.100. Reduced requirements for certain area.

A. In the area bounded by Adams Street, Ford Street, and Seventh Street, required off-street parking spaces for commercial establishments may be one-half the number stated for the particular use in Section 17.60.060 (see special parking requirements map below).

B. Except as provided in Subsection (C), within the City Center Housing Overlay Zone designated in Chapter 17.66, minimum required off-street parking spaces for residential uses shall be one space per dwelling unit.

C. Within the areas described in Section 17.60.060 and 17.60.100 and depicted in the “Reduced Parking Requirements” map, minimum required off-street parking spaces for multi-family residential uses shall be 0.75 space per dwelling unit for studio and 1-bedroom dwellings.

[...]

17.60.125. Shared access. When it is in the public interest, a shared driveway and circulation subject to a shared access easement and agreement may be authorized by the Planning Director when it would achieve one or more objectives of the Comprehensive Plan or this ordinance, such as reducing access points onto access-managed streets or reducing the amount of land required for access to parking spaces. Except where otherwise provided in this ordinance, a shared driveway to access parking spaces shall not replace the requirements for street frontage or other provisions of this code. The Planning Director may require that a shared driveway be located on the common property line between properties in certain circumstances, such as a situation where access is shared, but parking is not.

Chapter 17.63

NONCONFORMING USES

[...]

17.63.060 Structure—Destruction.

- A. If a nonconforming structure or a structure containing a nonconforming use in the industrial land use category is destroyed by any cause to an extent exceeding sixty percent of the assessed structural value as recorded in the County Assessor's records at the time of destruction, a future structure or use of the property shall conform to the provisions of this ordinance;
- B. If a nonconforming structure or a structure containing a nonconforming use in a residential, commercial, or public land use category is destroyed by fire, accident, or an act of God, the structure may be rebuilt to the same size (square footage before destruction) and may be occupied by the use which occupied the structure at the time of destruction.
- C. In the case of a destruction of a nonconforming multiple-family residential structure, the structure, if rebuilt, may not contain more living units than existed prior to the destruction; **except, however, in a C-3 zone within the City Center Housing Overlay Zone, this limitation shall not apply to a multiple-family structure that is nonconforming relative to the referenced setbacks of the R-4 zone, but meets the setbacks of the C-3 zone and which does not otherwise increase nonconformity relative to other development standards.** (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

[...]

Chapter 17.66

CITY CENTER HOUSING OVERLAY ZONE

Sections:

- 17.66.010 Establishment
- 17.66.020 Purpose and Intent
- 17.66.020 Applicability and Exemptions
- 17.66.030 Guidelines and Standards
- 17.66.040 Procedure

17.66.010 Establishment. The City Center Housing Overlay Zone is hereby established. The City Center Housing Overlay Zone boundary is shown in Figure 17.66.1.

17.66.020 Purpose and Intent.

17.66.030. Applicability and Exemptions. Provisions of this Chapter apply to residential development within the City Center Housing Overlay Zone boundary, including new development, and development that increases the square footage or number of existing dwelling units.

The provisions of the Chapter modify the provisions of other Chapters of the Zoning Ordinance as specified herein.

In addition, other Chapters of this Ordinance may specify that certain provisions of those respective Chapters are modified for properties within the City Center Housing Overlay Zone boundary, as specified in those Chapters.

The provisions of this Chapter do not apply to routine maintenance of residential development within the City Center Housing Overlay Zone.

17.66.040. Guidelines and Standards. [Reserved for future use].

17.66.050. Procedures. [Reserved for future use].

Figure 17.66.1. City Center Housing Overlay Zone Boundary

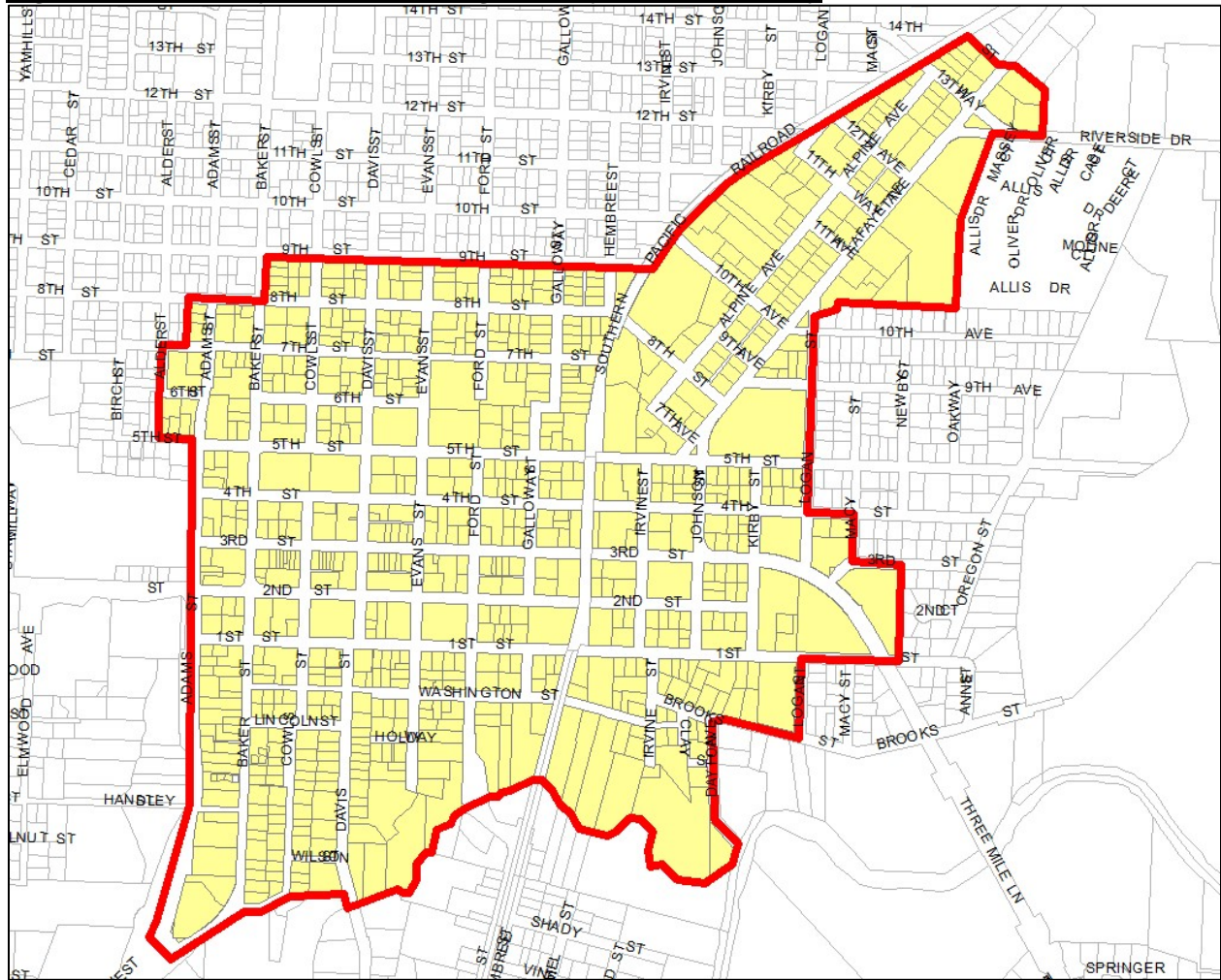


EXHIBIT 4 – STAFF REPORT

DATE: September 16, 2021
TO: McMinnville Planning Commission
FROM: Heather Richards, Planning Director
SUBJECT: G 3-21, Annexations

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 is a public hearing to consider proposed amendments to the McMinnville Comprehensive Plan, Volume II, Goals and Policies, Chapter IX, “Urbanization”, and the McMinnville Municipal Code, Title 16 and Title 17 establishing amended requirements and procedures for annexation of lands to the City of McMinnville for compliance with the McMinnville Growth Management and Urbanization Plan (MGMUP) and ORS 222, which governs annexations of land into cities in Oregon. (Docket 3-21).

Background:

Annexation is the process by which a municipality, upon meeting certain requirements, expands its corporate limits.

Oregon statewide planning goals require that each city be surrounded by a boundary which is called an urban growth boundary (UGB). The UGB defines the area which the city has identified as being eligible to be included within the city limits during a 20-year planning period to accommodate growth. Annexation is the process for lands within the UGB to become part of the city limits, and thus developed to an urban intensity in

compliance with the city’s comprehensive plan. Lands within the UGB may be considered for annexation into the city limits consistent with ORS 222 and local ordinances. Annexations are governed by state laws (Oregon Revised Statute, Title 21, Chapter 222), City Charters, and local ordinances.

A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed. The boundaries of a city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water, if the proposal for annexation is approved in the manner provided by the city charter or by ORS 222.111.

Historically in McMinnville, annexations have been governed by Ordinances No. 4130, 4357, 4535, 4624, 4636, and 4670. All of which developed and amended an annexation process for the City of McMinnville over the past forty (40) years. The history of the amendments to these ordinances is nuanced and difficult to administer. (Please see Table 1 below).

Staff is recommending repealing all of these Ordinances and dedicating a chapter of the McMinnville Municipal Code (Chapter 16) to Annexations for transparency and ease of administration.

Ordinance	Date of Approval	What it does?
No. 4130	April 7, 1981	<ul style="list-style-type: none"> • Enacted requirements and procedures for annexation of land to the City of McMinnville. • Land must be in the UGB. • Land must be contiguous to the city limits. • Plan for development must meet comprehensive plan policies. • Adequate level of services must be available or made available within three years of annexation. • Public hearing at the Planning Commission level. PC provides a recommendation to City Council. • City Council public hearing and final decision. • City shall attempt to not create islands of non-incorporated territory within the city limits. • If an island is created, it needs be annexed within one year. • Zoning shall be AH or county zoning until it is rezoned into a city zone for development.

Ordinance	Date of Approval	What it does?
No. 4357	February 4, 1986	<ul style="list-style-type: none"> • Repeals Ordinance No. 4130. • In response to state changes to ORS 222, which no longer required two public hearings if all the property owners of the land to be annexed consent to the annexation. • City elected to retain a public hearing for annexations at the Planning Commission level and eliminate the one required at the City Council level. • Land still must be in the UGB. • Land still must be contiguous to city limits. • Plan for development must meet comprehensive plan policies. • Adequate level of services must be available or made available within three years of annexation. • Public hearing at the Planning Commission level. PC provides a recommendation to City Council. • City Council public hearing and final decision. • City shall attempt to not create islands of non-incorporated territory within the city limits. • If an island is created, it needs be annexed within one year. • Zoning shall be AH or county zoning until it is rezoned into a city zone for development
No. 4535	April 27, 1993	<ul style="list-style-type: none"> • Amends Ordinance No. 4357 due to state amendments to ORS 222 relative to nonunanimous consent of property owners to be annexed.
No. 4624	May 14, 1996	<ul style="list-style-type: none"> • Amends Ordinance No. 4357 to require that Islands created by annexations be annexed into the city within one year.
No. 4636	November 12, 1996	<ul style="list-style-type: none"> • Repeals Ordinance No. 4357 in response to local ballot measure No. 36-32 passed on May 21, 1996 to amend the City Charter to read that all annexations except those otherwise mandated by state law, be referred to a vote of the electorate.
No 4670	June 23, 1998	<ul style="list-style-type: none"> • Amends Ordinance No. 4636 relative to the definition of adequate levels of municipal sanitary sewer and water service required within three years of annexation.

The most recent ordinance passed relative to annexations is Ordinance No. 4636, which provides for the following:

All annexations must be:

- Within the UGB
- Contiguous to the city limits
- Complies with the Comprehensive Plan, Volume II, Goals and Policies
- Must have an adequate level of urban services available or made available, within three years time of annexation.
- Findings documenting the availability of police, fire, and school facilities and services shall be made to allow for the proposed annexation.
- Public hearing with the Planning Commission for recommendation of approval to City Council to go to the ballot or denial.
- Cities shall strive to not create Islands of unincorporated territory within the corporate limits of the City
- Land will come into the City based on underlying comprehensive plan designation and be zoned AH If no other zone has been requested or it does not have a county zone.
- Referred to the electorate for a vote of approval or denial

Just like the city ordinances, the McMinnville City Charter has also been amended over time to reflect changing requirements and procedures for annexations. In 1996, Section 3 of the McMinnville City Charter as adopted in 1971, was amended to read that "Unless mandated by State Law, any annexation, delayed or otherwise, to the City of McMinnville may only be approved by a prior majority vote among the electorate." (Ballot Measure 36-32, May 21, 1996.). This then established a history of annexation requests that were determined by a city-wide vote of the electorate.

In 2016, the Oregon State Legislature passed Senate Bill 1573 amending ORS 222.127, stating that essentially if a landowner, or landowners petition the City for annexation, the legislative body of the city shall annex the property without submitting the proposal to the electors of the city if the property is within the UGB, contiguous to the city limits, meets the comprehensive plan, and conforms to all other ordinances of the city. In other words, the City cannot force a proposed annexation to be put to the voters if all landowners within the proposed annexed area agree to the annexation.

ORS 222.127

- (1) This section applies to a city whose laws require a petition proposing annexation of territory to be submitted to the electors of the city.*
- (2) Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the electors of the city if:*

- (a) *The territory is included within an urban growth boundary adopted by the city or Metro, as defined in [ORS 197.015 \(Definitions for ORS chapters 195, 196, 197 and ORS 197A.300 to 197A.325\)](#);*
 - (b) *The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;*
 - (c) *At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and*
 - (d) *The proposal conforms to all other requirements of the city's ordinances.*
- (3) *The territory to be annexed under this section includes any additional territory described in [ORS 222.111 \(Authority and procedure for annexation\)](#) (1) that must be annexed in order to locate infrastructure and right of way access for services necessary for development of the territory described in subsection (2) of this section at a density equal to the average residential density within the annexing city.*
- (4) *When the legislative body of the city determines that the criteria described in subsection (2) of this section apply to territory proposed for annexation, the legislative body may declare that the territory described in subsections (2) and (3) of this section is annexed to the city by an ordinance that contains a description of the territory annexed. [2016 c.51 §2]*

The Oregon Legislature adopted this amendment to ORS 222.127 In 2016 because It had been determined that some cities were using the electorate vote to prevent the necessary growth of the city to meet Its required population absorption. (33 cities were managing annexations in this manner.)

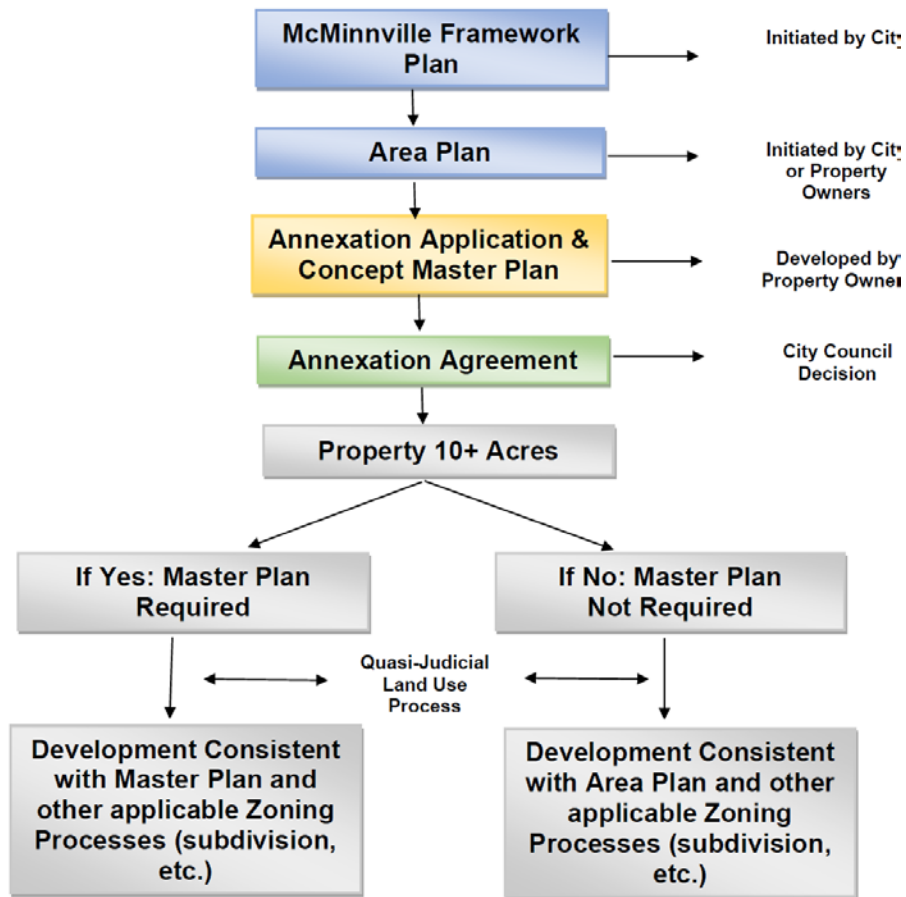
Corvallis and Philomath challenged the law shortly after It was enacted, arguing that the law Infringed on the home rule authority of cities to choose when and where to extend their boundaries. The Court of Appeals ruled In May, 2020 against the two cities, upholding the 2016 law amendments. The court cited key exceptions In the cities' charters that waive election requirements if an annexation Is "mandated by state law". The City of McMinnville has similar language In Its City Charter.

In December, 2020, the McMinnville City Council approved Ordinance No. 5098, adopting the McMinnville Growth Management and Urbanization Plan. Within that plan was a new annexation process for the City of McMinnville that would allow for thoughtful and intentional planning prior to annexation and compliance with ORS 222, the Oregon Statute that governs annexation processes In the State of Oregon.

This annexation process Is predicated on three major components:

- Area Plan
- Annexation Agreement
- Master Plan

Summary Graphic of UGB Expansion Planning Process:



Comprehensive Plan Policies Governing Annexations:

- 71.05 *The City of McMinnville shall encourage annexations and rezoning which are consistent with the policies of the Comprehensive Plan so as to achieve a continuous five-year supply of buildable land planned and zoned for all needed housing types. (Ord.4840, January 11, 2006; Ord. 4243, April 5, 1983; Ord. 4218, November 23, 1982)*
- 155.00 *The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.*
- 183.00 *The City of McMinnville, with the cooperation of Yamhill County, shall establish three categories of lands within the Urban Growth Boundary. Future urbanizable lands are those lands outside the city limits, but inside the Urban Growth Boundary. These lands shall be retained in agricultural resource zones until converted to urbanizable lands by annexation to the City of McMinnville. Urbanizable lands are those lands within the city limits which are not yet developed at urban densities. Conversion of these lands to the urban classification shall involve fulfillment of the goals and policies of this plan, provision of urban services, and application of appropriate implementation ordinances and measures. Urban lands are those lands within the city limits developed at urban densities.*
- 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*

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

187.90.00 *Prior to annexation of all lands greater than 10 acres in size, property owners shall submit a Master Plan for approval. (Proposed amended policy language per Attachment C).*

Comprehensive Plan Proposals Relative to Annexations:

48.30 **“Urban Holding” (UH) Zoning Map Designation.** *The City shall establish an “Urban Holding” (UH) zone, which may be applied to lands within the UH Comprehensive Plan Map designation. Lands within the UH Comprehensive Plan map designation may be annexed and rezoned to UH as an interim designation before urban zoning is applied, subject to completion of the master planning process consistent with an approved annexation agreement. (Ord. 5098, December 8, 2020)*

48.90 **Annexation Process.** *The City shall update its annexation ordinance (Ordinance No. 4357) to reflect new statutory requirements and a process consisting of an annexation agreement with the City Council that includes a conceptual master plan but is not a land-use process. (Ord. 5098, December 8, 2020)*

48.95 **McMinnville – Yamhill County Urban Growth Boundary Management Agreement.** *The City shall update its urban growth boundary management agreement (Ordinance No. 4146) with Yamhill County. (Ord. 5098, December 8, 2020)*

Comprehensive Plan Proposal 48.90 Instructs the City to update It’s annexation ordinance to reflect new statutory requirements and a process consisting of an annexation agreement with the City Council that Includes a conceptual master plan but Is not a land-use process.

Staff Is recommending amendments to the McMinnville City Code, repealing Title 16, which Is a duplicated land division ordinance similar to Chapter 17.53, and replacing It with new language dedicated to annexation requirements and processes for the City of McMinnville that reflects the process outlined and adopted In December, 2020, with the MGMUP, and to amend Chapter 17 as necessary to support this process.

The new language recommended for Title 16, "Annexations", reflects the provisions of ORS 222, the provisions of local Ballot Measure 36-32 passed In 1996 that are still relevant after Senate Bill 1753 (2016) was adopted and the process and values adopted with the MGMUP In December, 2020.

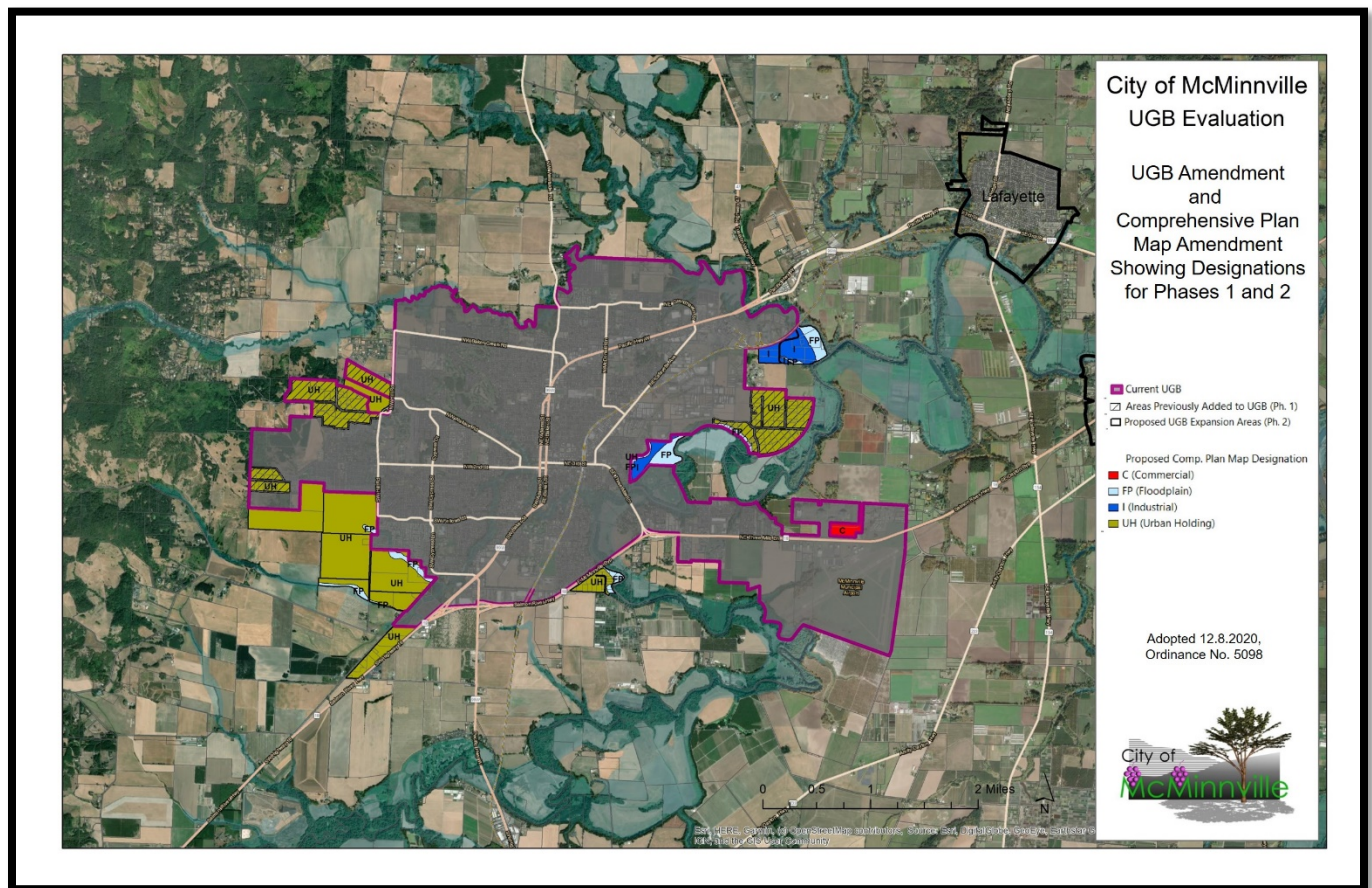
Discussion:

There are two inherent processes associated with an annexation: 1) demonstration of compliance with the McMinnville Comprehensive Plan, which is a land-use process; and 2) process and action of annexation, which is a governance process.

The process adopted in the MGMUP that these code amendments will implement these two processes separately. The land-use process demonstrating compliance with the

McMinnville Comprehensive Plan is required prior to the property being annexed into the city limits. For properties with a UH Comprehensive Plan Map designation, this process will entail the adoption of an Area Plan as a supplemental document to the McMinnville Comprehensive Plan as well as the adoption of a Master Plan prior to the annexation action for properties larger than 10 acres. For properties with a UH Comprehensive Plan Map designation, this process will entail a Comprehensive Plan Map amendment and Zoning Map amendment. For properties with a Commercial or Industrial Comprehensive Plan Map designation, this process will entail a Zoning Map amendment. All of these land-use processes are considered a Type IV land-use process requiring at a bare minimum a public hearing with the Planning Commission, the Planning Commission voting on a recommendation to the City Council and final action by the City Council.

Figure 1: City of McMinnville Comprehensive Plan Map.



The governance process will require an annexation application, an annexation agreement for all annexation requests approved by City Council and a City Council adopted ordinance approving the annexation. The annexation will not take effect until the land-use process is concluded including any associated appeals.

For properties with a UH Comprehensive Plan designation, the first step of the annexation process is the adoption of an Area Plan that delineates a high level land-use plan for the area identifying future comprehensive plan designations and city zoning that will meet the intention of the adopted Framework Plan which outlined the need for housing, employment land, and public amenities in that area to serve the city's acknowledged need for growth and development. This Area Plan will be adopted by the City Council as a supplemental document to the McMinnville Comprehensive Plan. This process will be a Type IV legislative land-use application requiring a public hearing with the Planning Commission and a final decision by the City Council.

Ordinance No. 5098 adopting the MGMUP also adopted amendments to the McMinnville City Code, Chapter 17.10, that provides the criteria and requirements for area plans and master plans. (Please see Attachment B).

Figure 2: Framework Plan Map from MGMUP Framework Plan adopted by Ordinance No. 5098.

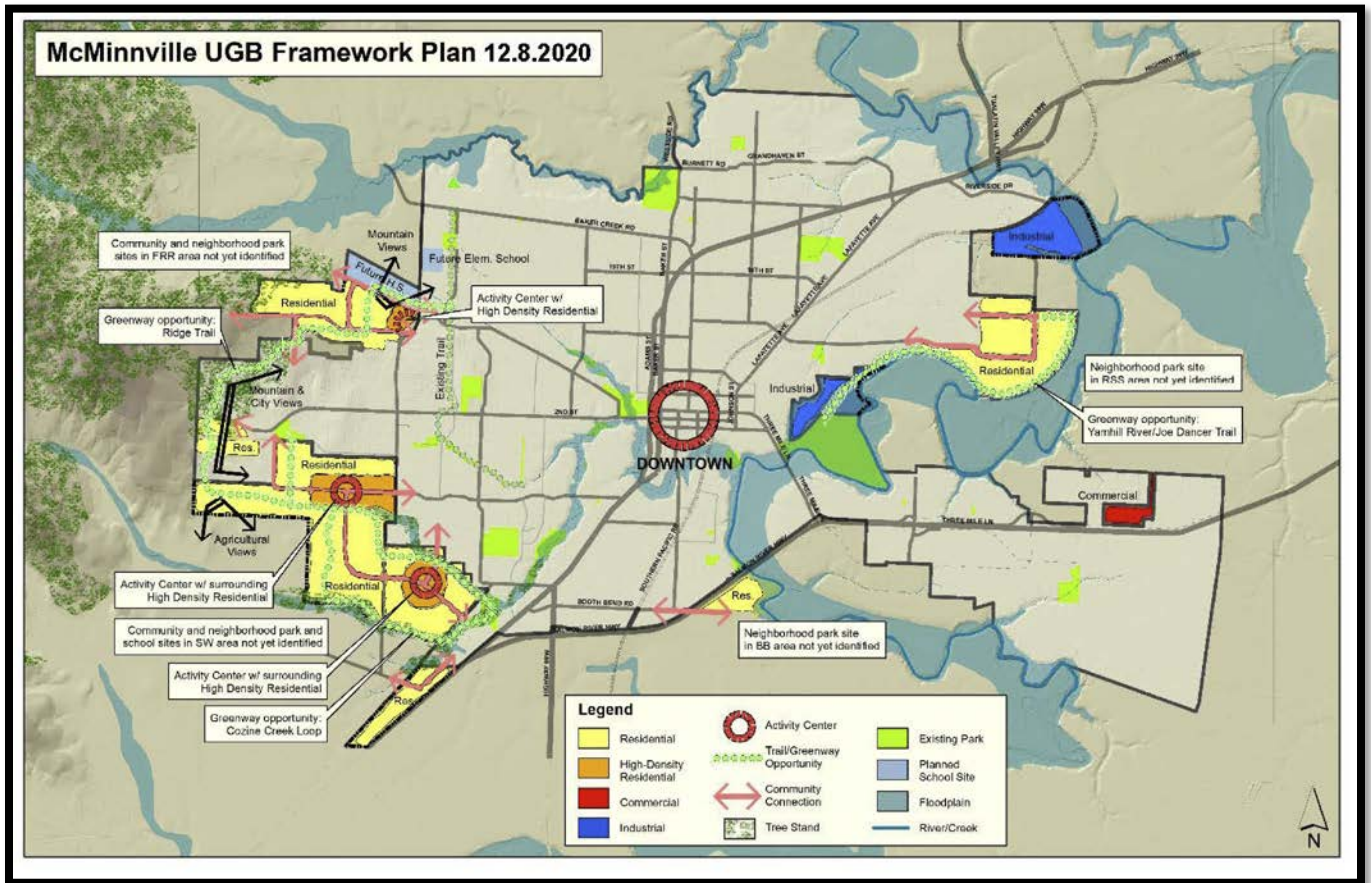


Figure 3: Excerpt of Acknowledged Land Need from MGMUP Framework Plan adopted by Ordinance No. 5098.

Potential Assignment of Land Need:		Southwest	Fox Ridge Road	Riverside South	Redmond Hill Road	Booth Bend Road	Riverside North
Land Need							
Residential							
R-5	36 acres						
Parks							
Neighborhood Park	88.11 acres						
Community Park	58.84 acres						
Greenways/Natural Areas	106.81 acres						
Schools	43 acres						
Commercial	39.3 acres						
Industrial	Surplus						

The next step is for the landowner(s) to submit an annexation application to the City of McMinnville including all of the elements described in proposed Section 16.20.020 (Attachment A). One element that will be required in the annexation application is a conceptual master plan demonstrating how the development of their property will achieve the intent of the Area Plan when annexed to the City. The conceptual master plan will be strictly an advisory document for the city’s development of an annexation agreement, however it should serve as a baseline for a future land-use application to show compliance with the McMinnville Comprehensive Plan and Municipal Code. For this process the landowner(s) should be meeting with city staff to discuss Area Plan compliance, public infrastructure needs, etc.

After the application is submitted, the landowner(s) will need to enter into an Annexation Agreement with the City Council outlining the contractual terms of annexation. (Proposed Section 16.30.030 and 16.40.020 of the MMC – Attachment A). The Annexation Agreement is an annexation contract between the landowner(s) and the City Council determining what is expected from both parties for the annexation to be successful.

The Annexation Agreement is the opportunity for the City to require elements of the concept master plan that the City deems is necessary for the public good associated with

the annexation. This typically includes the dedication and development of necessary public infrastructure improvements, as well as the dedication and development of public parks and trails, and in some cities, the development of necessary affordable housing to meet the city's future housing need. The Annexation Agreement is approved by Resolution of the City Council. This action does not bind the Concept Master Plan to the property nor is it a land-use action. However, the Annexation Agreement does identify the land-use process that the applicant needs to follow to demonstrate compliance with the McMinnville Comprehensive Plan as well as a timeframe in order to annex their property into the city. This land-use process needs to be concluded prior to the annexation becoming effective.

After the landowner(s) have achieved all of the performance metrics of the Annexation Agreement, the City Council would then consider the annexation by ordinance. This process would be conducted in adherence with ORS 222.

Attachment A provides the draft recommended amendments to the McMinnville City Code, Title 16 - Annexations, describing all of the annexation requirements and processes needed outside of the land-use process for annexations in order to be compliant with ORS 222.111 and to reflect historic community values relative to annexations.

Attachment B proposes necessary amendments to Title 17 of the MMC to support the city's new annexation process.

Attachment C proposed necessary amendments to the McMinnville Comprehensive Plan, Volume II, Goals and Policies, Chapter IX, "Urbanization".

The proposed amendments and process were provided to the City Council at a work session on July 21, 2021. The City Council directed staff to move forward with the proposed amendments.

After the work session the City Council received a letter from Mark Davis expressing his concerns about the proposed process. This letter was addressed in follow-up comments by the City Attorney at the next City Council meeting on July 27, 2021. Mark Davis followed up that City Council meeting with an additional email to city staff on August 1, 2021 and the City Attorney replied on August 5, 2021. (Please see Attachment D).

Mark Davis' testimony primarily focuses on whether or not the provision of public participation and opportunity for appeals are being retained in the annexation process with the proposed code amendments. Prior to the legislative amendments in 2016, a McMinnville annexation application was reviewed by the planning commission with a public hearing for compliance with the comprehensive plan and zoning ordinance. The

Planning Commission made a recommendation of approval or denial to the City Council. The City Council would then review the Planning Commission recommendation and decide whether or not they supported the recommendation (that the proposed development plan associated with the annexation complied with the comprehensive plan and zoning ordinance) and would then approve or deny the request to be put on the local ballot. The decision for compliance with the comprehensive plan and zoning ordinance was a quasi-judicial process with clear and objective criteria and the opportunity for appeal to the Land Use Board of Appeals (LUBA) by both the applicant and opponents depending upon the final decision of the City Council. The popular vote by the electorate was, in the view of the 2016 legislature, a discretionary vote without the opportunity for appeal by either the applicant or opponents.

ORS 222.127 is very specific in that it instructs cities to annex property into the city if it meets the performance metrics laid out in ORS 222.127(2).

- (2) *Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city **shall** (emphasis added) annex the territory without submitting the proposal to the electors of the city if:*
 - (a) *The territory is included within an urban growth boundary adopted by the city or Metro, as defined in [ORS 197.015 \(Definitions for ORS chapters 195, 196, 197 and ORS 197A.300 to 197A.325\)](#);*
 - (b) *The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;*
 - (c) *At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and*
 - (d) *The proposal conforms to all other requirements of the city's ordinances.*

The proposed process eliminates the discretionary popular vote of the electorate based upon the fact that new laws do not allow cities to utilize that process for annexation decision-making in certain instances. However, it retains the quasi-judicial review of the proposal by the Planning Commission and the City Council for compliance with the comprehensive plan and zoning ordinance either through a master plan and comprehensive plan map amendment/zone map amendment process for properties 10 acres or more that are in the city's UGB and designated UH on the comprehensive plan map, or a comprehensive plan map amendment/zone map amendment for parcels less than 10 acres that are in the city's UGB and designated UH on the comprehensive plan map, or a zone map amendment for properties that are in the city's UGB and designated industrial or commercial on the comprehensive plan map. The final act of Annexation cannot occur unless this compliance is demonstrated, and properties will not be considered annexed until all opportunities for the land-use appeal have been exercised. The proposed process also provides an additional layer of public process and opportunity for appeal with the added provision of the need for an adopted Area Plan prior to annexation if the property is located in an urban holding comprehensive plan designation

in the urban growth boundary. The Area Plan will be adopted as a supplemental document to the Comprehensive Plan and subject to a public hearing with the Planning Commission and a final decision by the City Council, and can also be appealed to LUBA. The only occasions where an Area Plan is not required is for land that is designated either commercial or industrial land in the UGB on the City's Comprehensive Plan map.

The process proposed in the adopted MGMUP adds an additional layer of review to the process outlined in ORS 222.127, by requiring an adopted Area Plan and Master Plan prior to annexation. Since these were adopted as Comprehensive Plan policies and zoning ordinance amendments with Ordinance No. 5098, they qualify as part of the ORS 222.127(2)(d) provision.

All of the other provisions of the McMinnville's previous annexation ordinances that are not considered clear and objective land-use standards but still reflect the value of McMinnville relative to annexations have been captured in the proposed Title 16 amendments, including:

- Must have an adequate level of urban services available or made available, within three years time of annexation. (Proposed MMC 16.20.020(K)(1)).
- Findings documenting the availability of police, fire, and school facilities and services shall be made to allow for the proposed annexation. (Proposed MMC 16.20.020(K)(3)).

The City also received comments from Sid Friedman on August 18, 2021, expressing concerns about the clarity of the process and the distinction of land-use processes versus governance with some recommended amendments. (See Attachment E). Staff reviewed those, incorporated the recommended amendments, and restructured some of the proposed amendments to further clarify and distinguish the process, including requiring the annexation application prior to the annexation agreement and requiring a concept master plan as part of the annexation application so that it is required of all properties that want to annex into the city in order to help inform the development of the annexation agreement.

Additional Considerations for Discussion:

How to address small parcels with a UH Comprehensive Plan Map designation.

There are several property owners that would like to annex 5 acres or less that have a UH Comprehensive Plan Map designation. Should there be a separate process for them that does not rely on a larger Area Planning process?

Attachments:

Attachment A: Draft Title 16 MMC Amendments

Attachment B: Draft Title 17 MMC Amendments

Attachment C: Draft Comprehensive Plan Goals and Policies Amendments, Chapter IX

Attachment D: Communications from Mark Davis

Attachment E: Communications from Sid Friedman

Attachment F: Decision Document for G 3-21

Fiscal Impact:

There is no immediate fiscal impact to the City of McMinnville with this action.

Recommendation:

Staff recommends the Planning Commission recommend the proposed amendments to the McMinnville City Council for adoption.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY STAFF, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE THE PROPOSED AMENDMENTS PRESENTED IN DOCKET G 3-21.”



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

www.mcminnvilleoregon.gov

PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE –

Chapter 16 will be replaced in its entirety with the following language.

**TITLE 16
ANNEXATION**

Chapters:

- 16.10 General Provisions**
- 16.20 Annexation Initiation**
- 16.30 Properties Subject to MMC 17.10.060**
- 16.40 Properties Not Subject to MMC 17.10.060**

CHAPTER 16.10 General Provisions

Sections.

- 16.10.010 Purpose**
- 16.10.020 Definitions**
- 16.10.030 Applicability**
- 16.10.040 Annexation Approval**
- 16.10.050 Zoning of Annexed Areas**
- 16.10.060 Effective Date and Notice of Approved Annexation**
- 16.10.070 Annexation of Non-Conforming Uses**

16.10.010 Purpose

This Chapter is intended to establish procedures and criteria for annexation under the provisions of the Oregon Revised Statutes including, but not limited to, Chapter 222. The City recognizes that annexation of land is both an act of governance and land-use. This Chapter lays out the process necessary to annex property into the city of McMinnville. This Chapter aims to achieve orderly and efficient annexation of land to the City that will result in providing a complete range of public services and public facilities for the annexed territory and to ensure consistency with the McMinnville Comprehensive Plan. The City recognizes that the development of lands at an urban density must include the provision of an adequate level of required urban services, including, but not limited to, such as sanitary sewer, water, stormwater, roads, and parks.

Cross reference: See ORS 222.855 for annexation to abate a public danger. Also, see ORS 222.111 for annexation eligibility and ORS 222.010 – 222.750 for annexation procedures.

16.10.020 Definitions

Annexation – The process by which a municipality, upon meeting certain requirements, expands its corporate limits.

Annexation Agreement – The written agreement between the City and owners of land requesting annexation that states the terms, conditions and obligations of the parties for the annexation to be approved, including but not limited to provisions

for public facilities and public services to mitigate public facility and public service impacts to the City associated with the annexation and future development of the property, a process for ensuring that the annexation is consistent with the McMinnville Comprehensive Plan, and any other provisions that the City deems necessary for the annexation to meet the city's ordinances and the community's identified needs.

16.10.030 Applicability

The following conditions must be met prior to or concurrent with City processing of any annexation request:

- A. The subject site must be located within the McMinnville urban growth boundary.
- B. The subject site must be contiguous to the existing City limits.

16.10.040 Annexation Approval

- A. City Council approval of annexation applications shall be by ordinance. Procedures for approval shall comply with the provisions of Oregon Revised Statutes, particularly ORS 222.
- B. If an annexation is initiated by property owners representing less than 100 percent of all owners of property to be annexed, after holding a public hearing and if the City Council approves the proposed annexation, the City Council shall call for an election within the territory to be annexed. Otherwise no election on a proposed annexation is required.

16.10.050 Zoning of Annexed Areas

The McMinnville Comprehensive Plan Map provides for comprehensive plan designations on all land within the City's urban growth boundary. Land that is currently designated as a Urban Holding comprehensive plan designation needs to undergo an Area Planning process per Section 17.10.010 – 17.10.050 of the McMinnville Municipal Code and at the time of annexation a new comprehensive plan designation will be applied to the subject property that will identify the future City zoning classifications of that property.

16.10.060 Effective Date and Notice of Approved Annexation

A. The effective date of an approved annexation must be set in accordance with ORS 222.040 or 222.180.

B. Notice of Approved Annexation:

1. Not later than 10 working days after the passage of an ordinance approving an annexation, the City Manager or designee will:

- a. Send by certified mail a notice to public utilities (as defined in ORS 757.005), electric cooperatives and telecommunications carriers (as defined in ORS 133.721) operating within the City.
- b. Mail a notice of the annexation to the Secretary of State, Department of Revenue, Yamhill County Clerk, Yamhill County Assessor, affected districts, and owners and electors in the annexed territory. The notice must include:
 - i. A copy of the ordinance approving the annexation;
 - ii. A legal description and map of the annexed territory;
 - iii. The findings, if applicable; and
 - iv. Each site address to be annexed as recorded on Yamhill County assessment and taxation rolls.
- c. The notice to the Secretary of State will also include a copy of the statement of consent as required in Section 17.68.030, Annexation Initiation.

2. If the effective date of an annexation is more than one year after the City Council passes the ordinance approving it, the City Manager or designee will mail a notice of the annexation to the Yamhill County Clerk not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

16.10.070 Annexation of Non-Conforming Uses

- A. Generally. When a nonconforming use is annexed into the city, the applicant shall provide, in the annexation application, a schedule for the removal of the nonconforming use. At time of approval of the annexation, the city council may add conditions to ensure the removal of the nonconforming use during a reasonable time period. The time period may not exceed 10 years.
- B. Exception. A legal nonconforming residential structure is allowed to remain indefinitely. Notwithstanding the foregoing, any proposed changes to an existing residential structure will be subject to Chapter 17.63.

DRAFT

CHAPTER 16.20
Annexation Initiation

Sections.

16.20.010 Annexation Initiation

16.20.020 Annexation Application

16.20.010 Annexation Initiation

An annexation application may be initiated by City Council resolution, or by written consents from electors and/or property owners as provided below.

16.20.020 Annexation Application

An annexation application shall include the following:

- A. A list of owners, including partial holders of owner interest, within the affected territory, indicating for each owner:
 - 1. The affected tax lots, including the township, section and range numbers;
 - 2. The street or site addresses within the affected territory as shown in the Yamhill County Records;
 - 3. A list of all eligible electors registered at an address within the affected territory; and
 - 4. Signed petitions as may be required in Subsection B below.

- B. Written consents on City-approved petition forms that are:
 - 1. Completed and signed, in accordance with ORS 222.125, by:
 - a. All of the owners within the affected territory; and
 - b. Not less than 50 percent of the eligible electors, if any, registered within the affected territory; or

 - 2. Completed and signed, in accordance with ORS 222.170, by:
 - a. More than half the owners of land in the territory, who also own more than half the land in the contiguous territory and of real property therein representing more than half the assessed value of all real property in the contiguous territory (ORS 222.170(1)); or

adequate if the municipal operations are in accordance with federal and state regulations, permits, and orders.

2. Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the City will note requirements such as dedication of rights-of-way and easements, waivers of remonstrance against assessment for road improvement costs, and/or participation in other transportation improvement costs, for application at the appropriate level of the planning process. The City will also consider public costs of the improvements.
 3. Documentation of the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.
- L. A written narrative addressing the proposal's consistency with the approval criteria specified in Chapter 16.30, if applicable.
- M. A fee as established by Council resolution.
- N. If applicable, a concept master plan as required in MMC Chapter 17.10.060 *et seq.*

CHAPTER 16.30
Properties Subject to MMC 17.10.060

Sections.

- 16.30.010 Applicability**
- 16.30.020 Area Planning and Master Planning**
- 16.30.030 Annexation Agreement**
- 16.30.040 Review Process**

16.30.010 Applicability.

This Chapter applies to all properties that are subject to MMC 17.10.060.

16.30.020 Area Planning and Master Planning.

Properties in areas that the City has determined are subject to area planning as provided in Chapter 17.10 and in other adopted plans, such as the McMinnville Growth Management and Urbanization Plan, must have an approved area plan and master plan, as provided in Chapter 17.10, and have an annexation agreement to be annexed into the City.

16.30.030 Annexation Agreement.

Properties subject to this Chapter 16.30 must enter into an annexation agreement with the City. The City Council may adopt by resolution an annexation agreement with the owner(s) of property that is proposed for annexation to the City. The annexation agreement shall address, at a minimum, provisions for connection to and extension of public facilities and services to the annexed property. Connection to public facilities and services shall be at the discretion of the City, unless otherwise required by the Oregon Revised Statutes. Where public facilities and services are available and can be extended, the applicant shall be required to do so. The annexation agreement shall also describe a process and timeframe for compliance with the McMinnville Comprehensive Plan. The annexation agreement can also have additional requirements for annexation into the city at the discretion of the City Council that responds to the overall future growth and development needs of the community.

16.30.040 Review Process.

- A. Annexation Application Submittal. The applicant must submit an annexation application consistent with the requirements of Section 16.20.020.
- B. The property owner will sign an annexation agreement to be considered for approval by the City Council either concurrently with or after the annexation application.
- C. The City Council will approve an annexation agreement that establishes the expectations of the city for the annexation to be successful.
- D. The property owner will initiate and complete the land-use process as described in the annexation agreement to rezone the property into a city urban zone which will become effective upon annexation. This process shall be a quasi-judicial land-use process that will need to be concluded prior to annexation.
- E. The City Council will undertake a legislative review process to determine whether to approve the annexation. The burden is on the applicant to prove compliance with the requirements of this Title and to provide applicable findings.
- F. The City Council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in subsection (b) of this section, but where annexation is needed to address a health hazard, to annex an island, to address sanitary sewer, stormwater, or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the city council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available

CHAPTER 16.40
Properties Not Subject to MMC 17.10.060

Sections.

- 16.40.010 Applicability**
- 16.40.020 Annexation Agreement**
- 16.40.030 Review Process**
- 16.40.040 Quasi-Judicial Annexation Criteria**

16.40.010 Applicability.

This Chapter applies to all properties that are not subject to MMC 17.10.060.

16.40.020 Annexation Agreement.

Properties subject to this Chapter 16.30 must enter into an annexation agreement with the City. The City Council may adopt by resolution an annexation agreement with the owner(s) of property that is proposed for annexation to the City. The annexation agreement shall address, at a minimum, provisions for connection to and extension of public facilities and services to the annexed property. Connection to public facilities and services shall be at the discretion of the City, unless otherwise required by the Oregon Revised Statutes. Where public facilities and services are available and can be extended, the applicant shall be required to do so. The annexation agreement shall also describe a process and timeframe for compliance with the McMinnville Comprehensive Plan. The annexation agreement can also have additional requirements for annexation into the city at the discretion of the City Council that responds to the overall future growth and development needs of the community.

16.40.030 Review Process.

- A. Annexation Application Submittal. The applicant must submit an annexation application consistent with the requirements of Section 16.20.020.
- B. The property owner will sign an annexation agreement to be considered for approval by the City Council either concurrently with or after the annexation application.

- C. The City Council will approve an annexation agreement that establishes the expectations of the city for the annexation to be successful.
- D. The property owner will initiate and complete the land-use process as described in the annexation agreement to rezone the property into a city urban zone which will become effective upon annexation. This process shall be a quasi-judicial land-use process that will need to be concluded prior to annexation.
- E. The City Council will undertake a legislative review process to determine whether to approve the annexation. The burden is on the applicant to prove compliance with the requirements of this Title and to provide applicable findings.
- F. The City Council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in subsection (b) of this section, but where annexation is needed to address a health hazard, to annex an island, to address sanitary sewer, stormwater, or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the city council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available



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

www.mcminnvilleoregon.gov

PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE – Chapter 17.03, General Provisions

New proposed language is represented by **bold font**, deleted language is represented by ~~strikethrough font~~.

Chapter 17.06 DEFINITIONS

~~**Annexation**—An extension of the boundary of the City which involves a land use process that evaluates if a property meets the criteria for incorporation into the City limits and a vote by the electorate of McMinnville.~~

Chapter 17.09 ZONE CLASSIFICATIONS BOUNDARIES AND MAPS

17.09.050 Annexed areas. **If a property is annexed into the City and does not concurrently apply for and obtain urban comprehensive plan designations and urban zone designations, it shall be placed in the urban holding zone and will not be allowed any building permits until the zone is changed to a developable city zone through the procedures set forth in Chapter 17.72 (Applications and Review Process) of this title.** ~~An unzoned area annexed to the City shall be placed in the R-1 zone. A County zoned area annexed to the City shall remain in the County zone classification and shall not be allowed any building permits until the zone is changed to a city zone through the procedures set forth in Chapter 17.72 (Applications and Review Process) of this title.~~ Simultaneous application for annexation and a zone change is allowed provided that the zone change ordinance does not take effect until and unless the property is properly annexed to the City and incorporated within the city limits. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Chapter 17.10

AREA AND MASTER PLANNING PROCESS (as adopted per Ordinance 5098, December 8, 2020)

17.10.010 Purpose. To provide a process that will allow for and ensure the transition from rural to urban land uses in a manner that is consistent with the McMinnville Comprehensive Plan, UGB expansion plans, and the City's overall land supply needs identified in applicable UGB expansion plans and documents.

17.10.020 Applicability. The Area Plan and Master Plan processes apply to all lands that are designated as Urban Holding (UH) on the McMinnville Comprehensive Plan Map.

17.10.030 Procedures.

- A. Area Plan Requirement. Prior to annexation or comprehensive plan map amendment, zone change, or development of any land in Urban Holding (UH) Comprehensive Plan Map designations, the City must review and adopt an Area Plan, if applicable.
- B. Master Plan Requirement.
 - 1. Concept Master Plan. A Concept Master Plan is required as a component of an annexation application to annex property into the city limits. ~~The development and approval of a Concept Master Plan is required prior to annexation of any land in a Urban Holding (UH) Comprehensive Plan Map designation. s as part of an annexation agreement.~~ **A Concept Master Plan is not binding and is an advisory document to help inform the annexation agreement. (See Title 16 of the McMinnville Municipal Code for the city's annexation process.)**
 - 2. Master Plan. The development and approval of a Master Plan is required prior to a zone change, or development of any land in Urban Holding (UH) Comprehensive Plan Map designations and the UH Zone.

17.10.040 Area Plan Process.

- A. The City Council shall initiate an Area Planning process for lands that are designated as Urban Holding (UH) on the McMinnville Comprehensive Plan Map.
- B. Property owners may initiate the Area Planning process, if the City Council has not yet initiated or completed an Area Plan for land designated on the Comprehensive Plan Map as Urban Holding (UH) in a UGB expansion area.
 - 1. Area Planning may be initiated by property owners for lands 100 acres or greater in size.
- ~~C.~~ The City Council shall adopt an Area Plan as a guiding land use document. **An Area Plan shall be adopted as a supplement to the McMinnville Comprehensive Plan through a legislative land use proceeding if it was initiated by the City Council or either a quasi-judicial or legislative land use proceeding, depending on its size and the number of properties it covers, if it was initiated by an application.** ~~The adoption of the Area Plan is not a land use decision, and does not result in any changes to comprehensive plan designations or zoning districts.~~

17.10.050 Area Plan Scope and Components.

- A. Area Plans shall ~~more specifically~~ identify land uses, their locations, and their relationship to public facilities, natural resources, and existing urban uses. The land uses identified in an Area Plan must be consistent with the applicable Framework Plan and the identified land use needs for the Urban Holding (UH) area.
- B. Principles and Standards for Area Plans.
 - 1. Area Plans must embody the development principles of the applicable Framework Plan, UGB expansion plan, McMinnville Comprehensive Plan, and any other City land use policies and standards.
 - a. 2003-2023 McMinnville Growth Management and Urbanization Plan (MGMUP). The MGMUP provides guidance for the planning and development of fully integrated, mixed-use, pedestrian-oriented neighborhoods. Therefore, Area Plans for UH areas within the MGMUP areas will be developed to be consistent with:

- 1) The guidelines and characteristics of the Traditional Neighborhood model, as described in the McMinnville Growth Management and Urbanization Plan.
- 2) The potential identification of locations that would be suitable for Neighborhood Activity Centers (NACs) to meet neighborhood commercial land needs as identified in the MGMUP Framework Plan, and also support surrounding residential development, as described in the McMinnville Growth Management and Urbanization Plan.
- 3) The City's adopted Great Neighborhood Principles, as described in Comprehensive Plan Policies 187.10 through 187.50.

17.10.060 Master Plans. Master Plans are required for annexation into the City of McMinnville, urbanization into City of McMinnville zones and development, for all properties 10 acres or more.

- A. Applicability. This section applies to all properties 10 acres or more proposed for annexation and/or rezoning from the UH zone to a city development zone.
 1. Master Plans shall be required for all lands 10 acres or greater in size.
 2. Lands less than 10 acres in size may be annexed into the city, and subsequently developed.
- B. Purpose. The purpose of a Master Plan is to provide:
 1. Orderly and efficient development of the City consistent with the City's Framework Plans and adopted Area Plans.
 2. Compatibility and/or transition with adjacent developments and the character of the area.
 3. A complementary mix of uses and activities to achieve the Principles of the McMinnville Growth Management and Urbanization Plan.
 4. An interconnected transportation network – streets, bicycle routes, and pedestrian trails – with the master plan area and to existing and planned City streets, routes and trails.
 5. A range of housing choices for areas planned to have residential components.
 6. A range of open spaces and recreation facilities, as needed to facilitate the Framework Plan, adopted Area Plan and Parks and Recreation Facility Plan.
 7. Public and semi-public facilities and services.
 8. Preservation of historic buildings, scenic views, and natural resources to the greatest extent possible.
 9. Transitions or buffers between urban development and rural areas.
 10. Implementation of McMinnville's Comprehensive Plan, including adopted Area Plans and the Great Neighborhood Planning Principles.

17.10.065 Master Plan Process.

- A. Concept Master Plan. For the conceptual plan review process, there is no need for the post acknowledgement plan amendments (PAPAs) to the Oregon Department of Land Conservation and Development, or local Measure 56 notice **as it is an advisory document to help inform the annexation agreement and is a required element of an annexation application. (See Title 16 of the McMinnville Municipal Code).** ~~although Early involvement of nearby property owners and state agencies that may have an interest in the effect of urbanization on state interests is advised, because the decision does not yet amend the McMinnville Comprehensive Plan, as it is being reviewed and approved as part of an annexation agreement with the McMinnville City Council and is not considered a land use decision, However,~~ the Concept Master Plan should consider all of the same elements and factors as the Master Plan described below.

- B. Master Plan. For the final master plan approval, legislative review and approval is required as part of a quasi-judicial land-use decision as it will be an amendment to the McMinnville Comprehensive Land Use Plan and Zoning Map. Following the City Council's adoption of an Area Plan, but prior to the annexation, comprehensive plan map amendment, zone change, or development of any land within the subject Area Plan, property owners shall submit a Master Plan for review and approval by the City Council.
 - 1. Applications and requests for the approval of a Master Plan shall be reviewed under the review process described in MMC Section 17.72.120 (Applications – Public Hearing).

17.10.070 Master Plan Submittal Requirements. Applications for the review and approval of a Concept Master Plan and Master Plan shall include the following elements:

- A. Plan Objectives. A narrative shall set forth the goals and objectives of the Master Plan and how it achieves McMinnville's MGMUP and adopted Great Neighborhood Principles.
- B. Plan Area and Context. A map of the plan area and surrounding vicinity shall set the context for the Master Plan.
- C. Land Use Diagram. The land use diagram shall indicate the distribution and location of planned land uses for the Master Plan, including plans for park and open space and community facilities. The plan shall identify proposed comprehensive plan and zoning designations.
- D. Significant Resources Inventory. An inventory of significant natural resources, scenic and historic resources, and open space areas. When significant resources are present, the Master Plan shall include a management plan to protect resource sites.
- E. Natural Hazard Areas. Inventory and identify areas subject to natural hazards.
- F. Mixed Use Areas. Identify areas planned for mixed uses, which may also include Neighborhood Activity Centers if identified in the applicable Area Plan.
- G. Commercial Areas. Identify areas planned for commercial use, which may also include Neighborhood Activity Centers if identified in the applicable Area Plan.
- H. Residential Areas. Identify areas planned for housing development. The housing plan must identify a mix of housing types and densities so that the overall density in the area meets the housing density objectives for the area that are identified in the applicable Framework Plan and Area Plan. The applicable Framework Plan and Area Plan are based on a UGB expansion plan that includes findings that specify the housing types and densities that need to be achieved in order to meet future housing needs. Great Neighborhood Principle #11 also requires that "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."
- I. Parks and Open Space. Identify land suitable for park and recreation use in accordance with the needs in the applicable Framework Plan and Area Plan, and the standards in the McMinnville Parks, Recreation, and Open Space Master Plan.
- J. Transportation Analysis and Plan. Prepare a traffic impact analysis and local street plan that is consistent with street spacing and connectivity guidelines in the McMinnville Transportation System Plan (TSP). The street plan shall show the proposed classification for all streets, proposed bicycle routes, and proposed pedestrian facilities. The street plan shall show how streets, bike routes, and pedestrian facilities will connect with adjacent urban areas that are already existing

and also how those facilities will be extended to adjacent UGB expansion areas that have not yet gone through the Master Planning process.

- K. Public Facilities Analysis and Plan. The plan must include a conceptual layout of public facilities (including at a minimum sanitary sewer, power, water, and storm drainage) needed to support the land use diagram. The Public Facilities Analysis should address overall capacities and must be consistent with the City's adopted facility master plans. Where necessary, the analysis shall identify improvements that may require amending the adopted facility master plans.
- L. Site Design and Development Standards. If unique or innovative development standards are proposed for any area within the Master Plan area that differ from the City's normal development standards, these may be identified in the Master Plan and requested through a Planned Development process.

17.10.080 Master Plan Review Criteria.

- A. In the review of an application for a Master Plan, the Planning Commission and City Council shall consider the following:
 - 1. Whether the proposed Master Plan is consistent with the Framework Plan, Area Plan, and Comprehensive Plan in terms of land use, density, transportation systems and networks, and open space.
 - 2. Whether the proposed Master Plan is generally suitable for the area in which it is proposed, considering existing and planned neighborhoods, shopping and employment areas, and natural resources and hazards.
 - 3. Whether the proposed Master Plan is integrated with existing developed or planned areas.
 - 4. Whether the Master Plan is consistent with the City's adopted Great Neighborhood Principles, which include:
 - a. Natural Feature Preservation. Great Neighborhoods are sensitive to the natural conditions and features of the land.
 - 1) 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.
 - b. Scenic Views. Great Neighborhoods preserve scenic views in areas that everyone can access.
 - 1) Public and private open spaces and streets shall be located and oriented to capture and preserve scenic views, including, but not limited to, views of significant natural features, landscapes, vistas, skylines, and other important features.
 - c. Parks and Open Spaces. Great Neighborhoods have open and recreational spaces to walk, play, gather, and commune as a neighborhood.
 - 1) Parks, trails, and open spaces shall be provided at a size and scale that is variable based on the size of the proposed development and the number of dwelling units.
 - 2) Central parks and plazas shall be used to create public gathering spaces where appropriate.
 - 3) Neighborhood and community parks shall be developed in appropriate locations consistent with the policies in the Parks Master Plan.
 - d. Pedestrian Friendly. Great Neighborhoods are pedestrian friendly for people of all ages and abilities.
 - 1) Neighborhoods shall include a pedestrian network that provides for a safe and enjoyable pedestrian experience, and that encourages walking for a variety of reasons including, but not limited to, health, transportation, recreation, and social interaction.

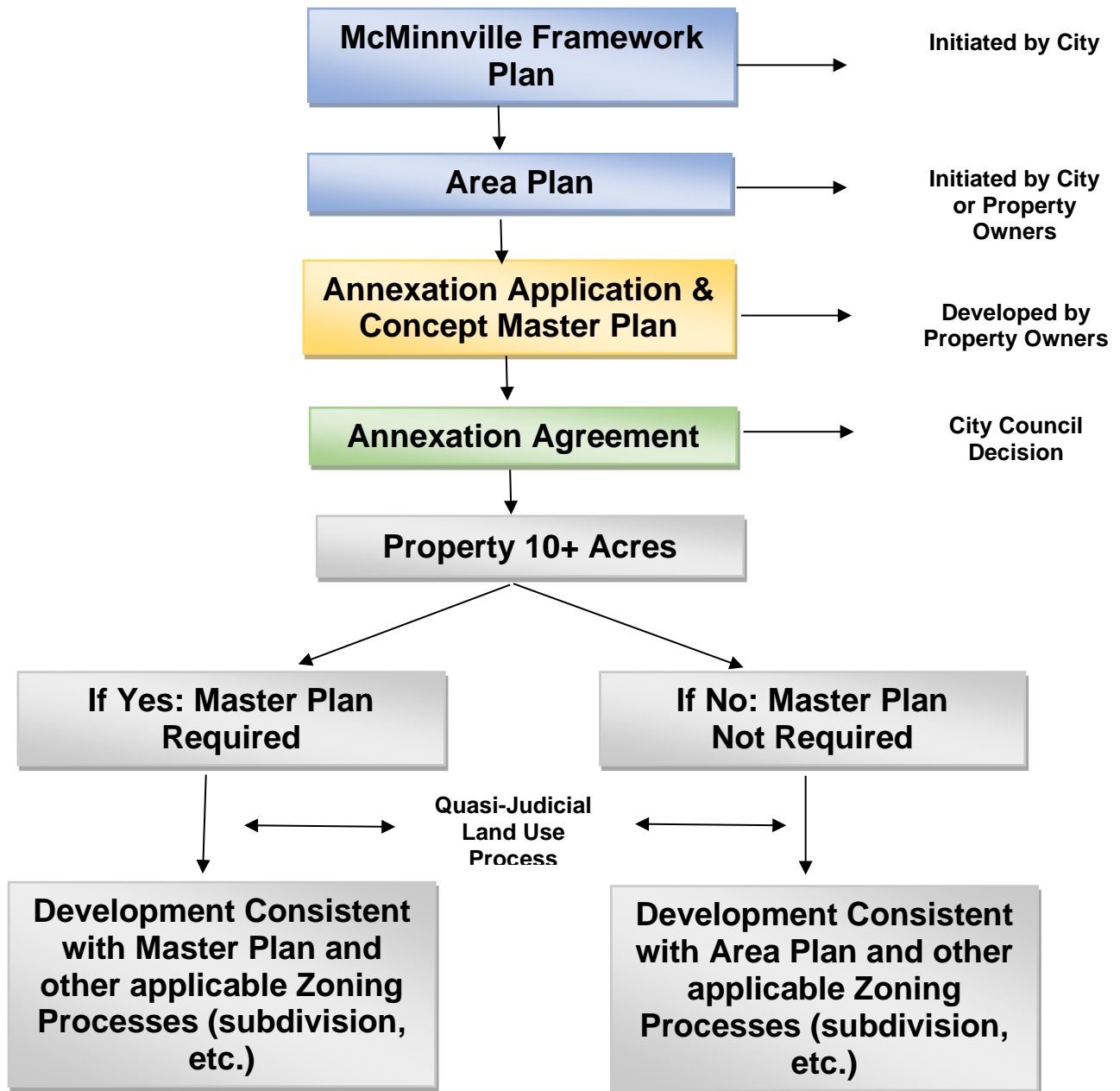
- 2) Pedestrian connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces, and shall also be provided between streets that are disconnected (such as cul-de-sacs or blocks with lengths greater than 400 feet).
- e. Bike Friendly. Great Neighborhoods are bike friendly for people of all ages and abilities.
 - 1) Neighborhoods shall include a bike network that provides for a safe and enjoyable biking experience, and that encourages an increased use of bikes by people of all abilities for a variety of reasons, including, but not limited to, health, transportation, and recreation.
 - 2) Bike connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces.
- f. Connected Streets. Great Neighborhoods have interconnected streets that provide safe travel route options, increased connectivity between places and destinations, and easy pedestrian and bike use.
 - 1) Streets shall be designed to function and connect with the surrounding built environment and the existing and future street network, and shall incorporate human scale elements including, but not limited to, Complete Streets features as defined in the Comprehensive Plan, grid street networks, neighborhood traffic management techniques, traffic calming, and safety enhancements.
 - 2) Streets shall be designed to encourage more bicycle, pedestrian and transit mobility with a goal of less reliance on vehicular mobility.
- g. Accessibility. Great Neighborhoods are designed to be accessible and allow for ease of use for people of all ages and abilities.
 - 1) To the best extent possible all features within a neighborhood shall be designed to be accessible and feature elements and principles of Universal Design.
 - 2) Design practices should strive for best practices and not minimum practices.
- h. Human Scale Design. Great Neighborhoods have buildings and spaces that are designed to be comfortable at a human scale and that foster human interaction within the built environment.
 - 1) The size, form, and proportionality of development is designed to function and be balanced with the existing built environment.
 - 2) Buildings include design elements that promote inclusion and interaction with the right-of-way and public spaces, including, but not limited to, building orientation towards the street or a public space and placement of vehicle-oriented uses in less prominent locations.
 - 3) Public spaces include design elements that promote comfortability and ease of use at a human scale, including, but not limited to, street trees, landscaping, lighted public areas, and principles of Crime Prevention through Environmental Design (CPTED).
- i. Mix of Activities. Great Neighborhoods provide easy and convenient access to many of the destinations, activities, and local services that residents use on a daily basis.
 - 1) Neighborhood destinations including, but not limited to, neighborhood-serving commercial uses, schools, parks, and other community services, shall be provided in locations that are easily accessible to surrounding residential uses.
 - 2) Neighborhood-serving commercial uses are integrated into the built environment at a scale that is appropriate with the surrounding area.

- 3) Neighborhoods are designed such that owning a vehicle can be optional.
- j. Urban-Rural Interface. Great Neighborhoods complement adjacent rural areas and transition between urban and rural uses.
 - 1) Buffers or transitions in the scale of uses, buildings, or lots shall be provided on urban lands adjacent to rural lands to ensure compatibility.
- k. 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.
 - 1) 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.
- l. Housing Variety. Great Neighborhoods have a variety of building forms and architectural variety to avoid monoculture design.
 - 1) Neighborhoods shall have several different housing types.
 - 2) Similar housing types, when immediately adjacent to one another, shall provide variety in building form and design.
- m. Unique and Integrated Design Elements. Great Neighborhoods have unique features, designs, and focal points to create neighborhood character and identity. Neighborhoods shall be encouraged to have:
 - 1) Environmentally friendly construction techniques, green infrastructure systems, and energy efficiency incorporated into the built environment.
 - 2) Opportunities for public art provided in private and public spaces.
 - 3) Neighborhood elements and features including, but not limited to, signs, benches, park shelters, street lights, bike racks, banners, landscaping, paved surfaces, and fences, with a consistent and integrated design that are unique to and define the neighborhood.

17.10.090 Development of Areas Less than 10 Acres. Lands less than 10 acres in size may be annexed into the city and rezoned into urban zones without the approval and adoption of a Master Plan. This may occur when the lands are designated for only residential use in the applicable Area Plan.

- A. Following the annexation of lands that are less than 10 acres in size, the lands shall be subject to the Comprehensive Plan Map Amendment and Zone Change review processes described in MMC Section 17.72.120 and MMC Section 17.74.020. Urban comprehensive plan map designations and urban zoning districts shall be requested for the lands, and the designations and zoning districts must be consistent with the land uses identified in the adopted Area Plan that is applicable to the land in question.
- B. The development of lands less than 10 acres in size must:
 - 1. Be consistent with the uses identified in the Area Plan applicable to the land in question;
 - 2. Meet the City's adopted Great Neighborhood Principles;
 - 3. Include a local street plan that complies with the applicable Area Plan, the McMinnville TSP, and other local street spacing and connectivity requirements; and
 - 4. Be consistent with all other required policies and standards of the McMinnville Comprehensive Plan and Zoning Ordinance.

Summary Graphic of UGB Expansion Planning Process:



Chapter 17.72 APPLICATIONS AND REVIEW PROCESS

17.72.080 Legislative or Quasi-Judicial Hearings. The applications listed in this Chapter are either legislative or quasi-judicial in nature and are subject to a public hearing before the Planning Commission or City Council.

- A. A requested amendment to the text of the zoning ordinance or comprehensive plan would call for a legislative-type hearing, the purpose of which is to obtain public input primarily on matters of policy. A legislative amendment may be initiated by the City Council, the Planning Commission or by the Citizens' Advisory Committee. Any other citizen may petition the City Council requesting them to initiate a text amendment.
- B. An application that is site specific (such as a zone change ~~or annexation request~~) would call for a quasi-judicial hearing. The decisions made as a result of such hearings must be based upon testimony submitted and supported by Findings of Fact. An amendment that is site specific may be initiated by the City Council, the Planning Commission, the Citizens' Advisory Committee or by application of the property owner.

17.72.090 Application Review Summary Table. The following table offers an overview of land use applications and corresponding review body. Additional information regarding the notification and approval criteria for specific land use applications can be found by referring to the procedural reference section in the right-hand column of the table. Information regarding the hearing body and the hearing procedure can be found in this chapter. (Ord. 5047, §2, 2018, Ord. 5034 §2, 2017; Ord. 4984 §1, 2014).

Review Process	Land Use Application	Zoning Ordinance Reference
Applications Public Hearing- Planning Commission	Annexations* **	Ord. No. 4357
	Appeal of Director's Decision	17.72.170
	Application (Director's Decision) for which a Public Hearing is Requested	17.72.120
	Area Plan	17.10
	Comprehensive Plan Map or Text Amendment*	17.74.020
	Conditional Use Permit	17.74.030-060
	Legislative Amendment	17.72.120
	Master Plan	17.10
	Planned Development Amendment*	17.74.070
	Legislative Amendment *	17.72.120
	Subdivision (more than 10 lots)	17.53.070
	Variance	17.74.100-130
Zone Change*	17.74.020	

* Following Public Hearing, Planning Commission makes recommendation to City Council

** ~~Following City Council recommendation, Annexation requests are subject to voter approval~~

17.72.160 Effective Date of Decision. Unless an appeal is filed, a decision made by the Planning Director or the Planning Commission shall become final fifteen (15) calendar days from the date that the notice of the decision is mailed. Unless an appeal is filed, a decision made by the City

Council shall become final 21 (twenty-one) days from the date that the notice of decision is mailed.
~~Annexation requests are subject to voter approval following the City Council's decision.~~

DRAFT



PROPOSED AMENDMENTS TO THE MCMINNVILLE COMPREHENSIVE PLAN, VOLUME II, GOALS AND POLICIES –

New proposed language is represented by **bold font**, deleted language is represented by ~~strikethrough font~~.

CHAPTER IX URBANIZATION

- 187.80.20 *Area Plans shall be adopted by the City Council as guiding land use documents. **The Area Plan will be adopted as a supplement to the McMinnville Comprehensive Plan.** ~~adoption of the Area Plan is not a land use decision, and does not result in any changes to Comprehensive Plan designations or zoning districts.~~ (Ord. 5098, December 8, 2020)*
- 187.80.30 *The City of McMinnville shall establish a process for property owners to initiate the Area Planning process, if the City has not yet initiated or completed an Area Plan for land designated on the Comprehensive Plan Map as Urban Holding (UH) in a UGB expansion area. (Ord. 5098, December 8, 2020)*

MASTER PLANNING

- 187.90.00 *Prior to annexation of all lands greater than 10 acres in size, property owners shall submit a Master Plan **for approval.** ~~to be reviewed by the City Council and acknowledged in an Annexation Agreement.~~ (Ord. 5098, December 8, 2020)*
- 187.90.10 *Master Plans shall be consistent with the land uses identified in the adopted Area Plan that is applicable to the land in question. (Ord. 5098, December 8, 2020)*
- 187.90.20 *Master Plans shall identify current Comprehensive Plan designations and future urban zoning districts per the policies of the McMinnville Comprehensive Plan and the McMinnville Municipal Code. Uses identified in the Master Plan shall be consistent with the urban Comprehensive Plan designations and zones. (Ord. 5098, December 8, 2020)*

- 187.90.30 *Lands less than 10 acres in size may be annexed without the completion of the Master Planning process. Development of these lands shall be consistent with the land uses identified in the adopted Area Plan that is applicable to the land in question. Development of these lands shall be consistent with the land use development tools and requirements of the McMinnville Comprehensive Plan and the McMinnville Zoning Ordinance. (Ord. 5098, December 8, 2020)*
- 187.90.40 *Master Plans will be required as a land-use decision to rezone property from a rural zone to an urban zone. (Ord. 5098, December 8, 2020)*

DRAFT

From: [Amanda Guile-Hinman](mailto:Amanda.Guile-Hinman@startlivingthetruth.com)
To: mark@startlivingthetruth.com
Cc: [Heather Richards](mailto:Heather.Richards@startlivingthetruth.com)
Subject: RE: Change in Annexation Process
Date: Thursday, August 5, 2021 12:34:07 PM
Attachments: [Chapter 17.10 MMC.pdf](#)

Hi Mark,

I've attached the Code language regarding Area Plans and Master Plans for your reference, as well as a link to Appendix G from the McMinnville Growth Management and Urbanization Plan, which explains area planning and master planning processes that are now in the City Code, and which this process is further implementing. https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/19961/appendix_g_-_framework_plan_final_12.8.2020.pdf

As far as the annexation approval process, nothing is changing to the process to annex other than addressing the change codified in ORS 222.127. In other words, the applicant(s) must still fill out an application, which must be considered by Council. If the applicant(s) own all the property to be annexed, the only difference is that after Council approval, it cannot go to a vote. Similarly, the development approval process for construction on the property has not changed. What the City has done is include additional processes earlier in the planning for development to ensure that development is consistent with the community's vision of McMinnville and addresses the necessary infrastructure, parks, schools, and other community needs that are needed for new growth in McMinnville.

When the City went through its UGB amendment, the City wanted to ensure that the City properly planned for new development in the areas designated as Urban Holding by requiring area plans for large swaths of land, rather than looking at each parcel individually. That way, issues such as infrastructure, preservation, parks, density, etc. can be planned more intentionally and strategically. In the MGMUP, the City identified 6 areas to undergo an area planning process. Area plans are legislative decisions to be made by the City Council after a community engagement process. Area plans, as explained in Appendix G, "must embody the development principles of the MGMUP and other City land use policies and standards." Area planning is generally initiated by the City, will go through a public engagement process, and will be approved by the City Council. It is not an administrative process. All land that has an Urban Holding designation will be subject to an area plan.

Master plans are required for annexation into the City for any properties that are 10 acres or larger that are currently designated Urban Holding in the City's Comprehensive Plan Map. The property owner will develop a concept master plan that must address all the submittal requirements listed in the City Code and be compliant with the related area plan and the Comprehensive Plan. The concept master plan will initially be approved by the City Council along with an annexation agreement through resolution. Again, this is not an administrative process.

The final master plan must go through a quasi-judicial review process before the Planning Commission and City Council, as outlined in the City Code. Like the concept master plan, it must comply with the area plan and the Comprehensive Plan, in addition to meeting all the submittal requirements in the City Code.

If a property is less than 10 acres, or does not have an Urban Holding designation, then it goes through the standard development approval processes, including a quasi-judicial land use approval process, but is not required to have an area plan or master plan.

This new area planning/master planning process ensures that development of the new Urban Holding areas occur within the context of the larger area and the community as a whole. Both Heather and I have extensive experience with this approach and have personally seen that it better addresses issues such as traffic, water/sewer/stormwater infrastructure, park lands, preservation of natural resources, and more when the community is able to have a say from the very beginning stages of planning for what it wants to see with new development and also means that developers cannot just look at their one property when planning out their development.

Heather may have more to add, but I hope this clarification addresses your concerns.

Amanda Guile-Hinman (she/her)
City Attorney
amanda.guile@mcminnvilleoregon.gov
(503) 434-7303

Disclosure: Messages to and from this email address may be subject to the Oregon Public Records Law.

The information contained in this email transmission may be confidential and is intended only for the use of the individual or entity intended to receive it. This message may contain information protected by the attorney-client privilege. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this email transmission in error, please immediately notify the sender by return email and delete the original email.

Circular 230 Disclaimer: If any portion of this communication is interpreted as providing federal tax advice, Treasury Regulations require that we inform you that we neither intended nor wrote this communication for you to use in avoiding federal tax penalties that the IRS may attempt to impose and that you may not use it for such purpose.

-----Original Message-----

From: Mark Davis <mark@startlivingthetruth.com>
Sent: Sunday, August 1, 2021 9:26 PM
To: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>; Amanda Guile-Hinman <Amanda.Guile@mcminnvilleoregon.gov>
Subject: Change in Annexation Process

This message originated outside of the City of McMinnville.

Heather and Amanda:

Thank you for taking the time to reply to my letter to the City Council about the annexation process. I have listened again to both Heather's presentation at the Work Session and Amanda's clarification at the last City Council meeting, and I'm sorry but I don't see how this results in "significantly more public input than previously allowed."

One of the slides in Heather's PowerPoint presentation states: "Amend Chapter 17 to remove any references to annexation processes and procedures making them administrative and not quasi-judicial." From the presentation it seems clear that the Area Plan, Concept Master Plan and Annexation Agreement are administrative processes managed by Planning staff and subject to approval by City Council. I heard no indication that these overarching decisions of what land get annexed and to what purposes it will be dedicated are subject to any land use hearings (and by extension the right of citizen appeal).

It appears to me that the only point in this process where the public will be allowed to have input and a right to appeal the decision is the hearing for a Master Plan required of properties in excess of 10 acres. While I think this type of citizen participation is still important in reviewing the development plans, I think the hearings will be similar to what we heard about in Baker Creek North and Oak Ridge Meadows. Hopefully, these proposed hearings will be even less contentious since the Great Neighborhood Principles should improve the overall Master Plan that the developers present to the public.

Still, the larger questions about the annexations like infrastructure capacity, green space and park land, housing affordability, and the general layout of the development will all have been settled when the Annexation Agreement has been signed and the public will have no opportunity to address these issues.

I understand the proposed changes will be the subject of an upcoming Planning Commission hearing and I intend to raise these points at that time. If I am incorrect in my understanding that the Area Plan and Annexation Agreement

are administrative actions not subject to quasi-judicial hearings, I would appreciate you clarifying that point.

Just to be clear in making these points I do not intend to question your professional qualifications or personal integrity. I believe in the constitutional principle of checks and balances and Goal One of the State's Land Use System. As City staff and Council members change over the years, I believe allowing the citizens' right to testify and appeal important decisions helps ensure the integrity of the land use system.

Mark Davis

Mark Davis
652 SE Washington Street
McMinnville, OR 97128

July 25, 2021

McMinnville City Council
230 NE Second Street
McMinnville, OR 97128

Dear Mayor Hill and Members of the Council:

The Council's decision at the July 21st work session to move forward with a new annexation process was disappointing on several levels. Most obviously, you made that decision in a closed session that did not allow anyone from the public to comment. Not that the public could have commented about the documents under discussion anyway, since they were provided to the Council the day before work session but not made available to the public until the day after you met.

I realize you can hold that legal fig leaf in front of yourselves and righteously say you haven't made a legally binding decision so you don't have to invite the public to address you. But from a psychological perspective you have committed to very specific results from this process and such prior commitments are very hard to change even if compelling information is later provided at the required public hearing.

Despite Goal One declarations about the importance of public participation, it is hard for individual citizens who lack professional standing to be taken seriously during the formal land use hearing process. The proposal you agreed to on Wednesday evening removes even that citizen's right to be heard by turning annexation requests from land use hearings into administrative matters settled in private by staff and rubber-stamped by the Council.

The State Legislature removed our right to vote on annexations. The City Council is now proposing to take away our right to even testify about specific elements of annexation proposals and appeal misapplications of the law to the Land Use Board of Appeals (LUBA). Yes, that does happen. In 1996 I appealed approval of a city annexation to LUBA based on inadequate public infrastructure, a decision that was ultimately remanded to the city.

At the heart of the discussion about how to handle annexations is a basic philosophy of how government makes important decisions that impact the entire community. One method is to allow appointed bureaucrats with professional expertise to make those decisions subject to approval of the governing body; at the other end of the political spectrum is permitting the public to vote on those decisions.

Given our 20-year experiment with voting on annexations, I think it is instructive to look at what happened in the community before and after the implementation of voting on

annexations in the mid-90s. The early 90s was a period of rapid growth that overwhelmed our aging public infrastructure. Long-time residents complained bitterly about the increase in traffic, and the main sewer line from the west side of town was broken and leaking directly into Cozine Creek near Linfield, a situation exacerbated whenever it rained and stormwater leaked into the sewer system overwhelming its capacity.

Citizens including myself repeatedly asked the Council and Planning staff to slow the annexation process down to allow for infrastructure improvements to handle future growth. The response varied between claiming there was nothing they could do (land use law forced them to keep annexing more property) and claiming all this growth was really good for the community.

This response led directly to the voter approval of the charter amendment to require a vote on annexations. To my recollection the only annexation ever defeated at the ballot box was the proposed 172-acre Shadden Claim annexation. All other annexation votes for smaller additions to the UGB were approved, including later attempts by other developers to bring smaller chunks of the Shadden Claim property into the city limits.

Voters clearly had a vision of slow, steady growth of the community in line with our capacity to support that growth. Supporters of the defeated Shadden Claim proposal lamented the loss of the huge planned subdivision, but the developer insisted on developing it out within 5 years which would have had a dramatic impact on population which was already surging.

All this was taking place during the initial planning for a new UGB expansion that used a population projection growth rate of 3 percent. Had this vision of Shadden Claim and continued rapid population growth been realized we would have had a population of 45,000 in 2020 and be heading for 85,000 residents in 2040. Voting on annexations slowed things down so we could get the sewer infrastructure updated and new roads constructed. I personally believe that the community benefited greatly from the gentle braking that annexation votes put on what was becoming runaway growth.

That is not to say the proposal you considered on Wednesday night was without merit. I like the idea of annexations not being the automatic process that they have been. Property owners entering the city limits are being granted access to city infrastructure and services worth millions of dollars. They should be asked set aside land for parks and affordable housing. The current system puts them in the city with a few minor fees and reduced system development charges and then the expectation is that the existing taxpayers will pay the difference.

I think we currently have a good, dedicated Planning Director. I also think we have conscientious, public-spirited City Council. Having watched people come and go over the past few decades, I don't believe public policy should be based on assuming both of those things are always going to be true. However you decide to proceed with annexations, I think you should provide some ability for the public to inspect the details

of the process and maintain the right of public to appeal to LUBA those decisions lacking in legality.

I would also request that when the Council is going to look at draft planning documents and make decisions about whether they are acceptable or not that you provide them for the public to look at and allow the public the opportunity to comment on them. Work sessions are being used to avoid your Goal One responsibilities.

Thank you for considering my viewpoint on these matters.

Sincerely,

//S//

Mark Davis

Hi Heather,

Thank you for taking the time yesterday to discuss with me the city's area plans, Concept Master Plans, and proposed Annexation Agreements (chapter 17 and proposed chapter 16 of the city code).

To follow-up on our conversation, proposed Chapter 16 outlines two processes for annexation, depending on a property's plan designation and size. Annexation of properties that are 10 acres or more and/or plan-designated urban holding would be subject to requirements for area plans, concept and final master plans, and annexation agreements. (See proposed 17.10.060 at pdf. p. 146). Annexation of all properties that are both smaller than 10 acres and plan designated either commercial or industrial would continue to be processed as quasi-judicial land use proceedings.

As we discussed, I have several concerns.

My first concern is that the city declares by ordinance that certain decisions are not land use decisions, even though they fall squarely within the statutory definition of land use decisions at ORS 197.015.(10)¹. These decisions include the adoption of area plans, and potentially concept master plans, annexation agreements, and determinations of adequacy of infrastructure and public services.

I have a second concern with respect to the lower level of planning required for commercial and industrial parcels under 10 acres, as opposed to land that is plan-designated urban holding.

We also discussed the opportunity to address the problems that can arise when only a portion of a parcel is annexed, leaving a remnant under county jurisdiction and zoning.

Area Plans

I support the concept of area plans and believe they can be a valuable tool in guiding future development. That said, I have a serious concern regarding chapter 17.10.040:

¹ ORS 197.015(10) "Land use decision":

- (a) Includes:
 - (A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:
 - (i) The goals;
 - (ii) A comprehensive plan provision;
 - (iii) A land use regulation; or
 - (iv) A new land use regulation;
- ***
- (b) Does not include a decision of a local government:
 - (A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;
- ***

17.10.040 Area plan process. A. The city council shall initiate an area planning process for lands that are designated as Urban Holding (UH) on the McMinnville Comprehensive Plan Map. B. Property owners may initiate the area planning process, if the city council has not yet initiated or completed an area plan for land designated on the comprehensive plan map as Urban Holding (UH) in a UGB expansion area. 1. Area planning may be initiated by property owners for lands 100 acres or greater in size. C. The city council shall adopt an area plan as a guiding land use document. ***The adoption of the area plan is not a land use decision***, and does not result in any changes to comprehensive plan designations or zoning districts. (Emphasis added.)

Adoption of an area plan falls squarely within the statutory definition of a land use decision because it, “concerns the adoption, amendment or application of a comprehensive plan provision.” In fact, it is to be adopted as a supplement to the comprehensive plan and is thus a quintessential land use decision. As your staff memorandum explains:

The first step of the annexation process is the adoption of an Area Plan for the UGB UH Comprehensive Plan designation that delineates a high level land-use plan for the area identifying future comprehensive plan designations and city zoning that will meet the intention of the adopted Framework Plan outlined the need for housing, employment land, and public amenities in that area that serve the city's stated for growth and development. **This plan will be adopted by the City Council as a supplemental document to the McMinnville Comprehensive Plan.** This process will be treated *similar* to a Type IV land-use application requiring a public hearing with the Planning Commission and a final decision by the City Council. (Emphasis added.)

Lest there be any doubt that adoption of an area plan involves application of the comprehensive plan and thus falls within the definition of a land use decision, here is an excerpt from the ordinance language that defines their scope and components:

17.10.050 Area plan scope and components.

* * *

Area plans must embody the development principles of the applicable framework plan, UGB expansion plan, McMinnville Comprehensive Plan, and any other city land use policies and standards.

* * *

[A]rea plans for UH areas within the MGMUP areas will be developed to be consistent with:

- i. The guidelines and characteristics of the traditional neighborhood model, as described in the McMinnville Growth Management and Urbanization Plan.
- ii. The potential identification of locations that would be suitable for neighborhood activity centers (NACs) to meet neighborhood commercial land needs as identified in the MGMUP framework plan, and also support surrounding residential development, as

described in the McMinnville Growth Management and Urbanization Plan.

iii. The city's adopted Great Neighborhood Principles, as described in Comprehensive Plan Policies

You state in your staff memo, the adoption of an area plan will be treated *similar* to a Type IV land-use application requiring a public hearing with the Planning Commission and a final decision by the City Council. I suggest that area plans be considered a Type IV decision, rather than similarly to one, leading to amending 17.10.040 as follows:

17.10.040 Area plan process. A. The city council shall initiate an area planning process for lands that are designated as Urban Holding (UH) on the McMinnville Comprehensive Plan Map. B. Property owners may initiate the area planning process, if the city council has not yet initiated or completed an area plan for land designated on the comprehensive plan map as Urban Holding (UH) in a UGB expansion area. 1. Area planning may be initiated by property owners for lands 100 acres or greater in size. C. The city council shall adopt an area plan as a guiding land use document. ***An Area Plan shall be adopted as a supplement to the McMinnville Comprehensive Plan through a legislative land use proceeding if it was initiated by the city council or either a quasi-judicial or legislative land use proceeding, depending on its size and the number of properties it covers, if it was initiated by an application.***

“Area plans” should also be added to the list of decisions requiring a hearing in section 17.72.120.

Finally, on the subject of area plans, the code (17.10.050) says an area plan "shall more specifically identify land uses, their locations" etc. More specifically than what? How specifically? For clarity, it may be beneficial to better explain this in the code.

Concept Master Plans

Like area plans, the ordinance explicitly states that formal adoption of a concept master plan is not a land use decision.

17.10.065 Master plan process.

A. Concept Master Plan. For the conceptual plan review process, there is no need for the post-acknowledgement plan amendments (PAPAs) to the Oregon Department of Land Conservation and Development, or local Measure 56 notice, although early involvement of nearby property owners and state agencies that may have an interest in the effect of urbanization on state interests is advised, because the decision does not yet amend the McMinnville Comprehensive Plan, as it is being reviewed and approved as part of an annexation agreement with the McMinnville city council and is not considered a land use decision. The concept master plan should consider all of the same elements and factors as the master plan described below.

I think that they may be a final land use decision, given that they are approved by the city council as part of a binding the annexation agreement. The concept plan identifies the location of plan and zone designations and the location of uses. The ordinance doesn't address how much the ultimate plan map amendment may deviate from the concept master plan, but as noted, they are adopted as part of a binding annexation agreement which suggests they are pretty locked-in.

Finally, the reasons that the ordinance cites to explain why a concept master plan is not a land use decision don't hold up. Just because a decision does not amend the comprehensive plan and is reviewed as part of an annexation agreement, does not mean the decision is not a land use decision. The adoption of a concept master plan may or may not be a land use decision, but not because of the reasons stated in the ordinance.

For these reasons, I suggest amending 17.10.065 to either (a) clarify that a concept master plan is non-binding and only advisory in nature; or (b) clarify that approval of a concept plan is a land use decision.

Annexation Agreement

The proposed annexation agreement between a property owner and the city is also explicitly not a land use decision, even though they seemingly involve application of comprehensive plan provisions. The proposed section 16.10.020 provides: "The agreement is also used to ensure that the annexation is consistent with the McMinnville Comprehensive Plan and that the resulting development meets the community's identified needs." In addition, the proposed section 16.10.030 provides: "The annexation agreement shall address, at a minimum, ... compliance with the McMinnville Comprehensive Plan, approved applicable area plan, and concept master plan."

The annexation agreement certainly seems to be a final land use decision because it locks in plan and zone designations. Here are excerpts from the sample agreement in the packet:

COMPREHENSIVE PLAN/ZONING: At the time of annexation, the City will apply the Comprehensive Plan designations for the Property as identified in the adopted _____ Area Plan, "Area Plan", per Exhibit B, and the city zoning identified in the approved Final Master Plan.

* * *

Owner agrees that any development of the property will comply with the applicable approved Area Plan and will incorporate and follow the City's Great Neighborhood Principles (attached as Exhibit C) as applicable. The City Manager or City Manager designee, or Hearings Body shall determine the applicability of the Great Neighborhood Principles to the subject property as necessary.

As currently drafted, the area plan isn't a land use decision, the concept plan isn't a land use decision, and the annexation agreement isn't a land use decision. Nonetheless, the annexation

agreement (a) locks in plan designations shown in the area plan; and (b) addresses compliance with the comprehensive plan. Also, determination of applicability of the Great Neighborhood Principles and compliance with these principles requires interpretation or the exercise of policy or legal judgment which falls squarely within the definition of a land use decision per ORS 197.015(10).

I'm not sure I have any suggested ordinance language to address this, other than to treat annexation agreements as land use decisions. Alternatively, the city may be able to treat the area plans and concept master plans as land use decisions and determine compliance with the comprehensive plan and the applicability of, and compliance, with the great neighborhood principles exclusively through those land use processes, but I haven't completely thought that through.

Commercial and Industrial properties

As we discussed, there may be sound reasons to require the same level of planning for commercial and industrial parcels smaller than 10 acres, as for land that is designated urban holding. While the plan-designations are already established for these properties, the relationship of the various zones allowed within those designations are not; nor are the relationships between the various uses allowed in the zones to one. For example, an office park or office building may benefit from employee-serving day care, lunch spots, or public plaza. An industrial park could benefit from the same.

Moreover, to the extent that the city believes the use of annexation agreements can result in more "extractions," like walking paths, parks, etc., this certainly holds true for employment land, just as much as urban-holding land.

Other considerations

As we discussed, the city can use this opportunity to address the problems that can arise when only a portion of a parcel is annexed, leaving a remnant under county jurisdiction and zoning. The city could add to Chapter 16 a provision requiring/encouraging that only whole parcels be annexed.

As we also discussed, the potential exists for a developer/property owner to "game" the system by bringing in multiple annexations just under 10 acres so as to avoid the requirements that only apply to parcels greater than 10 acres. Requiring annexation of whole parcels would partially address this. So could a requirement that only one application for annexation be filed per year (or some other time period) for parcels and/or contiguous land under the same ownership.

I hope these comments are helpful. Please feel free to share them with the planning commission.

Sid



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

503-434-7311
www.mcminnvilleoregon.gov

DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE CITY CODE, TITLE 16, TITLE 17, AND THE MCMINNVILLE COMPREHENSIVE PLAN, VOLUME II, GOALS CHAPTER IX, DOCKET G 3-21, RELATING TO ANNEXATIONS.

DOCKET: G 3-21

REQUEST: The City of McMinnville is proposing to amend the McMinnville City Code by repealing Chapter 16, "Land Division Standards" and replacing with Title 16, "Annexations", amending Title 17 to clarify the adoption process for Area Plans and to update the code for compliance with ORS 222.127, and to amend Chapter IX, "Urbanization" of the McMinnville Comprehensive Plan to clarify the adoption process for Master Plans.

LOCATION: N/A. This proposal includes provisions which amend standards and provisions for future annexations into the McMinnville city limits.

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Heather Richards, Planning Director

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: September 16, 2021, 6:30pm. Meeting held virtually via Zoom meeting software: <https://mcminnvilleoregon.zoom.us/j/88033487320?pwd=SzY5d3A2SDRlVU9VTnVPeHRHZZB1UT09>

Zoom ID: 880 348 7320
Zoom Password: 947797

DECISION-MAKING BODY: McMinnville City Council

DATE & TIME: TBD

PROCEDURE: The application is subject to the legislative land use procedures specified in Sections 17.72.120 - 17.72.160 of the McMinnville Municipal Code.

CRITERIA: Amendments to the McMinnville Comprehensive Plan and McMinnville Municipal Code must be consistent with the Goals and Policies in Volume II of the Comprehensive Plan.

I. APPLICATION SUMMARY

This application is a proposal initiated by the City of McMinnville to amend the McMinnville City Code by repealing Chapter 16, "Land Division Standards" and replacing with Title 16, "Annexations", amending Title 17 to clarify the adoption process for Area Plans and to update the code for compliance with ORS 222.127, and to amend Chapter IX, "Urbanization" of the McMinnville Comprehensive Plan to clarify the adoption process for Master Plans.

II. ATTACHMENTS

- Exhibit B. Proposed Amendments. (Currently labelled Attachments A, B, and C for the Planning Commission).

III. FINDINGS OF FACT – GENERAL FINDINGS

1. Docket G 3-21 is a legislative package of City-initiated proposed McMinnville Comprehensive Plan and McMinnville Municipal Code amendments related to annexations. The proposal is intended to implement the adopted process of annexations in the McMinnville Growth Management and Urbanization Plan adopted by Ordinance No. 5098, and to bring the McMinnville Municipal Code in compliance with recent changes to ORS 222.

IV. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. Notice of the application and the September 16, 2021 Planning Commission public hearing were provided to DLCD on August 5, 2021.
2. Notice of the application and the September 16, 2021 Planning Commission public hearing was published in the News Register on Wednesday, September 8, 2021, in accordance with Section 17.72.120 of the Zoning Ordinance.
3. On September 16, 2021, the Planning Commission held a duly noticed public hearing to consider the request.

V. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application.

Title 17, McMinnville Municipal Code:

The Purpose Statement of Title 17 of the McMinnville Municipal Code serves as a criterion for Title 17 Development Code amendments:

17.03.020 Purpose. The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to encourage appropriate and orderly physical development in the city through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, adequate community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare.

FINDING: SATISFIED. The proposed amendments achieve these purposes by providing a process of planning and review that evaluates properties proposed for annexation with compliance with the McMinnville Comprehensive Plan and McMinnville Municipal Code as a requirement of annexation.

On December 2, 2020, the McMinnville City Council adopted Ordinance No. 5098 adopting the McMinnville Growth Management and Urbanization Plan (MGMUP) and its appendices as well as Comprehensive Plan Map amendments. The MGMUP delineated a new process for annexation of lands into McMinnville's city limits requiring an area plan for all land designated UH on the comprehensive plan map, and the need for an annexation application, an annexation agreement, and a land-use process for compliance with the McMinnville Comprehensive Plan prior to annexation of land into the city limits.

This new process created several layers of land-use review and governance to ensure that any property annexed into the city limits would be achieving the purpose of the McMinnville Municipal Code and adopted ordinances.

One of the purposes of these proposed amendments is to codify the implementation of that process that was adopted by Ordinance No. 5098.

Comprehensive Plan

As described in the Comprehensive Plan, the Goals and Policies of the Comprehensive Plan serve as criteria for land use decisions. The following Goals and Policies from Volume II of the McMinnville Comprehensive Plan are applicable to this request:

CHAPTER V. HOUSING AND RESIDENTIAL DEVELOPMENT

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

71.05 The City of McMinnville shall encourage annexations and rezoning which are consistent with the policies of the Comprehensive Plan so as to achieve a continuous five-year supply of buildable land planned and zoned for all needed housing types. (Ord.4840, January 11, 2006; Ord. 4243, April 5, 1983; Ord. 4218, November 23, 1982)

FINDING: SATISFIED. Proposed amendment Section 16.30.040(D) and Section 16.40.030(D) require that the property owner complete a land use process for the necessary comprehensive plan amendments and zone map amendments needed to develop in compliance with the McMinnville Comprehensive Plan prior to annexation. The proposal is consistent with the applicable Goal and Policies of Chapter V of the McMinnville Comprehensive Plan. The proposed amendments include provisions to ensure compliance with the policies of the comprehensive plan for all property annexing into the city limits.

CHAPTER VII. COMMUNITY FACILITIES AND SERVICES

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.

Police and Fire Protection:

155.00 *The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.*

FINDING: SATISFIED. Proposed amendment 16.020.020(K)(3) requires that all annexation applications must provide documentation that, *the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation.* The proposal is consistent with Goal VII.1 and associated policies of the McMinnville Comprehensive Plan.

CHAPTER IX. URBANIZATION

GOAL IX 1: TO PROVIDE ADEQUATE LANDS TO SERVICE THE NEEDS OF THE PROJECTED POPULATION TO THE YEAR 2023, AND TO ENSURE THE CONVERSION OF THESE LANDS IN AN ORDERLY, TIMELY MANNER TO URBAN USES.

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

General Development Pattern:

183.00 *The City of McMinnville, with the cooperation of Yamhill County, shall establish three categories of lands within the Urban Growth Boundary. Future urbanizable lands are those lands outside the city limits, but inside the Urban Growth Boundary. These lands shall be retained in agricultural resource zones until converted to urbanizable lands by annexation to the City of McMinnville. Urbanizable lands are those lands within the city limits which are not yet developed at urban densities. Conversion of these lands to the urban classification shall involve fulfillment of the goals and policies of this plan, provision of urban services, and application of appropriate implementation ordinances and measures. Urban lands are those lands within the city limits developed at urban densities.*

FINDING: SATISFIED. The proposed amendments implement a process that will only allow annexations when the necessary urban services are available, and the property must complete a land-use process that results in a city rezone prior to annexation. The rezone will become effective upon annexation. The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Land Use Development Tools:

187.00 *The City of McMinnville shall adopt additional implementation ordinances and measures to carry out the goals and policies of the McMinnville Comprehensive Plan. These shall include, but not be limited to, the Zoning Ordinance and Map, Annexation Ordinance, and Mobile Home Development Ordinance.*

FINDING: SATISFIED. The proposed amendments to Title 16 of the McMinnville Municipal Code adopt a process for annexation updating the annexation ordinances bringing them into compliance with the recently adopted MGMUP and ORS 222. The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Great Neighborhood Principles:

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

FINDING: SATISFIED. Compliance with the Great Neighborhood Principles are a requirement of the Master Plan process which is a requirement of annexation for all properties greater than 10 acres that are designated UH on the comprehensive plan map. The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Master Planning:

187.90.00 *Prior to annexation of all lands greater than 10 acres in size, property owners shall submit a Master Plan to be reviewed by the City Council and acknowledged in an Annexation Agreement. (Ord. 5098, December 8, 2020)*

FINDING: SATISFIED. Proposed amendments to Title 16 of the McMinnville Municipal Code do require an approved Master Plan prior to annexation of land greater than 10 acres in size. However due to some confusion with the language of this policy relative to the land-use process of approving a Master Plan and the annexation agreement, the proposed amendments recommend amending this policy to: *Prior to annexation of all lands greater than 10 acres in size, property owners shall submit a Master Plan **for approval.** ~~to be reviewed by the City Council and acknowledged in an Annexation Agreement.~~* The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Proposal:

48.90 **Annexation Process.** *The City shall update its annexation ordinance (Ordinance No. 4357) to reflect new statutory requirements and a process consisting of an annexation agreement with the City Council that includes a conceptual master plan but is not a land-use process. (Ord. 5098, December 8, 2020)*

FINDING: SATISFIED. The proposed amendments to Title 16 of the McMinnville Municipal Code will update Ordinance No. 4357 to reflect new statutory requirements and a process consisting of an annexation agreement with the City Council that includes a conceptual master plan but is not a land-use process.

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.

FINDING: SATISFIED. Goals X 1 is satisfied by this proposal in that the proposed modifications were reviewed at a public hearing by the McMinnville Planning Commission on September 16, 2021