

**Planning Commission
Thursday, April 18, 2024
6:30 PM Regular Meeting**

HYBRID Meeting

IN PERSON – McMinnville Civic Hall, 200 NE Second Street, or ZOOM Online Meeting

Please note that this is a hybrid meeting that you can join in person at 200 NE Second Street or online via Zoom

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

<https://mcminnvilleoregon.zoom.us/j/89368634307?pwd=MOREY3RVSzFHeFdmK2pZUmJNdkdSZz09>

Meeting ID: 893 6863 4307

Meeting Password: 989853

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) **Written testimony in advance of the meeting** – Email written testimony at any time up to 12 p.m. the day before the meeting to heather.richards@mcminnvilleoregon.gov, that email will be provided to the planning commissioners, lead planning staff and entered into the record at the meeting.
- 2) **In person at the meeting** – Sign up in advance to provide testimony at the meeting by emailing heather.richards@mcminnvilleoregon.gov, or sign up at the meeting by filling out a testimony form found at the entry to the hearing chambers.
- 3) **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.
- 4) **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
Sidonie Winfield, Chair	1. Call to Order
Dan Tucholsky, Vice Chair	2. Swear In New Commissioner
Rachel Flores	3. Citizen Comments
Gary Langenwalter	4. Minutes: November 2, 2023 (Exhibit 1)
Sylla McClellan	5. Public Hearings:
Elena Mudrak	<p>A. <u>Quasi-Judicial Hearing: Administrative Variance (AV 1-23), for a reduction to interior side yard setbacks for a townhouse development on property on NW Michelbook Ln between 13th St. and 16th St., Map & Tax Lot R4417DC 03601 – (Exhibit 2)</u></p>
Meg Murray	<p>Request: Request for review and approval of an Administrative Variance (AV 1-23) to allow for a 10 percent reduction in the required side yard setback to construct a townhouse development on property on NW Michelbook Ln. between 13th St. and 16th St., Map & Tax Lot R4417DC 03601. The requested reduction in the side yard setback would result in portions of the Townhouse Development 9 feet from the north (side yard) and south (side yard) property line as opposed to 10 feet.</p>
Brian Randall	<p>Applicant: Vincent Vincerì</p>
Beth Rankin	<p>B. <u>Legislative Hearing: Zoning Ordinance Amendment (Docket G 3-23) – (Exhibit 3)</u></p>
	<p>Request: THE CITY OF MCMINNVILLE IS PROPOSING AMENDMENTS TO CHAPTER 17.58 OF THE ZONING ORDINANCE REGARDING TREES. The proposal would amend provisions of Chapter 17.58 “Trees” of the Zoning Ordinance. The proposal would create categories of “simple” and “complex” permits for major pruning or removal of trees which are subject to Chapter 17.58. Applications for simple permits and major pruning would now be reviewed by staff, while applications for complex permits would continue to be reviewed by the Landscape Review Committee.</p>
	<p>Applicant: City of McMinnville</p>
	6. Action Items - Land Use Extension Request (S 1-21) (Exhibit 4)
	7. Commissioner Comments
	8. Staff Comments
	9. Adjournment

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EXHIBIT 1 - MINUTES

**November 2, 2023
Planning Commission
Regular Meeting**

**6:30 pm
Hybrid Meeting
McMinnville, Oregon**

Members Present: Sidonie Winfield, Dan Tucholsky, Matt Deppe, Megan Murray, Beth Rankin, Rachel Flores, and Brian Randall

Members Absent: Sylla McClellan and Gary Langenwalter

Staff Present: Heather Richards – Community Development Director, Tom Schauer – Senior Planner, Adam Tate – Associate Planner, David Ligtenberg – City Attorney, and Bill Kabeiseman – Bateman Seidel

1. Call to Order

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

2. Citizen Comments

Mark Davis, McMinnville resident, supported the conversation at the last meeting about the Housing Needs Analysis and the need for the community to work together for affordable housing and parks.

3. Minutes

- August 18, 2023
- September 7, 2023
- September 21, 2023

Commissioners MOVED to APPROVE the August 18, September 7 and 21, 2023 minutes. The motion was passed 7-0.

4. Public Hearings

A. Quasi - Judicial Hearing: Short Term Rental Permit, 1036 NW Baker Crest Court (Docket STR 3-23)

Requests: Approval of a short term rental permit for the residential property at 1036 NW Baker Crest Court. Tax Lot R4417BA 02700.

Applicant: Naseem Momtazi

Chair Winfield opened the public hearing and read the hearing statement. She asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application.

Commissioner Murray was friends with the applicant, but it would not have an affect on her decision.

Commissioner Rankin visited the site and took a photo of the basement bedroom window.

Commissioners Tucholsky and Winfield had also visited the site.

Chair Winfield asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none.

Staff Report: Associate Planner Tate said this was a request for a short-term rental permit on NW Baker Crest Court. He described the subject site, short term rental map and buffers, project summary, public testimony received, agency comments, applicable review criteria, and amended conditions of approval. Staff recommended approval with conditions.

There was discussion regarding CO2 and smoke detectors, being limited to the criteria, and outdated language on occupancy.

Applicant's Testimony: Naseem Momtazi, applicant, thought the opposition from the neighbors to the application was due to a desire to maintain the status quo in the community and a general disapproval of the criteria for short term rentals. Their concerns were unrelated to her particular application. She wanted to use the home as an investment property, which was within her rights as a property owner. A short term rental was permitted in this zone and this application met all of the criteria. She did not intend to disturb the neighbors' peace and explained the parameters she had put in place to limit the concerns about parking on the street, activity and noise level, and drinking and driving. Her property and those in the neighborhood were not candidates for affordable housing.

Katherine Gowell, legal counsel for the applicant, discussed the amended conditions regarding occupancy, concerns posed by neighbors at the neighborhood meeting about the rental being open to the family's winery clients, how the CC&R's for the neighborhood did not prohibit this use, how the complaints about people driving under the influence or damaging or disturbing the neighborhood was speculation, and general opposition to short term rentals. She thought the application met all the criteria.

Proponents: None

Opponents: Larry Tool, McMinnville resident, lived across the street from the home. He had circulated a petition in opposition and most of the neighbors signed it. He was concerned about the quality of life, physical safety, and City liability. He thought there would be partyers staying at the home, it would impact traffic and parking, thought the home should be inspected to make sure they were meeting code, and questioned who would address problems after business hours. He thought the neighbors' safety and well-being should be priority over tourists.

There was discussion regarding other businesses and events in the area as well as inspections. Community Development Director Richards said inspections were not required, but it could be an added condition of approval.

Rebuttal: Ms. Gowell noted many of the complaints were personal opposition to changing the dynamics of the neighborhood. This was a permitted use in the R-1 zone. It would not be rented out through the winery and visitors would have to comply with City rules related to noise and night hours.

Commissioner Tucholsky asked if they had worked with the neighbors to assure them this use would be a good neighbor.

Ms. Gowell said there had been two neighborhood meetings and a lot of complaints were out of the applicant's control.

Ms. Momtazi said she was willing to have multiple people available to contact after hours. Ms. Gowell pointed out only one contact was required, but Ms. Momtazi had three.

Commissioner Tucholsky wanted to make sure YCOM had the numbers. Community Development Director said they would submit the numbers to YCOM after approval.

Ms. Momtazi also had an essential monitoring system for fire that would alert her or her husband. Ms. Gowell said they would be open to an inspection if that was an added condition.

Commissioner Tucholsky asked if she had considered putting in a handrail in the front. Ms. Momtazi was planning to put one in.

Commissioner Deppe MOVED to CLOSE the public hearing. SECONDED by Commissioner Flores. The motion PASSED 7-0.

Chair Winfield closed the public hearing.

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

Commissioner Murray MOVED to APPROVE Short Term Rental Permit, 1036 NW Baker Crest Court (Docket STR 3-23) with the amended conditions. SECONDED by Commissioner Randall. The motion PASSED 7-0.

Chair Winfield explained how they had worked on new short term rental guidelines for the last several years. It was a contentious issue and the Commission could only make a decision based on the criteria.

B. Quasi - Judicial Hearing: Planned Development Amendment (PDA 5-23), Three Mile Lane Review (TML 4-23), Landscape Plan Review (L 38-23) and Minor Variance (VR 3-23), Southern end of SE Norton Lane (West of Norton Lane)

Requests: Concurrent review and approval of four applications for the Norton Landing 138-unit multi-dwelling development, which consists of seven three-story buildings: a Planned Development Amendment for approval of a Master Plan (PDA 5-23); a Three Mile Lane Review (TML 4-23), a Landscape Plan Review (L 38-23), and a Minor Variance (VR 3-23). Tax Lot R4427 00701

Applicant: Reiter Design Architect Incorporated c/o Scott Reiter, on behalf of property owner KWDS, LLC c/o Chad Juranek.

Chair Winfield opened the public hearing and read the hearing statement. She asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none. She asked if any Commissioner had visited the site.

Chair Winfield asked if any Commissioner was interested in participating in a site visit. Multiple commissioners raised their hands.

Chair Winfield asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none.

Staff Report: Senior Planner Schauer said this was a request to approve four applications for Norton Landing, a 138-unit residential development. He entered additional information into the record that was received after the packet had been distributed. He described the subject site, zoning, proposed site plan, landscape plan, elevations, and site details. He then reviewed the separate applications: Planned Development Amendment to adopt a master plan and request flexibility regarding certain standards, Three Mile Lane review, Landscape Plan review, and Variance to the roof height. He also discussed the applicable criteria and conditions. Staff recommended approval with conditions.

There was discussion regarding traffic impact analysis, addressing the height variance requests for PDAs by creating a blanket variance for this style of development, requirement for permeable surfaces, adding an address map at the entrance for emergency responders, landscaping and building design to reflect the Three Mile Lane Area Plan, and having only one entrance to this development.

Applicant's Testimony:

Kim McAvoy of KWDS, LLC, applicant, gave a background on her organization. They owned and managed their properties and built them as well to control costs, quality, and maintenance. They had on-site managers to assist residents, a full-time maintenance team, and professional landscaping team. They were committed to customer service and creating a positive resident experience.

Scott Reiter, architect representing the applicant, said they had looked at different options for site access, and putting in two driveways did not function with traffic issues and driveway separation distances. They had an adequate fire truck turn-around at the rear of the site and the drive aisles were wide enough for a fire truck to access. They had also added fire protection systems to the buildings, such as sprinklers in the attics. Regarding the project, there would be seven buildings and 138 units in total. There would be one, two, and three bedroom units. He thought they had addressed all the criteria. He showed photos of other properties owned by KWDS. The plan was to create workforce housing. Regarding the signage, all the buildings and unit numbers would be identified and there would be a mounted map of the site that would be visible in the dark. There would be a ten-foot landscape buffer from the parking along the west to the mobile home property. He then discussed the wheel overhang proposed over the landscape bed so the buffer would not be reduced. Bike parking was included at each building. The units had decks with a storage closet where bikes could be stored as well. They had

proposed a six-foot site obscuring fence around the perimeter of the property, or they could use the existing fence.

Commissioner Randall suggested adding a tot lot or climbing facility for young kids. Ms. McAvoy said they put these facilities in when required. In her experience they became a garbage dump, possible liability, and a place people were destructive with. There were green spaces for people to use in this proposal.

Chair Winfield asked about a response to Mr. Bridge's comments. Mr. Reiter said they would not be affecting the driveway and access to the Altimus Plaza.

Community Development Director Richards clarified through this land use process the proximity of the two accesses were not identified as an issue.

Chair Winfield asked about the Three Mile Lane design standards. She did not think the project fit those requirements to show the uniqueness and heritage of McMinnville.

Commissioner Randall thought this complex would be mostly out of public view and he was not as worried about complying with that requirement. The applicant was providing a lot of open space.

Chair Winfield was concerned about setting precedent. There needed to be at least some nod to the area. Ms. McAvoy asked if the color choices for the buildings or artwork would meet the requirement. Chair Winfield thought it would.

Commissioner Deppe discussed the parking requirements compared to other cities. Mr. Reiter thought McMinnville's requirements were reasonable and typical to other cities.

Commissioner Deppe asked about the shape of the entrance to slow down vehicles. Mr. Reiter agreed it was traffic calming.

Proponents: Mark Davis, McMinnville resident, supported the application. They needed the housing; however, this was not a good area for apartments because there was not access across Highway 18. They also needed a park in this area. He noted there were discussions about a monthly stormwater charge based on square footage of impervious surfaces, although nothing had been put in place yet.

Drew Milligan, McMinnville resident, also supported the project. He agreed with Mr. Davis about the location due to access and being a food desert area. He liked the idea of creating a blanket variance for height limits on Planned Developments to allow more creativity for projects.

Opponents: None

Rebuttal: Mr. Reiter asked for clarification on the Three Mile Lane design requirements.

Community Development Director Richards pointed to where they were in the requirements. She gave the Commission options for moving forward.

Mr. Reiter agreed to continue the hearing to bring back a design that met the requirements.

Commissioner Deppe MOVED to CONTINUE Planned Development Amendment

(PDA 5-23), Three Mile Lane Review (TML 4-23), Landscape Plan Review (L 38-23_ and Minor Variance (VR 3-23), Southern end of SE Norton Lane (West of Norton Lane) to November 16, 2023. SECONDED by Commissioner Tucholsky. The motion PASSED 7-0.

5. Commissioner Comments

Commissioner Rankin reported on the Statewide Planning meeting.

Commissioner Randall announced a Veterans Day concert on November 12.

6. Staff Comments

Community Development Director Richards discussed upcoming staffing recruitment. There would be a holiday dinner/work session before the Commission’s next regular meeting. She introduced new City Attorney Ligtenberg.

7. Adjournment

Chair Winfield adjourned the meeting at 9:21 p.m.



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

EXHIBIT 2 - STAFF REPORT

DATE: April 18, 2024
TO: Planning Commission Members
FROM: Taylor Graybehl, Senior Planner
SUBJECT: Docket AV 1-23, Public Hearing
 Administrative Variance, Tax Lot R4428 DB01200

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

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

Report in Brief:

This proceeding is a quasi-judicial public hearing of the Planning Commission to consider an application for an Administrative Variance of Tax Lot R4417DC 03601. The proposed administrative variance would reduce the required side yard setback from ten feet to nine feet to accommodate a Townhouse Development in the R1 Low-Density, 9000 SF Lot Residential Zone.

Applications for Administrative Variances are processed according to the procedures for a “Director’s Review with Notification” as specified in Sections 17.72.090 and 17.72.110 of the Zoning Ordinance. This process includes mailed notice to surrounding property owners and provides a 14-day comment period from the date the notice is mailed during which comments may be submitted, and during which a person who has received notice may request a public hearing. If a public hearing is requested, the Planning Commission becomes the decision-maker, and the public hearing is held by the Planning Commission following the procedures in Section 17.72.120 of the Zoning Ordinance. The decision of the Planning Commission is the final decision unless appealed to City Council. One of the surrounding neighbors to this proposed development who received the mailed notice requested a public hearing.

Background:

Request

The applicant would like to build a townhouse development, comprised of three townhomes on a R1 parcel in the R1 (Low-Density, 9000 SF Residential) Zone. Townhomes are governed by 17.11.070 of the McMinnville Municipal Code and the underlying zone of the property. The applicant has applied to have the parcel divided into three lots for the townhomes as allowed by state law and local codes. (Per Section 17.11.070(C)(c), the minimum lot size for a town home is 1,500 sf). Yard setbacks for a townhome in a subdivision or as infill development needs to match the underlying zoning.

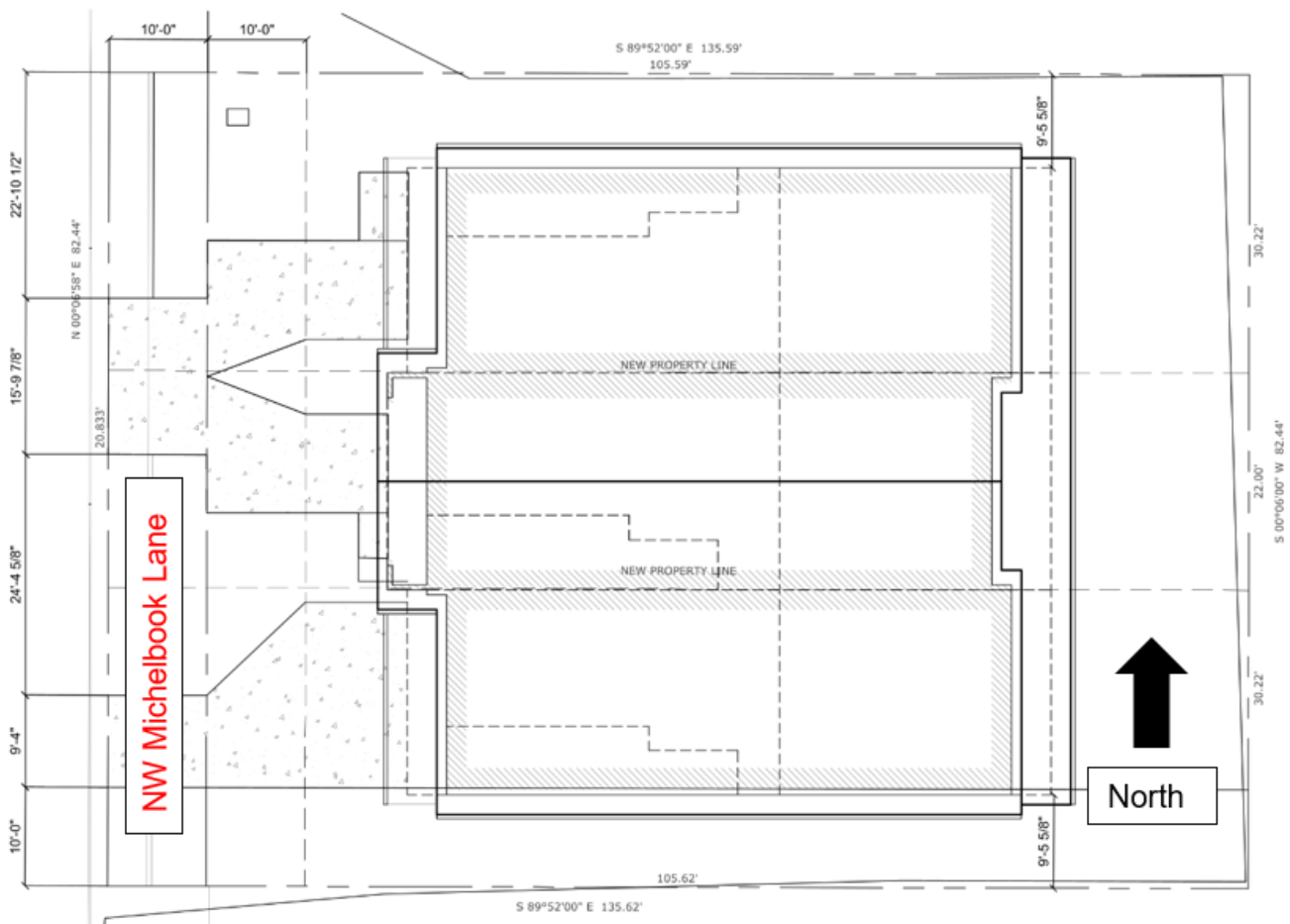
Per Section 17.12.040(C) of the McMinnville Municipal Code (MMC) the side yard setbacks “shall not be less than ten feet, except an exterior side yard shall not be less than twenty feet”.

The applicant is requesting that the side yard property line setback be reduced from ten (10) feet to nine (9) feet, a reduction of one (1) foot or ten percent (10%).

Section 17.74.090 of the McMinnville Municipal Code (MMC) allows the Planning Director to grant limited variances to the terms of the City’s Zoning, Ordinance. Section 17.74.090(B) allows the Planning Director to approve an administrative variance for up to 10 (ten) percent of the required setback.

The subject property is located at Tax Lot R4417DC 03601; the site is located on the east side of NW Michelbook Lane between 13th Street and 16th Street and does not yet have an address. **See Figure 1: Site Plan.**

Figure 1. Site Plan



Discussion:

Administrative variances are normally an administrative decision as they are considered a Type II land-use application, meaning that the decision-making for compliance with the criteria is based on clear and objective standards that do not allow limited discretion. In McMinnville, during the 14-day notice period to adjacent property owners, anyone may request that the application be considered at a public hearing with the planning commission. That request was made by a neighboring property owner for this land-use application. The criteria for rendering a decision remains the same whether it is an administrative decision or a decision by the planning commission, and the decision still needs to be rendered based on a clear and objective review and evaluation. Section 17.74.090 provides the criteria to consider when rendering a decision on an administrative variance. These criteria are clear and objective with no discretionary allowance. (Please see below). Administrative variances are allowed for adjusting the minimum lot area by no more than 90 square feet, or the setback by a maximum adjustment of ten percent. The decision document attached to this staff report provides the findings for compliance with this criteria. .

17.74.090 Administrative Variance-Review Criteria. The Planning Director may grant limited adjustments to the terms of this title as follows:

- A. Lot area: Maximum possible adjustment of one percent of the minimum lot area, but not more than 90 (ninety) square feet;*
- B. Setbacks: Maximum adjustment of 10 (ten) percent of the required setback.*
- C. These provisions shall be used sparingly and shall not be exceeded except by regular referral to the Planning Commission.*
- D. Special conditions may be attached to adjustments if such conditions relate directly to the adjustments.*

Subjects not allowable for adjustment are: number of dwelling units permitted, parking requirements, height of building, vision clearance area, density, or use of property.

Public Comments

Comments Received During Director's Review Notification

Notice of the Director's Review was mailed to property owners within 100 feet of the subject site on March 14, 2024. Two public testimonies were received:

1. Email from Rene Bittle on March 26, 2024, the neighboring property owner located north of the subject site along the side yard, concerned about the loss of quality of life and property value, the scale of the building, front elevation setback exception and traffic issues.
2. Letter from John Rima received on March 27, 2024, the neighboring property owner located south of the subject site along the side yard, which requested a public hearing.

After receiving a request for a public hearing, the City mailed out a public hearing notice to property owners located within 300 feet of the subject site on March 28, 2024, for the April 18, 2024, Planning Commission Hearing. It was found that the notice contained the wrong hearing date, and a follow-up notice was mailed to property owners located within 300 feet of the subject site on April 8, 2024.

Summary of Issues Raised in Public Testimony

Loss of Quality of Life

Surrounding property owners have expressed concern about loss of quality due to the scale of the proposed townhouse development. The application is to reduce the north and south side yard setbacks for the placement of a Townhouse development. The development of a townhouse is permitted on the

subject site and is not subject to review as part of this application. The McMinnville Municipal Code (MMC) does not have review criteria linked to the potential loss of quality of life. Impacts on quality of life are not a regulatory criterion for administrative variances.

Loss of Property Value

Surrounding property owners identified a potential loss to property value as an issue. The application is to reduce the north and south side yard setbacks for the placement of a Townhouse development. The development of a townhouse is permitted on the subject site and is not subject to review as part of this application. The McMinnville Municipal Code (MMC) does not have review criteria linked to the potential loss of property value. Impacts on property value are not a regulatory criterion for administrative variances.

Scale of Building

Surrounding property owners have expressed concern about the scale of the townhouse development. The townhouse development is not under review as part of this land-use application. The scale of a building is not a regulatory criterion for administrative variances. This is an application requesting an administrative variance to reduce the sideyard setback by 10% as allowed in the McMinnville Municipal Code.

The design of the townhomes themselves will be reviewed as part of the building permit review per Section 17.11.070 of the MMC. These standards are all clear and objective standards dictating maximum height allowances, minimum off-street parking spots required, number of adjoining units allowed, etc. Future townhouse development will be subject to the maximum height requirements, and in this case, the maximum height is the same as the underlying zoning, which is 35 tall. Meaning that any home built on this parcel could be 35 feet tall, whether it is a single housing unit or a townhome.

Front Elevation Setback Exception and Traffic

Surrounding property owners identified the “front elevation setback exception” as causing a traffic issue. No reduction to the front yard setback is proposed as part of this application. The development of a townhouse is permitted on the subject site and is not subject to review as part of this application. The proposed 10% reduction in the side yard setback will not increase the number of trips or increase traffic hazard. The impact on traffic is not a regulatory criterion for administrative variances.

Attachments:

- A. AV 1-23 Decision Document

Fiscal Impact:

Not Applicable to Quasi-Judicial Decision.

Recommendation:

Planning Commission Options (for Quasi-Judicial Hearing):

- 1) **APPROVE** the application as proposed by the applicant with the conditions recommended in the attached Decision Document, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.

4) Close the public hearing and **DENY** the application, providing findings of fact for the denial, specifying which criteria are not satisfied, or specifying how the applicant has failed to meet the burden of proof to demonstrate all criteria are satisfied, in the motion to deny.

Staff Recommendation:

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

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

Suggested Motion:

BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, THE MATERIALS SUBMITTED BY THE APPLICANT, AND EVIDENCE IN THE RECORD, I MOVE THAT THE PLANNING COMMISSION APPROVE THE DECISION DOCUMENT APPROVING DOCKET AV 1-23 SUBJECT TO THE CONDITIONS SPECIFIED IN THE DECISION DOCUMENT.

DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF AN ADMINISTRATIVE VARIANCE TO REDUCE THE SIDE YARD SETBACK FROM 10 FEET TO 9 FEET AT R4417DC 03601 FOR TOWNHOUSE DEVELOPMENT.

DOCKET: AV 1-23 (Administrative Variance)

REQUEST: Approval of an administrative variance to reduce the required side yard setback from 10 feet to 9 feet for a townhouse development.

LOCATION: R4417DC 03601

ZONING: R-1 (Low-Density, 9000 SF Lot Residential Zone)

APPLICANT: Vince Vincer, property owner

STAFF: Taylor Graybehl, Senior Planner

DATE DEEMED COMPLETE: April 8, 2024

DECISION MAKING BODY & ACTION: An Administrative Variance is typically a Planning Director’s decision with notification. However, since an adjacent property owner requested a public hearing with the Planning Commission, the McMinnville Planning Commission will make the final decision unless the Planning Commission’s decision is appealed to the City Council.

DECISION DATE & LOCATION: April 18, 2023, at 6:30 PM, Civic Hall, 200 NE 2nd Street, McMinnville, OR
Zoom Meeting ID: 893 6863 4307, Passcode: 989853

PROCEDURE: An application for an Administrative Variance is processed in accordance with the procedures in Section 17.72.110 of the McMinnville Municipal Code for a Director’s Review with Notification.

CRITERIA: The applicable criteria for an Administrative Variance are specified in Section 17.74.090 of the McMinnville Municipal Code. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.

Attachments:
Attachment 1 – Application and Application Attachments
Attachment 2 – Public Testimony, Email from Rene Bittle, received March 26, 2024
Attachment 3 – Public Testimony, Letter from John Rima, received March 27, 2024

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

DECISION

Based on the findings and conclusionary findings, the Planning Commission finds the applicable criteria are satisfied with conditions and **RECOMMENDS APPROVAL** of the Administrative Variance (AV 1-23), **subject to the conditions of approval provided in Section II of this document.**

////////////////////////////////////
RECOMMENDATION: APPROVAL WITH CONDITIONS
////////////////////////////////////

Planning Commission: _____
Sidonie Winfield, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Community Development Director

Date: _____

Attachments:

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I. APPLICATION SUMMARY:

Subject Property & Request

The subject property is located at NW Michelbook Lane Between 13th and 16th Street (Tax Lot R4417DC 03601), zoned R-1 (LOW-DENSITY, 9000 SF LOT RESIDENTIAL). The project site is currently under review for a partition to split the parent parcel into three (3) smaller parcels to allow for future residential development of the parcels as townhomes. (Per Section 17.11.070 of the McMinnville Municipal Code, the minimum lot size for a townhome is 1,500 square feet). Yard setbacks for a townhome in a subdivision or as infill development needs to match the underlying zoning. **See Figure 1: Vicinity Map and Figure 2: Zoning Map.**

Per Section 17.12.040(C) of the McMinnville Municipal Code (MMC), the side yard setbacks “shall not be less than ten feet”.

The applicant is requesting that the side yard property line setback be reduced from ten (10) feet to nine (9) feet, a reduction of one (1) foot or ten percent (10%).

Section 17.74.090 of the McMinnville Municipal Code (MMC) allows the Planning Director to grant limited variances to the terms of the City’s Zoning, Ordinance. Section 17.74.090(B) allows the Planning Director to approve an administrative variance for up to 10 (ten) percent of the required setback.

The applicant submitted a request for an administrative variance on December 28, 2023. On March 8, 2024, a revised application was received, which further clarified the request, including the reduction in the side yard setback. The revised application incorrectly identified the need for an administrative variance for driveway spacing as part of the application. The request related to the driveway spacing has been redlined for removal from the application. The revised application is attached to this document as **Attachment 1**.

Attachments:

Attachment 1 – Application and Application Attachments

Attachment 2 – Public Testimony, Email from Rene Bittle, received March 26, 2024

Attachment 3 – Public Testimony, Letter from John Rima, received March 27, 2024

Figure 1. Vicinity Map



Figure 1. The subject site is outlined in blue and labeled “03601”.

Attachments:

Attachment 1 – Application and Application Attachments

Attachment 2 – Public Testimony, Email from Rene Bittle, received March 26, 2024

Attachment 3 – Public Testimony, Letter from John Rima, received March 27, 2024

Figure. 2 Zoning Map

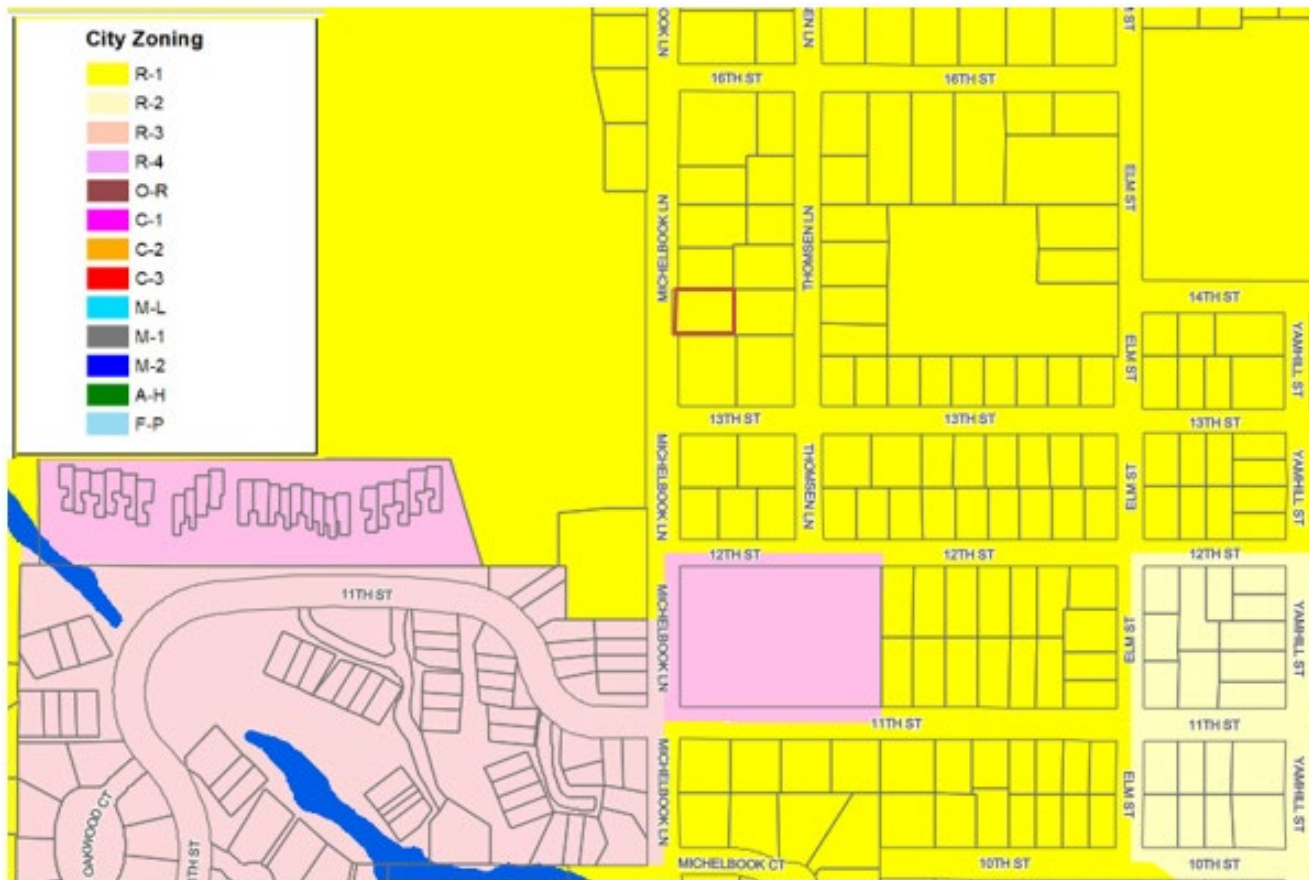


Figure 2. The subject site is outlined in red.

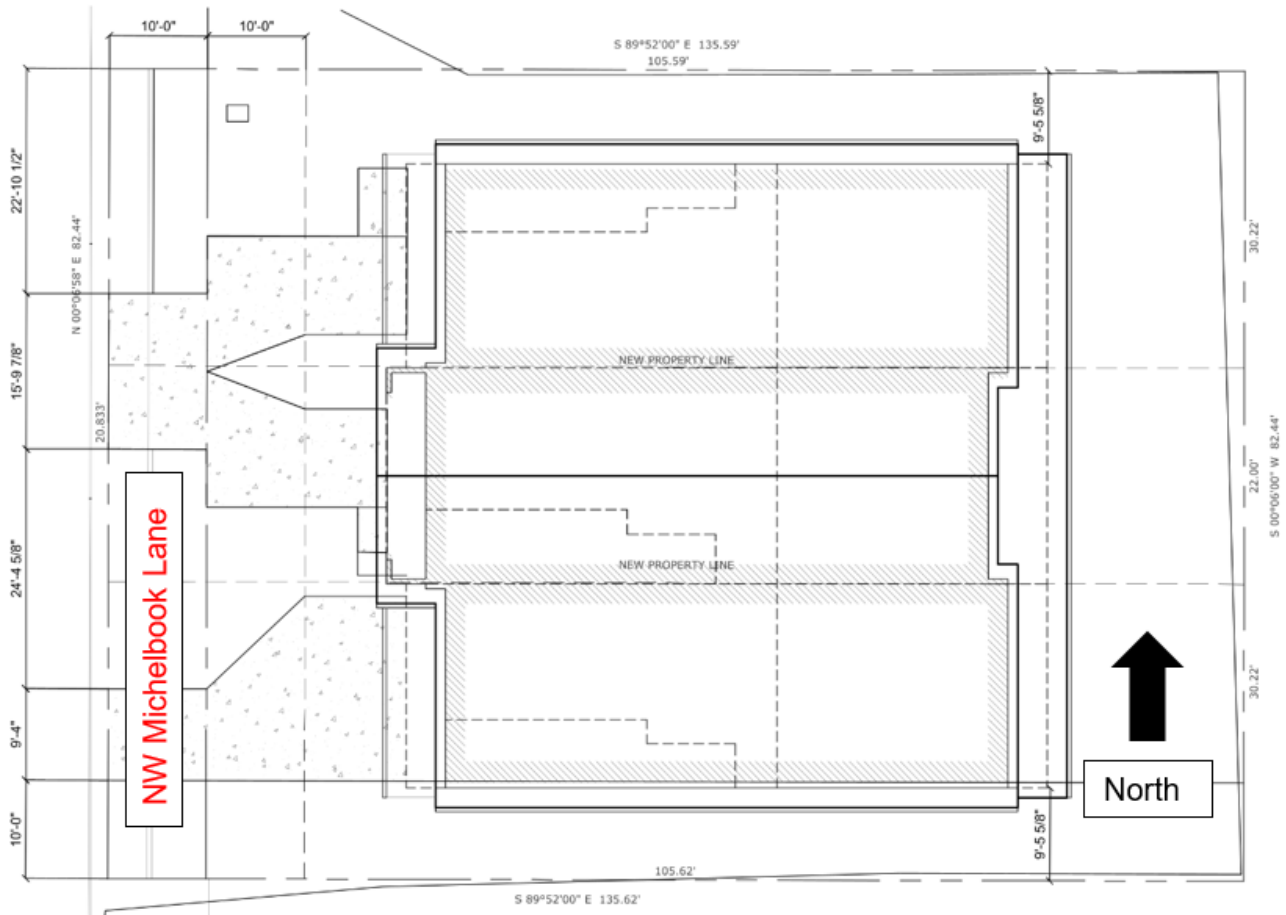
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Figure 3. Proposed Site Plan



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Summary of Criteria

The application is subject to standards and procedures established within Chapter 17.74 Review Criteria of the Zoning Ordinance. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The specific criteria for reviewing an administrative variance are Section 17.74.080 and Section 17.74.090 of the McMinnville Municipal code per below. As a Type II land-use application, the criteria are clear and objective, and if the criteria are achieved, then the application needs to be approved.

17.74.080 Administrative Variance Limitations. Limitations for an administrative variance are outlined in Section 17.74.090. A request for an administrative variance beyond these limitations shall be submitted and processed as a variance application.

17.74.090 Administrative Variance-Review Criteria. The Planning Director may grant limited adjustments to the terms of this title as follows:

- A. Lot area: Maximum possible adjustment of one percent of the minimum lot area, but not more than 90 (ninety) square feet;*
- B. Setbacks: Maximum adjustment of 10 (ten) percent of the required setback.*
- C. These provisions shall be used sparingly and shall not be exceeded except by regular referral to the Planning Commission.*
- D. Special conditions may be attached to adjustments if such conditions relate directly to the adjustments.*

Subjects not allowable for adjustment are: number of dwelling units permitted, parking requirements, height of building, vision clearance area, density, or use of property.

Additionally, the setback for townhomes is determined by 17.11.070(C)(c), which states that the setback standard for townhomes in a subdivision or infill should be the same as the underlying zoning.

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Section 17.11.070. TABLE 1. TOWNHOUSE DEVELOPMENT STANDARDS

	PLANNED DEVELOPMENT		SUBDIVISION
	WITH ALLEY	WITHOUT ALLEY	SUBDIVISION / INFILL ⁽⁴⁾
a) Lot width (feet) ⁽²⁾	Min. 20	Min. 22	Min. 22
b) Lot depth (feet)	Min. 60	Min. 60	Min. 60
c) Lot size (square feet)	Min. 1,500 ⁽³⁾	Min. 1,500	Min. 1,500
d) Front setback (feet)	Min. 15	Min. 15	Min. 15
e) Side setback (feet) ⁽⁴⁾	Interior: Min. 0 or 7.5 ⁽¹⁾ Exterior: Min. 10	Interior: Min. 0 or 7.5 ⁽¹⁾ Exterior: Min. 10	Match existing zone, subdivision, or Planned Development overlay district
f) Rear setback (feet)	0 (zero) with garage, 20 without garage.	Min. 10	
g) Building height (feet)	Max. 35	Max. 35	
h) Parking Zone	<ul style="list-style-type: none"> For lots with an alley: Parking is required to be located adjacent to the alley. Parking is permitted to be located on the surface or in a garage. For lots without an alley: Parking is permitted to be located on the surface or in a garage. The front setback for garages is specified in Parking Development and Design Standards, Garage Setback. 		
i) Driveways	Driveway spacing and width requirements are specified in Street Frontage, Frontage Types.		
j) Minimum Off-Street Parking	One parking space per dwelling unit.		
k) Number of adjoining units and arrangement	Min. 2 Max. 8	Min. 2 Max. 4	Min. 2 Max. 4
l) Universal Design Standards and Planned Development Standards that apply	<ul style="list-style-type: none"> Street frontage Front yard Alleys Private open space Compatibility Façade Parking Planned Development Standards: Through Block, and Corner Common Greens 		

⁽¹⁾ Interior side setback of 7.5 feet and exterior setbacks only apply to end units.

⁽²⁾ May allow frontage on public and private streets or alleys; and on shared or common drives.

⁽³⁾ Lot sizes for internal, external, and corner lots may be different as long as the townhouse project averages 1,500 sq ft or less.

⁽⁴⁾ Infill is defined as lots less than 14,000 square feet or less than double the minimum lot size of the underlying zone, whichever is less.

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In the R1 Zone, the setback criteria is described below.

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

- A. A front yard shall not be less than twenty feet, except as provided in Section 17.11.030(C), Table 1(d), Cottage Clusters.
- B. A rear yard shall not be less than twenty feet, except as provided in Section 17.11.030(C), Table 1(f), Cottage Clusters.
- C. A side yard shall not be less than ten feet, except an exterior side yard shall not be less than twenty feet, except as provided in Section 17.11.030(C), Table 1(c), Cottage Clusters. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

The requested reduction is within the maximum ten (10) percent reduction allowed through the administrative variance process. The subject site is zoned R-1, and the proposed future development, a townhouse development, is permitted per Section 17.11.013. The R-1 zone requires a ten (10) foot minimum side yard for townhouse developments Section 17.12.040(C) with eaves that may extend an additional 30 inches into the setback, as detailed in Section 17.54.020(C). The proposed one (1) foot reduction from ten (10) to nine (9) feet constitutes a ten (10) percent reduction in compliance with standards.

Summary of Issues Raised

Loss of Quality of Life

Surrounding property owners have expressed concern about loss of quality due to the scale of the proposed townhouse development. The application is to reduce the north and south side yard setbacks for the placement of a Townhouse development. The development of a townhouse is permitted on the subject site and is not subject to review as part of this application. The McMinnville Municipal Code (MMC) does not have review criteria linked to the potential loss of quality of life. Impacts on quality of life are not a regulatory criterion for administrative variances.

Loss of Property Value

Surrounding property owners identified a potential loss to property value as an issue. The application is to reduce the north and south side yard setbacks for the placement of a Townhouse development. The development of a townhouse is permitted on the subject site and is not subject to review as part of this application. The McMinnville Municipal Code (MMC) does not have review criteria linked to the potential loss of property value. Impacts on property value are not a regulatory criterion for administrative variances.

Scale of Building

Surrounding property owners have expressed concern about the scale of the townhouse development. The scale of a building is not a regulatory criterion for administrative variances. The townhouse development is not under review as part of this application. The MMC provides that townhomes cannot exceed 35 feet in height just like single detached houses in the same zone, and that only 2 – 4 townhomes can be built together for scale compatibility.

The townhouse development will be reviewed against MMC standards as part of the associated building permits 569-23-000994-DWL, 569-23-000996-DWL, and 569-23-000997-DWL. These standards include clear and objective standards that detail maximum height requirements. Future townhouse development will be subject to maximum height requirements.

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Front Elevation Setback Exception and Traffic

Surrounding property owners identified the “front elevation setback exception” as causing a traffic issue. No reduction to the front yard setback is proposed as part of this application. The development of a townhouse is permitted on the subject site and is not subject to review as part of this application. The proposed 10% reduction in the side yard setback will not increase the number of trips or increase traffic hazard. The impact on traffic is not a regulatory criterion for administrative variances.

II. CONDITIONS OF APPROVAL:

1. Prior to issuance of the building permit, the applicant shall provide proof of recordation of partition (MP 1-23).

III. ATTACHMENTS:

1. Application and Application Attachments
2. Attachment 2 – Public Testimony, Email from Rene Bittle, received March 26, 2024
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IV. COMMENTS:**Public Comments**

Notice of the application was provided by the McMinnville Planning Department to property owners within 100 feet of the subject site, consistent with Section 17.72.110 of the McMinnville Zoning Ordinance. The following public testimonies have been received by the Planning Department:

1. Email from Rene Bittle on March 26, 2024, the neighboring property owner located north of the subject site along the side yard, concerned about the loss of quality of life and property value, the scale of the building, front elevation setback exception and traffic issues.
2. Letter from John Rima received on March 27, 2024, the neighboring property owner located south of the subject site along the side yard, which requested a public hearing.

Notice of the public hearing was mailed out to adjacent property owners within 300 feet of the subject site and provided in the News Register on Friday, April 12, 2024.

V - FINDINGS OF FACT – PROCEDURAL FINDINGS

1. The applicant submitted the Administrative Variance application (AV 1-23) on December 28, 2023.
2. The application was deemed complete on January 26, 2024. Based on that date, the 120-day land use decision time limit expires on July 26, 2024.
3. Supplemental application materials were received on March 8, 2024.
4. Notice of the application was provided by the McMinnville Planning Department to property owners within 100 feet of the subject site, consistent with Section 17.72.110 of the McMinnville Zoning Ordinance.

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

5. One of the property owners, Rene Bittle, requested a public hearing before the Planning Commission for the application.
6. Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was provided in the News Register on Friday, April 12, 2024.
7. A duly noticed public hearing of the McMinnville Planning Commission was held on April 18, 2024, for the Commission to render a decision on the application.
8. On April 18, 2024, the McMinnville Planning Commission voted to approve the administrative variance (Docket AV 1-23)

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** Tax Lot R4417DC 03601
2. **Size:** The existing parcel is 9,530 square feet.
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-1 (LOW-DENSITY, 9000 SF LOT RESIDENTIAL ZONE)
5. **Overlay Zones/Special Districts:** None.
6. **Current Use:** Vacant
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** None
 - b. **Other:** None Identified
8. **Other Features:** No significant or distinguishing natural features are associated with this property.
9. **Utilities:**
 - a. **Water:** Water service is available to the subject site.
 - b. **Electric:** Power service is available to the subject site.
 - c. **Sewer:** Sanitary sewer service is available to the subject site.
 - d. **Stormwater:** Storm sewer service is available to the subject site.
 - e. **Other Services:** Other utility services are available to the property. Northwest Natural Gas and Comcast are both available to serve the site.
10. **Transportation:** Michelbook is classified as a Minor Collector in the Transportation System Plan (TSP). The existing Michelbook Lane right-of-way adjacent to the site is approximately 53 feet wide. The subject site is currently developed with curbs and gutters with no sidewalk or planter strip.

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VII. CONCLUSIONARY FINDINGS

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for an Administrative Variance are specified in 17.74.090 of the Zoning Ordinance, which includes consistency with the Comprehensive Plan.

Comprehensive Plan Volume II:

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

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

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

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

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

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Director’s review of the request. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

McMinnville Municipal Code

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

Chapter 17.74. Review Criteria

17.74.080 Administrative Variance Limitations. *Limitations for an administrative variance are outlined in Section 17.74.090. A request for an administrative variance beyond these limitations shall be submitted and processed as a variance application.*

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The requested administrative variance is within the limitations outlined in Section 17.74.090, as described below.

17.74.090 Administrative Variance-Review Criteria. *The Planning Director may grant limited adjustments to the terms of this title as follows:*

- A. *Lot area: Maximum possible adjustment of one percent of the minimum lot area, but not more than 90 (ninety) square feet;*

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- B. *Setbacks: Maximum adjustment of 10 (ten) percent of the required setback.*
- C. *These provisions shall be used sparingly and shall not be exceeded except by regular referral to the Planning Commission.*
- D. *Special conditions may be attached to adjustments if such conditions relate directly to the adjustments.*

Subjects not allowable for adjustment are: number of dwelling units permitted, parking requirements, height of building, vision clearance area, density or use of property.

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The subject site is zoned R-1, and constructing a townhouse development is permitted under Section 17.12.010(B)(3). Section 17.11.070(C)(c) states that the required setbacks for townhomes in a subdivision or as infill is the setback identified in the underlying zoning. The side yard setbacks required in the R1 Zone, per 17.12.040 is a 10-foot minimum setback for structures with eaves that may extend an additional 30 inches into the setback (Section 17.54.020(C)). The applicant has requested an administrative variance to reduce the required side yard setbacks by one (1) foot from ten feet to nine feet, representing a ten (10) percent reduction as allowed by 17.74.090(B).

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Section 17.11.070, TABLE 1. TOWNHOUSE DEVELOPMENT STANDARDS

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a) Lot width (feet) ⁽²⁾	Min. 20	Min. 22	Min. 22
b) Lot depth (feet)	Min. 60	Min. 60	Min. 60
c) Lot size (square feet)	Min. 1,500 ⁽³⁾	Min. 1,500	Min. 1,500
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f) Rear setback (feet)	0 (zero) with garage, 20 without garage.	Min. 10	
g) Building height (feet)	Max. 35	Max. 35	
h) Parking Zone	<ul style="list-style-type: none"> For lots with an alley: Parking is required to be located adjacent to the alley. Parking is permitted to be located on the surface or in a garage. For lots without an alley: Parking is permitted to be located on the surface or in a garage. The front setback for garages is specified in Parking Development and Design Standards, Garage Setback. 		
i) Driveways	Driveway spacing and width requirements are specified in Street Frontage, Frontage Types.		
j) Minimum Off-Street Parking	One parking space per dwelling unit.		
k) Number of adjoining units and arrangement	Min. 2 Max. 8	Min. 2 Max. 4	Min. 2 Max. 4
l) Universal Design Standards and Planned Development Standards that apply	<ul style="list-style-type: none"> Street frontage Front yard Alleys Private open space Compatibility Façade Parking Planned Development Standards: Through Block, and Corner Common Greens 		

⁽¹⁾ Interior side setback of 7.5 feet and exterior setbacks only apply to end units.

⁽²⁾ May allow frontage on public and private streets or alleys; and on shared or common drives.

⁽³⁾ Lot sizes for internal, external, and corner lots may be different as long as the townhouse project averages 1,500 sq ft or less.

⁽⁴⁾ Infill is defined as lots less than 14,000 square feet or less than double the minimum lot size of the underlying zone, whichever is less.

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In the R1 Zone, the setback criteria is described below.

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

- A. *A front yard shall not be less than twenty feet, except as provided in Section 17.11.030(C), Table 1(d), Cottage Clusters.*
- B. *A rear yard shall not be less than twenty feet, except as provided in Section 17.11.030(C), Table 1(f), Cottage Clusters.*
- C. *A side yard shall not be less than ten feet, except an exterior side yard shall not be less than twenty feet, except as provided in Section 17.11.030(C), Table 1(c), Cottage Clusters. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

The requested ten (10) percent reduction is equal to the maximum ten (10) percent reduction allowed by the administrative variance procedure. The proposed adjustment is permitted by the criteria provided within Section 17.74.090.

TG

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Planning Department
231 NE Fifth Street ◦ McMinnville, OR 97128
(503) 434-7311 Office ◦ (503) 474-4955 Fax
www.ci.mcminnville.or.us

Received
MAR 8 2024
Community Development Center

Office Use Only:	
File No.	AV 1-23
Date Received	12/28/23
Fee	\$1,190.00
Receipt No.	209206
Received by	AW

569-23-000633-PLNG

Administrative Variance Application

Applicant Information

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

Applicant Name VINCENT VINCERI Phone 503 984 1363

Contact Name _____ Phone _____
(If different than above)

Address 4620 SW 36TH STREET

City, State, Zip REDMOND OR 97150

Contact Email VINCERI@SYMBIOTIK.COM
VAV@SYMBIOTIK.COM

Property Owner Information

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

Contact Name _____ Phone _____

Address _____

City, State, Zip _____

Contact Email _____

Site Location and Description

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

Property Address 1342/1346/1348 NW MICHAELBOOK LANE

Assessor Map No. ~~33~~ 447 DC 3601 Total Site Area 9530 SF

Subdivision _____ Block _____ Lot _____

Comprehensive Plan Designation Residential Zoning Designation R1

Please indicate the type of administrative variance requested:

<input type="checkbox"/> Lot Size	Requirement _____	Reduction to _____
<input checked="" type="checkbox"/> Road Frontage	Requirement <u>30' x 24'</u>	Reduction to <u>24' 3"</u>
<input checked="" type="checkbox"/> Setback--front, rear, <u>side</u>	Requirement <u>10'</u>	Reduction to <u>9'</u>
<input type="checkbox"/> Other _____	Requirement _____	Reduction to _____

1. Describe, in detail, the nature of the request. _____

~~SEE ATTACHED DOCUMENT~~

2. Is the variance request for this property due to unique circumstances (i.e. shape or topography of the site)? If yes, please describe nature of circumstance. _____

3. What exceptional or extraordinary circumstances apply to the property which do not apply generally to other property in the same zone or vicinity. _____

4. What property right would be preserved substantially the same as owners of the other property in the same zone or vicinity, by granting the variance. _____


5. What unnecessary hardship would be avoided by granting the variance. _____

6. Why won't this request be materially detrimental to the surrounding area. _____

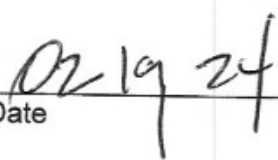
In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed buildings, dimensions, adjacent street(s), and distances from property lines, and any other information that would help substantiate or clarify your request.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.



Applicant's Signature

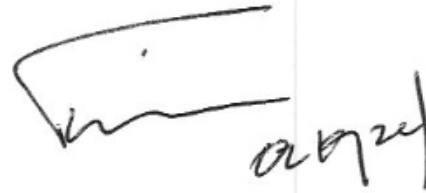


Date

Property Owner's Signature

Date

Administrative Variance Application



1. Describe, in detail, nature of request.

The request is for an Administrative Variance subject to Section 17.74.090 for the reduction of side yard setbacks and reduction in minimum distance spacing between driveways.

Applicant seeks to reduce Parcel 1 and Parcel 3 side yard setback standard of Section 17.12.040(c) from ten (10) feet to nine (9) feet. The proposed twelve (12) inch reduction would result in a ten (10) percent decrease in compliance with Section 17.74.090(B).

~~Applicant seeks to reduce the minimum driveway spacing standard of Section 17.11.100(B)(3)(b)(1)&b(2) to twenty-four (24) feet three (3) inches.~~

~~The driveway design uses Frontage Type 1 (Minimum distance between driveways twenty-four (24) feet and Frontage Type 2 (Minimum distance between driveways thirty (30) feet. The proposed twenty-four (24) feet three (3) inches would be a ten (10) percent decrease based on the average of Section 17.11.100(B)(3)(b)(1)&b(2).~~

~~There is over 240' of continuous street parking directly across the street from proposed site.~~

2. Is the variance request for this property due to unique circumstances?

The passage of HB2001 and SB458 qualifies Tax Lot 4417DC3601 (Vinceri) to provide reasonable and affordable middle housing.

3. What exceptional or extraordinary circumstances apply to this property which do not apply generally to other property in the same zone or vicinity.

When the area was originally developed all surrounding properties were built under R1 codes. With the passage of HB2001 and SB458, Tax Lot 4417DC3601 (Vinceri) qualifies to provide reasonable and affordable middle housing under new R1 Residential Code Amendments.

4. What property right would be preserved substantially the same as owners of the other property in the same vicinity, by granting the variance.

Tax Lot 4417DC-3400 (Bittle) to the north of Tax Lot 4417DC-3600 (Vinceri) has a setback of 8.06'. It seems reasonable reducing the side setbacks to nine (9) feet should be granted.

5. What unnecessary hardship would be avoided by granting the variance.

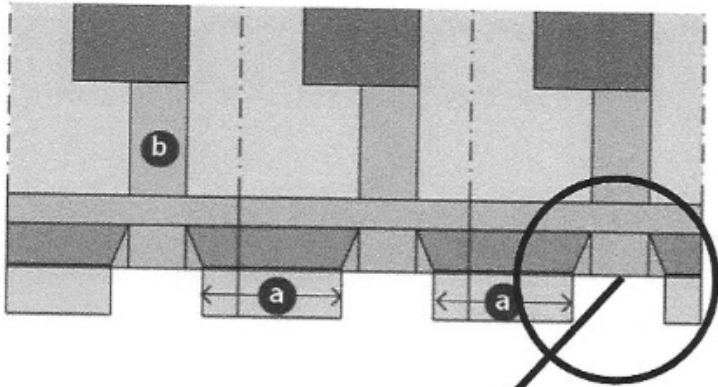
There is significant infrastructure needed to provide middle housing on Tax Lot 4417DC3601 (Vinceri). Costs are upwards of \$70,000 (three sewer lines 30k+, three water lines 15k, underground power 15k, McMinnville Water & Light 10k+). Granting the variance would not add any unnecessary additional design costs (15k+), additional engineering costs (4k), additional time lost and would start putting 1.2 million dollars into the McMinnville economy helping McMinnville construction companies and independent contractors. This is a small variance requested to expediate the project.

6. Why won't this request be materially detrimental to the surrounding area.

The requested variance is to reduce the side setback twelve (12) inches. There would be no significant effect to the south Tax Lot 4417DC-3800 (John and Cinda Rima Trust) at this time due to the home being 44.19' away. The North Tax Lot 4417DC-3400 (Bittle) has a side setback of 8.06'. This request for a variance of twelve (12) inches into the side setback of Tax Lot 4417DC-3601 (Vinceri) seems fair and reasonable.

The Road Frontage request is minimal and each designed townhome provides 3 off street parking spots. Please note that there is over 240' of continuous parking located directly across the street West of the Tax Lot 4417DC-3601.

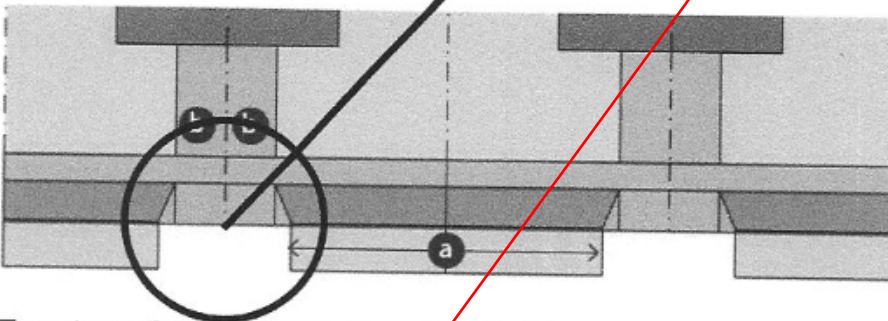
Frontage Type 1: Front-Loaded Parking



Frontage Type 1: Front-Loaded Parking

a	Minimum distance between driveways	24 feet
b	Maximum driveway width	40 percent of frontage

Frontage Type 2: Front-Loaded Parking with Paired Driveways

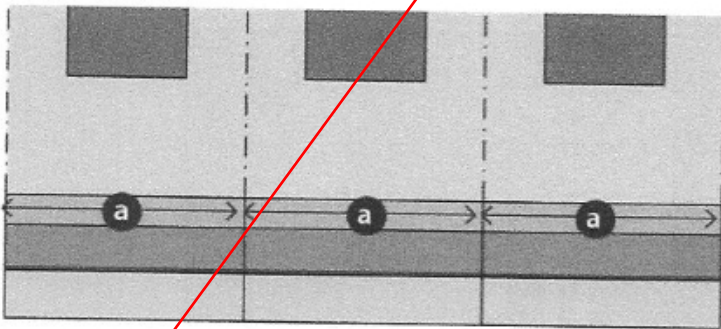


Frontage Type 2: Front-Loaded Paired Parking

a	Minimum distance between driveways	30 feet
b	Maximum driveway width	20 feet*

*Excludes the driveway approach width

Frontage Type 3: Alley-Loaded Parking



Frontage Type 3: Alley-Loaded Parking

a	Minimum street frontage width	Refer to development standards by housing type
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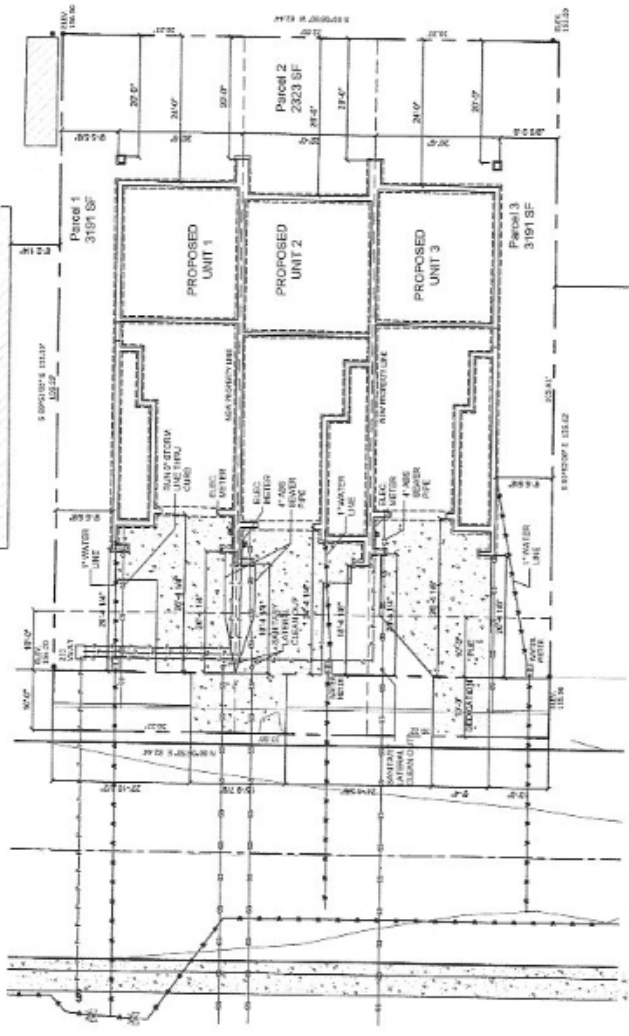
40-84-173
 50% COMPLETE PLAN
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DATE	
PROJECT	
SCALE	
BY	
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Vince Vincer

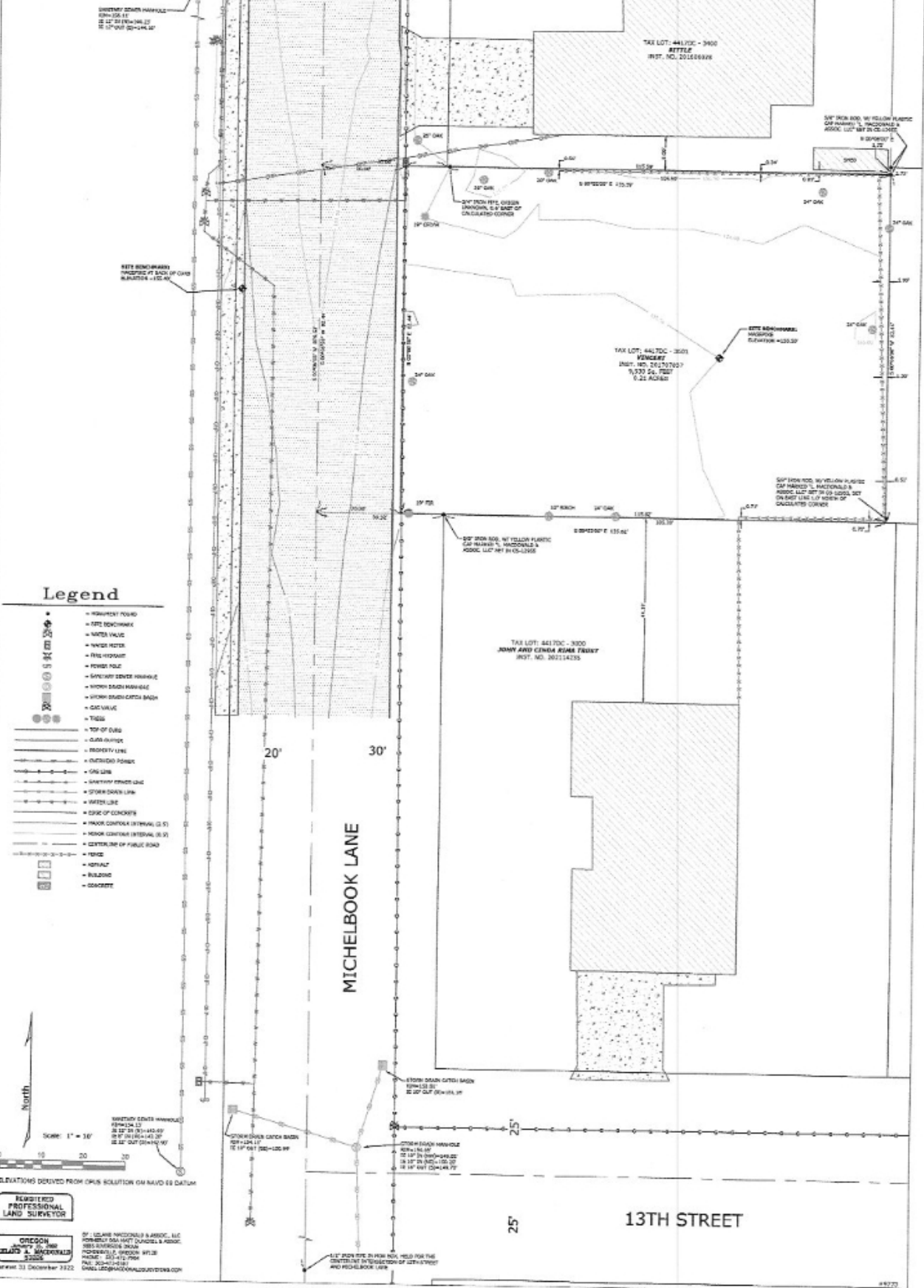
Location: SE 1/4 Section 31, Township 4 South, Range 4 West, W.M.
 City of Harborside, Yamhill County, Oregon
 Tax Lot: 44700 - JH1
 DATE: 13 NOVEMBER 2023

Scale: 1" = 10'



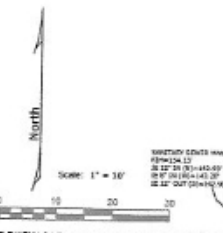
TOPOGRAPHIC SURVEY for: Vince Vinceri

Location: SE 1/4 Section 17, Township 4 South, Range 4 West, W.M.
City of McMinnville, Yamhill County, Oregon
Tax Lot: 44170C - 3531
Date: 15 November 2022



Legend

- BENCHMARK FOUND
- SET BENCHMARK
- WATER VALVE
- WATER METER
- FIRE HYDRANT
- POWER POLE
- SEWER/SEWER MAINLINE
- SEWER SAG/INVERT
- SEWER SAG/CATCH BASIN
- GAS VALVE
- TIE-IN
- TOP OF CURB
- CURB DUMP
- PROPERTY LINE
- OUTSIDE POWER
- GAS LINE
- SEWER/SEWER LINE
- SEWER SAG/INVERT
- WATER LINE
- EDGE OF CONCRETE
- MAJOR CONTROL INTERVAL (C.I.)
- MINOR CONTROL INTERVAL (C.I.)
- CENTERLINE OF PUBLIC ROAD
- FENCE
- HEDGEL
- BUILDING
- CONCRETE



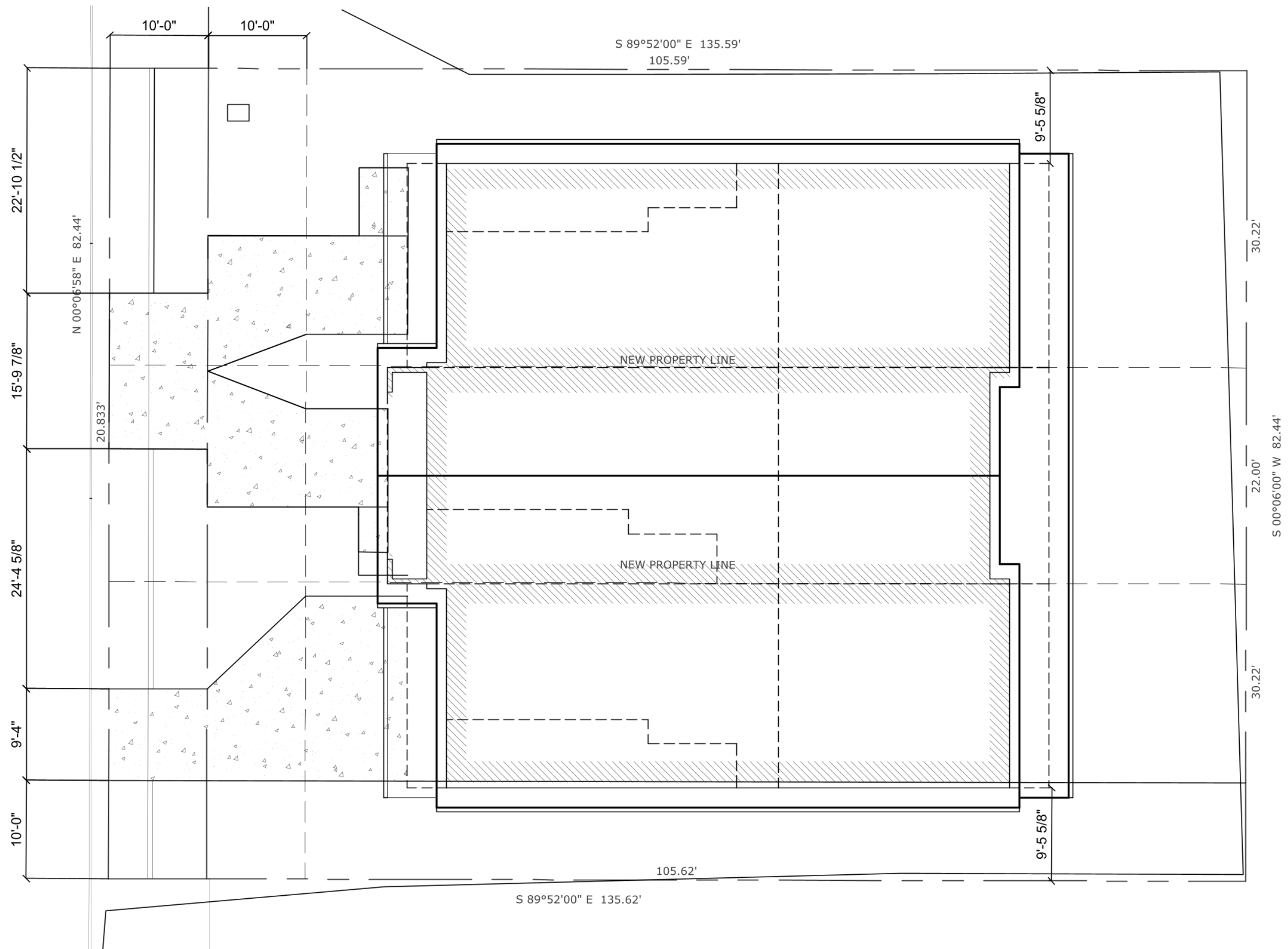
ELEVATIONS DERIVED FROM OPEN SOLUTION ON NAVD 83 DATUM

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JERRY J. TAYLOR
LAND SURVEYOR
33000
PHONE: 503-412-7994
FAX: 503-412-7994
EMAIL: JERRY@JERRYJ.TAYLOR.SURV.COM

BY: USLARS PROFESSIONAL & ASSOC., LLC
3885 SW BARCLAY DR. SUITE 200
MCMINNVILLE, OR 97128
PHONE: 503-412-7994
FAX: 503-412-7994
EMAIL: JERRY@JERRYJ.TAYLOR.SURV.COM

DATE: 15 November 2022



Taylor Graybehl

From: Rene Bittle <mikeandreneb@gmail.com>
Sent: Tuesday, March 26, 2024 6:42 PM
To: Taylor Graybehl
Subject: Request a Hearing - Vincer

This message originated outside of the City of McMinnville.

Hi Taylor,

We would like to request a hearing in the Vincer matter.

We recently became aware of additional details related to the use of the property and are vehemently opposed to both the project and the most recent exception the city plans to make.

We firmly believe that this project will have a negative impact on both our quality of life and property value. I'm quite baffled at why the city would allow such a monstrosity of a building to be built on such a small lot between 2 single family dwellings.

Additionally, we are opposed to the front elevation setback exception that has been made that will most definitely create traffic issues and propagate the building of a structure that is far too large for the size of the lot.

When we were first made aware of his intentions we attempted to hire a local attorney to no avail. We plan to find an out of town attorney or join forces with our neighbor John Rima to fight this decision.

Please let me know if we can join Mr Rima's hearing and when that might occur. Additionally, I'd be interested to know what other exceptions have already been made and those being considered that have not been finalized.

Sincerely,

Rene' and Michael Bittle

March 27, 2024

To: McMinnville Planning Dept.

I am requesting a public hearing before the McMinnville Planning Commission.

The reason for my request is the pending Administrative Variance decision for tax lot R4417DC03601 and tentative partition.

John Rima



Property owner of

1310 N.W. Michelbook Ln.

McMinnville, Oregon



EXHIBIT 3 – STAFF REPORT

DATE: April 18, 2024
TO: Planning Commission Members
FROM: Tom Schauer, Senior Planner
SUBJECT: G 3-23: Zoning Ordinance Amendments Regarding Landscaping and Trees

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsibly & 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 a legislative public hearing to consider amendments to the Zoning Ordinance regarding the provisions for tree removal, major pruning, and tree standards in Chapter 17.58 of the Zoning Ordinance. The Planning Commission makes a recommendation to the City Council.

Staff originally brought this item to the Planning Commission on June 15, 2023, and the hearing was subsequently continued. At that time, staff presented proposed amendments to Chapter 17.57 of the Zoning Ordinance addressing landscape plans and landscaping and proposed amendments to Chapter 17.58 of the Zoning Ordinance addressing provisions for tree removal, major pruning of trees, and tree standards.

This work is now being addressed in two separate parts: the landscaping provisions of Chapter 17.57 and the tree provisions of Chapter 17.58 of the Zoning Ordinance. The item currently before the Planning Commission is the amendments to the tree provisions of Chapter 17.58. The landscape provisions of Chapter 17.57 will be brought to the Planning Commission separately at a future date following additional work with the Landscape Review Committee.

A revised draft of amendments to Chapter 17.58 is attached as **Attachment 1**. Staff is recommending approval of the proposed amendments to Chapter 17.58.

Background:

Proposed amendments were recommended by the Landscape Review Committee, and the amendments are intended to address a limited, narrow scope of issues. The current proposal is

not intended to address a broader review of tree- and landscaping-related issues which would be undertaken at a future date in conjunction with broader review of natural feature issues and policy considerations.

Following the initial recommendation of the Landscape Review Committee (LRC), there have been some further discussions with the LRC, staff, and agencies regarding additional issues.

Discussion:

The proposed amendments to Chapter 17.58 are intended to address key issues summarized below.

Chapter 17.58. Trees

Currently, Chapter 17.58 of the Zoning Ordinance requires applications for permits for tree removal and major pruning to be reviewed and approved by the Landscape Review Committee for any of the following:

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

Other than for exemptions specified in Section 17.58.060, the following criteria currently apply to applications for tree removal or major pruning.

- 17.58.050 Review Criteria. A permit for major pruning or tree removal shall be granted if any of the following criteria apply:
- A. The tree is unsafe, dead, or diseased as determined by a Certified Arborist.
 - B. The tree is in conflict with public improvements.
 - C. The proposed removal or pruning is part of an approved development project, a public improvement project where no alternative is available, or is part of a street tree improvement program.
 - D. Verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

Further, approval of a tree removal application is typically conditioned on replacement with a suitable tree selected from the approved street tree list, planted subject to applicable specifications.

The key provisions of the amendments proposed to Chapter 17.58 are:

- To define two classes of applications for tree removal and major pruning: “simple” and “complex”, where applications for “simple” removal and major pruning would be reviewed by staff and “complex” applications would be reviewed by the

Landscape Review Committee. The purpose is to streamline the review of those applications which have routinely been deemed necessary and have been approved by the Landscape Review Committee, while ensuring other applications continue to be reviewed by the Committee.

- The Committee has also recommended that the applicability provision be amended to remove the following from Section 17.58.020(C), *“All trees with trunks located completely within any private property which directly affect public infrastructure including but not limited to sewers, water mains, sidewalks, streets, public property, or clear vision distances at street intersections.”*
- The Committee has also recommended changes to street tree standards in Section 17.58.090(E) to reduce the spacing requirements between street trees and certain utilities to ensure there are adequate areas where street trees can be planted as there are more narrow lots and closer spacing of utility services.

The revised draft includes additional revisions to address issues below. The draft amendments attached as **Attachment 1** show the original draft language in **black bold text** for additions and ~~black strikeout text~~ for deletions. The additional proposed revisions are shown in **red mark-up text**.

- The original draft included criteria that required staff “shall” approve applications for simple tree removal permits without consideration of alternatives that could potentially resolve an issue without tree removal. This would have also applied to healthy, large, mature trees. The revised draft allow staff to consider options to resolve issues without tree removal.
- The original draft used the same criteria for simple street tree removal permits and major pruning permits. There are situations where major pruning is necessary, where the criteria for tree removal aren’t applicable. Therefore, separate criteria have been provided for major pruning.
- The original draft specified that applications for complex tree removal permits were to be reviewed by the Landscape Review Committee, but didn’t specify criteria. The updated draft includes review criteria for complex tree removal permit applications.
- Some of the street tree planting standards pre-dated adoption of the City’s current “Complete Street” standards and were in conflict with the street tree provisions of the current “Complete Street” standards. This section has been updated to provide internal consistency between code provisions.
- The original draft proposed closer spacing standards between street trees and utilities. Staff received comments from Public Works and McMinnville Water and Light (MWL) regarding these provisions. In addition, the street tree planting standards specify that street trees are not to be planted closer than 10 feet to a fire hydrant, and this was proposed to be amended to 5 feet. However, the Oregon Fire Code requires an 8-foot separation, and this needs to be consistent with the Fire Code. Staff recommends these provisions be left as existing at this time and be reviewed further with Public Works, the Fire Marshal, and McMinnville Water and Light and brought back to the Planning Commission for amendment when the amendments to Chapter 17.57 are brought to the

Planning Commission for public hearing. MWL also recommended additional language to the applicability/exemption provisions as they relate to provisions of state law regarding tree and vegetation work related to electric line clearance. Staff recommends those provisions be reviewed internally and brought back to the Planning Commission at the same time.

Attachments:

- Attachment 1. Draft Amendments
- Attachment 2. Decision Document

Recommendation/Suggested Motion:

Staff recommends that the Planning Commission make the following motion recommending approval of Docket G 3-23 amendments to Chapter 17.58 of the Zoning Ordinance to the City Council.

"I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY COUNCIL APPROVE DOCKET G 3-23 TEXT AMENDMENTS TO CHAPTER 17.58 OF THE ZONING ORDINANCE AS PROPOSED."

Chapter 17.58

TREES

(as adopted by Ord. 4654B Dec. 9, 1997)

Sections:

- 17.58.010 Purpose.
- 17.58.020 Applicability.
- 17.58.030 Definitions.
- 17.58.040 Tree Removal/Replacement.
- 17.58.045 Downtown Trees.
- 17.58.050 Review Criteria.
- 17.58.060 Permit Exemptions.
- 17.58.070 Topping.
- 17.58.075 Protection of Trees.
- 17.58.080 Street Tree Planting - When Required.
- 17.58.090 Street Tree Standards.
- 17.58.100 Street Tree Plans.
- 17.58.110 Street Tree Planting.
- 17.58.120 Street Tree Maintenance.

17.58.010 Purpose. The purpose of this ordinance is to establish and maintain the maximum amount of tree cover on public and private lands in the city; reduce costs for energy, stormwater management, and erosion control; provide tree-lined streets throughout the city; select, situate and maintain trees appropriately to minimize hazard, nuisance, damage, and maintenance costs; to enhance the appearance, beauty and charm of the City; to increase property values and build stronger ties within neighborhoods; to implement applicable adopted Downtown Improvement Plan provisions; to promote a diverse, healthy, and sustainable community forest; and to educate the public regarding community forest issues. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

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

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

17.58.030 Definitions. For the purpose of this section, refer to Section 17.06.045 for Tree related definitions. (Ord. 4952 §1, 2012).

17.58.040 Tree Removal/Replacement

- A. The removal or major pruning of a tree, if applicable under Section 17.58.020, shall require City approval, unless specifically designated as exempt by this ordinance. Persons wishing to remove or prune such trees shall file an application for a permit with the McMinnville Planning Department. The applicant shall include information describing the location, type, and size of the subject tree or trees, and the reasons for the desired action, and the costs associated with tree removal, replacement, and repair of any other public infrastructure impacted by the tree removal or major pruning. ~~Only requests-applications for tree removal or pruning of trees not meeting the simple removal criteria outside of the Downtown Tree Zone~~Complex Tree Removal Permits shall be forwarded to the McMinnville Landscape Review Committee for a decision within 30 (thirty) days of submittal. Requests for tree removal within the Downtown Tree Zone shall be submitted to the McMinnville Planning Department. Such requests shall be acted upon as soon as practicable, with consideration given to public safety, value of the tree to the public, and work schedules. The Planning Director or their designee should attempt to make decisions on such requests within five calendar days of submittal. The Landscape Review Committee or Planning Director, as appropriate, may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. A decision of the committee or Director may be appealed to the Planning Commission if written notice of the appeal is filed with the Planning Department within 15 (fifteen) days of the committee's or Director's decision. A decision made by the Planning Director in response to a request to remove an unsafe tree, or a tree causing repeated and excessive damage to sidewalks or other public or private improvements or structures shall be final, unless appealed by the applicant; no other party shall have standing to appeal.
- B. Trees subject to this ordinance which are approved for removal or pruning shall be removed or pruned following accepted arboricultural pruning standardspractices, such as those published by the International Society of Arboriculture (ISA) and any standards adopted by the City. The Planning Director, after consultation with appropriate city staff and/or a certified arborist, shall direct removal of downtown trees that are identified in a current Downtown Tree Zone inventory assessment as unhealthy, dangerous to the public, inappropriate for the downtown area, or otherwise in need of removal.
- C. The applicant shall be responsible for all costs associated with the tree removal or pruning, or as otherwise required by this ordinance, and shall ensure that all work is done in a manner which ensures safety to individuals and public and private property.

- D. Approval of a request to remove a tree may be conditioned upon replacement of the tree with another tree approved by the city, or a requirement to pay to the city an amount sufficient to fund the planting and establishment by the city of a tree, or trees, of similar value. The value of the existing tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. Every attempt should be made to plant replacement trees in the same general location as the tree being removed. In the event that a replacement tree cannot be planted in the same general location, a condition of approval may be required to allow for the replacement tree to be planted in another location in the City as part of the City's annual tree planting program.
- E. The applicant is responsible for grinding stumps and surface roots at least six inches below grade. At least a two inch thick layer of topsoil shall be placed over the remaining stump and surface roots. The area shall be crowned at least two inches above the surrounding grade to allow for settling and shall be raked smooth. The applicant shall restore any damaged turf areas and grades due to vehicular or mechanical operations. The area shall be re-seeded.
- F. The applicant shall complete the tree removal, and tree replacement if required, within six months of receiving notification of the Director's or Landscape Review Committee's decision. The Director or Landscape Review Committee may allow for additional time to complete the tree replacement to allow for planting in favorable seasons and to promote tree survivability.
- G. Other conditions may be attached to the permit approval by the Director or McMinnville Landscape Review Committee as deemed necessary.
- H. The planting of street trees shall be subject to the design drawings and specifications developed by the City in May 2014, as may be subsequently amended. Specific design drawings and specifications have been developed for trees outside the Downtown Tree Zone. Such design specifications may be periodically updated by the City to include specifications such as tree root barriers, watering tubes or structures, tree grates, and removable pavers, and shall graphically describe the proper method for planting trees to minimize the potential for sidewalk / tree root conflict. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.045 Downtown Trees.

- A. The pruning and removal of street trees within the Downtown Tree Zone shall be the responsibility of the City, and shall be undertaken at public expense.
- B. The planting of street trees shall be subject to the design drawings and specifications developed by the City in May 2014. Specific design drawings and specifications have been developed for trees within the Downtown Tree Zone. Such design specifications may be periodically updated by the City to

include specifications such as tree root barriers, watering tubes or structures, tree grates, and removable pavers, and shall graphically describe the proper method for planting trees within the Downtown Tree Zone to minimize the potential for sidewalk / tree root conflict.

- C. The City shall adopt implementation measures that cause, through rotation over time, the development of a variable aged stand of trees within the Downtown Tree Zone. In order to implement this policy, the Planning Director shall authorize, but shall limit, annual tree removal within the downtown to no more than three (3) percent of the total number of existing downtown trees in the Downtown Tree Zone.
- D. A street tree within the Downtown Tree Zone may be removed if the Planning Director determines that the tree is causing repeated and excessive damage to sidewalks or other public or private improvements or structures. (Ord. 5027 §2, 2017).

17.58.050 Application Review and Criteria.

A. Application for Simple Tree Removal Permit.

- 1. Review. Applications for simple tree removal permits shall be reviewed by the Director or Director's designee in accordance with the requirements of this Chapter on a form containing information required by the Director. ~~major pruning or tree removal shall be granted by staff if any of the following criteria apply:~~
- 2. Criteria. Each tree proposed for removal must meet at least one of the following criteria:
 - a. The tree is a hazard as determined by a Certified arborist, and the arborist has demonstrated that less intensive options than removal, such as pruning, cabling, or bracing of limbs would not abate the hazard or would have a significant adverse effect on the health of the tree.
 - b. The tree is dead or in an advanced state of decline.
 - c. The tree species is on the nuisance list for Oregon or the list of invasive trees published by OSU Extension.
 - d. Tree is infested with pests or disease.
 - e. The tree roots causing damage to sidewalks for other infrastructure, and the damage can't reasonably be abated without removing the tree. In evaluating whether the damage can be reasonably abated without removing the tree, consideration shall be given to impacts of the necessary abatement on the tree's health, further damage to infrastructure that would occur if the tree is retained, and alternative methods of abatement that would retain and protect the tree and prevent further damage. When considering reasonable abatement methods, greater priority shall be placed on retention of larger, healthy trees.
 - f. The tree has sustained physical damage to an extent that necessitates its removal to address an issue of safety or tree health and aesthetics.
 - g. The proposed removal or pruning is part of an approved development project, a public improvement project where no reasonable alternative is

available, or is part of a street tree improvement program. When considering reasonable alternatives, greater priority shall be placed on retention of larger, healthy trees.

g-h. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list the decision shall also meet any applicable requirements related to the protection of such trees.

3. Arborist Verification. In order to meet any of the above criteria for removal verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City. The Director may waive the requirement for verification by an Arborist if it is reasonable to determine a tree is dead by inspection or other documentation required by the Director. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

2.4. At the Director's discretion, any simple tree removal permit application may be referred to the Landscape Review Committee for review, to be reviewed by the Committee within 30 days of submittal of the application.

B. Application for Tree Major Pruning Permit.

1. Review. Applications for major pruning of trees shall be reviewed by the Director or Director's designee in accordance with the requirements of this Chapter on a form containing information required by the Director.

2. Criteria. Each tree proposed for major pruning shall meet all of the following criteria.

a. The pruning is necessary to reduce risk of hazard, maintain or improve tree health and structure, or improve aesthetics in accordance with accepted arboricultural practices, or to achieve compliance with public standards such as vision clearance, vertical clearance above sidewalks or roadways, or separation from overhead utilities.

b. The proposed pruning shall be consistent with the public purposes of Section 17.58.010 and shall not adversely affect the health of the tree. When pruning is necessary to reduce risk of hazard or achieve compliance with public standards, the tree structure and aesthetics shall be maintained to the extent practicable.

c. The proposed pruning will be performed consistent with accepted arboricultural practices, such as those published by the International Society of Arboriculture (ISA).

d. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list, the decision shall also meet any applicable requirements related to the protection of such trees.

3. Arborist Verification. In order to meet any of the above criteria for major pruning, verification of the need and consistency with the criteria for the proposed pruning shall be required, at the expense of the application, by a Certified Arborist acceptable to the City.
4. At the Director's discretion, any application for major pruning of a tree may be referred to the Landscape Review Committee for review, to be reviewed by the Committee within 30 days of submittal of the application.

C. Application for Complex Tree Removal Permit.

1. Review. Applications for complex tree removal permits shall be reviewed by the Landscape Review Committee in accordance with the procedures of this Chapter on a form containing information required by the Director.
2. Criteria. An application for a complex tree removal permit shall meet all of the following criteria:
 - a. The tree removal is necessary to address a public purpose that is not addressed by the criteria for a Simple Tree Removal Permit, and the application does not merely circumvent the requirements for a Simple Tree Removal Permit.
 - b. The tree removal is necessary to promote the public health, safety, welfare, and/or to accomplish a public purpose or program identified in the City's adopted plans, goals, and/or policies.
 - c. The tree removal will be consistent with the overall furtherance of a healthy urban forest, including healthy, attractive street trees.
3. The Landscape Review Committee may apply conditions of approval as specified in this Chapter and as may be necessary to offset the impact of the tree removal.
4. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list, the decision shall also meet any applicable requirements related to the protection of such trees.

~~B. Complex removal permit: major pruning or tree removal for any other reason than listed above in 17.58.050.A. shall be referred to the landscape review committee for decision.~~

17.58.060 Permit Exemptions.

- A. Emergency Removal of Hazardous Tree - If an imminent danger exists to the public or any private property owner or occupant, the City may issue an emergency removal permit. The removal shall be in accordance with International Society of Arboriculture (ISA) standards.
- B. Tree Impacting Public Infrastructure – If a tree is causing damage to or impacting public infrastructure that the adjacent property owner is not

responsible for repairing, such as pedestrian ramps, utility vaults, or public storm or sanitary sewer lines, the tree removal may be approved by the Planning Director or their designee. The removal shall be in accordance with International Society of Arboriculture (ISA) standards. In the event that a replacement tree cannot be planted in the same general location as the tree removed, the replacement tree may be planted in another location in the City as part of the City's annual tree planting program.

- C. Maintenance - Regular pruning maintenance which does not require the removal of over 20 percent of the tree's canopy, tree topping, or the disturbance of over 10 percent of the tree's root system is exempt from the provisions of this ordinance.
- D. Removal of downtown trees at the direction and initiative of the City Planning Director. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.070 Tree Topping It shall be unlawful for any person, firm, or the City to top any tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where normal pruning practices are impractical may be exempted at the determination of the Director or McMinnville Landscape Review Committee, applying criteria developed by the City. (Ord. 4654B §1, 1997).

17.58.075 Protection of Trees

- A. It shall be unlawful for any person to remove, destroy, break, or injure any street tree or public tree. Individuals convicted of removing or destroying a tree without City approval shall be subject to paying to the City an amount sufficient to fund the planting and establishment of a tree, or trees, of similar value. The value of the removed or destroyed tree shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers.
- B. It shall be unlawful for any person to attach or keep attached to any street or public tree or to the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device, except as a support for such tree.
- C. During the construction, repair, alteration or removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or public tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.
- D. Excavations shall not occur within the drip line of any street tree or public tree without approval of the City, applying criteria developed by the Landscape Review Committee. Utility pole installations are exempted from these requirements. During such excavation or construction, any such person shall guard any street tree or public tree within the drip line, or as may be required by the Director or Landscape Review Committee.

- E. All building material or other debris shall be kept outside of the drip line of any street tree or public tree. (Ord. 4654B §1, 1997).

17.58.080 Street Tree Planting—When Required. All new **residential** development, commercial or industrial development, subdivisions, partitions, or parking lots fronting on a public roadway which has a designated curb-side planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 17.58.090. (Ord. 4654B §1, 1997).

17.58.090 Street Tree Standards.

- A. The species of the street trees to be planted shall be chosen from the McMinnville Street Tree List, as approved by **Resolution 2019-26**, and as may have been subsequently amended, unless approval of another species is given by the ~~McMinnville~~-Landscape Review Committee. The Landscape Review Committee may periodically update the McMinnville Street Tree List as necessary to reflect current arborist practices and industry standards.
- B. Street trees shall be a minimum of two (2) inches in caliper measured at six (6) inches above ground level. All trees shall be healthy grown nursery stock with a single straight trunk, a well-well-developed leader with tops and roots characteristic of the species cultivar or variety. All trees must be free of insects, diseases, mechanical injury, and other objectionable features when planted.
- C. Small or narrow stature trees (under 25 feet tall and less than 16 feet wide branching) should be spaced no greater than 20 feet apart; medium sized trees (25 feet to 40 feet tall, 16 feet to 35 feet wide branching) should be spaced no greater than 30 feet apart; and large trees (over 40 feet tall and more than 35 feet wide branching) should be spaced no greater than 40 feet apart. Within residential developments, street trees should be evenly spaced, with variations to the spacing permitted as approved by the City for specific site limitations and safety purposes. Within commercial and industrial development staggered, or irregular spacing is permitted, as may be approved by the McMinnville Landscape Review Committee. When planting replacement trees within the Downtown Tree Zone, consideration shall be given to the height of adjacent buildings.
- D. Except as provided in this Section, street trees shall be planted within a curbside planter strip or tree wells consistent with the applicable standards and dimensions of the City's adopted Complete Street standards, with the street trees centered between back of curb and front of sidewalk. However, where a street with sidewalk was previously constructed to a different standard, the Planning Director may authorize deviation to the street tree planting standards, with street trees planted in a narrower planter strip or behind the sidewalk. When located adjacent to a local residential street or minor collector street, Except when authorized by the Director, street trees shall not be planted within a curbside landscape strip measuring a minimum of three (3) narrower than four (4) feet in width between the sidewalk and curb. When nonconforming conditions do not allow for trees to be planted in

tree wells or planter strips along major collector or arterial streets per the adopted Complete Street standards, Sstreet trees adjacent to major collector streets or arterial streets shall be placed a minimum of ~~four (4)~~ **five (5)** feet from the back edge of the sidewalk. Except when authorized by the Director, In no case shall a a street tree shall not be planted closer than two and one-half (2 1/2) feet from the face of a curb. These standards may be superseded by design drawings and specifications as periodically developed and adopted by the City.

~~E.~~ Street trees shall not be planted within ~~ten (10) feet of fire hydrants, utility poles, sanitary sewer, storm sewer or water lines, or within twenty (20) feet of street light standards or street intersections, two (2) feet on center from any underground utility, eight (8) feet from fire hydrants, ten (10) feet of street light standards or street intersections,~~ or within five (5) feet of a private driveway or alley. New utility poles shall not be located within five (5) feet of an existing street tree. Variations to these distances may be granted by the Public Works Director and as may be required to ensure adequate clear vision.

Street trees shall not be planted within ten (10) feet of fire hydrants, utility poles, sanitary sewer, storm sewer or water lines, or within twenty (20) feet of street light standards or street intersections, or within five (5) feet of a private driveway or alley. New utility poles shall not be located within five (5) feet of an existing street tree. Variations to these distances may be granted by the Public Works Director and as may be required to ensure adequate clear vision.

~~E.F.~~ Existing street trees shall be retained unless approved by the Planning Director for removal during site development or in conjunction with a street construction project. Sidewalks of variable width and elevation may be utilized as approved by the Planning Director to save existing street trees. Any street tree removed through demolition or construction within the street right-of-way, or as approved by the City, shall be replaced within the street right-of-way at a location approved by the city with a tree, or trees, of similar value. As an alternative the property owner may be required to pay to the City an amount sufficient to fund the planting and establishment by the city of a tree of similar value. The value of the existing street tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. The developer or applicant shall be responsible for the cost of the planting, maintenance and establishment of the replacement tree.

~~F.G.~~ Sidewalk cuts in concrete for tree planting shall be a minimum of four feet by six feet, with the long dimension parallel to the curb, and if located within the Downtown Tree Zone shall follow the design drawing or updated design

drawings and specifications as periodically developed and adopted by the City. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.100 Street Tree Plans

A. Submittal.

1. Subdivisions and Partitions: Street tree planting plans shall be submitted to the Landscape Review Committee for review and approval prior to the filing of a final subdivision or partition plat.
2. Commercial, Industrial, Parking Lots, and Multi-family Residential Development: Landscape plans, to include street tree planting as may be required by this ordinance, shall be submitted to the Landscape Review Committee for review and approval prior to the issuance of a building permit.

B. Street Tree Plan Content. At a minimum, the street tree planting plan should:

1. Indicate all existing trees, noting location, species, size (caliper and height) and condition;
2. Indicate whether existing trees will be retained, removed or relocated;
3. Indicate the measures to be taken during site development to ensure the protection of existing trees to be retained;
4. Indicate the location, species, and size (caliper and height) of street trees to be planted;
5. Indicate the location of proposed and existing utilities and driveways; and
6. Indicate the location of rights-of-way, existing structures, driveways, and existing trees including their species, size, and condition, within twenty feet of the subject site. (Ord. 4654B §1, 1997).

17.58.110 Street Tree Planting

A. Residential subdivisions and partitions.

1. Planting Schedule: Street trees required of residential subdivisions and partitions shall be installed prior to submittal of a final subdivision plat or partition plat. As an alternative the applicant may file a surety bond or other approved security to assure the planting of the required street trees, as prescribed in Section 17.53.153.

B. Commercial, Industrial, Multi-family, Parking Lot Development.

1. Planting Schedule: Street trees required of a commercial, industrial, multi-family, or parking lot development shall be installed at the time all other required landscaping is installed. (Ord. 4654B §1, 1997).

17.58.120 Street Tree Maintenance.

- A. Street trees shall be continually maintained, including necessary watering, weeding, pruning and replacement, by the developer or property owner for one full growing season following planting, or as may be required by the City.

- B. Street tree plans, or landscape plans including street trees, shall be maintained in perpetuity. In the event that a street tree must be replaced, the adjacent property owner or developer shall plant a replacement tree of a species from the approved street tree or landscape plan.
- C. Maintenance of street trees, other than those located in the Downtown Tree Zone shall be the continuing obligation of the abutting property owner. The City shall undertake regular maintenance of street trees within the Downtown Tree Zone in accordance with appropriate horticultural practices including pruning and fertilizing to properly maintain the health of such trees. (Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).
- D. Street trees, as they grow, shall be pruned to provide at least eight (8) feet of clearance above sidewalks and thirteen (13) feet above local streets, fifteen (15) feet above collector streets, and eighteen (18) feet above arterial streets. This provision may be waived in the case of newly planted trees so long as they do not interfere with public travel, sight distances, or endanger public safety as determined by the City. Major pruning, as defined in Section 17.58.020, of a street tree must be approved by the City in accordance with Section 17.58.040. (Ord. 5027 §2, 2017; Ord. 4654B §1, 1997).



**City of McMinnville
Community Development**
231 NE Fifth Street
McMinnville, OR 97128
503-434-7311
www.mcminnvilleoregon.gov

DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE ZONING ORDINANCE, DOCKET G 3-23, RELATING TO TREE PROVISIONS AND AMENDING CHAPTER 17.58.

DOCKET: G 3-23

REQUEST: The City of McMinnville is proposing amendments to Chapter 17.58 of the Zoning Ordinance regarding trees. The proposal would create categories of “simple” and “complex” permits for major pruning or removal of trees which are subject to Chapter 17.58. Applications for simple permits and major pruning would now be reviewed by staff, while applications for complex permits would continue to be reviewed by the Landscape Review Committee.

LOCATION: N/A. The proposal is a legislative text amendment.

ZONING: N/A. The proposal is a legislative text amendment.

APPLICANT: City of McMinnville

STAFF: Tom Schauer, Senior Planner

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: April 18, 2024, 6:30pm (last continued from February 15, 2024).
Hybrid In-Person and Zoom Online Meeting:

In Person: Kent Taylor Civic Hall, 200 NE 2nd Street, McMinnville

Zoom Meeting:
<https://mcminnvilleoregon.zoom.us/j/89368634307?pwd=M0REY3RVSzFH eFdmK2pZUmJNdkdSZz09>

Zoom Meeting ID: 893 6863 4307
Zoom Passcode: 989853

Or you can call in and listen via zoom: 1-253-215-8782
ID: 893 6863 4307

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 3-23) to the McMinnville City Council.

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

Planning Commission: _____ Date: _____
Sidonie Wlnfield, Chair of the McMinnville Planning Commission

Planning Department: _____ Date: _____
Heather Richards, Planning Director

I. APPLICATION SUMMARY

This docket originally included amendments to Chapter 17.57 of the Zoning Ordinance addressing landscape plans and landscaping and proposed amendments to Chapter 17.58 of the Zoning Ordinance addressing provisions for tree removal, major pruning of trees. and tree standards.

This work is now being addressed in two separate parts: the landscaping provisions of Chapter 17.57 and the tree provisions of Chapter 17.58 of the Zoning Ordinance. The current proposal is the amendments to the tree provisions of Chapter 17.58. The landscape provisions of Chapter 17.57 will be considered separately at a future date following additional work with the Landscape Review Committee.

This application is a legislative proposal for proposed amendments to Chapter 17.58 of the McMinnville Zoning Ordinance adopting amended procedures and provisions for processing of applications for permits for tree removal and major pruning of trees subject to Chapter 17.58 of the Zoning Ordinance.

The proposal would create categories of “simple” and “complex” permits for major pruning or removal of trees which are subject to Chapter 17.58. Applications for simple permits and major pruning would now be reviewed by staff, while applications for complex permits would continue to be reviewed by the Landscape Review Committee.

A revised draft of amendments to Chapter 17.58 is attached as ***Attachment 1***. Staff is recommending approval of the proposed amendments to Chapter 17.58.

II. ATTACHMENTS

- Attachment 1. Chapter 17.58. Proposed Amendments (on file with Planning Division)

III. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. On April 3, 2023 and May 9, 2023, notice of the application and the June 15, 2023 Planning Commission public hearing was provided to DLCDC.
2. On June 9, 2023, notice of the application and the June 15, 2023 Planning Commission public hearing was published in the News Register in accordance with Section 17.72.120 of the Zoning Ordinance.
3. On June 15, 2023, the Planning Commission held a duly noticed public hearing to consider the request. The hearing was continued to July 20, 2023. The hearing was subsequently continued to September 7, 2023, February 15, 2024, and April 18, 2024.
4. On April 18, 2024, the Planning Commission held a duly noticed public hearing to consider the request.

IV. 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:

Chapter 17.03. General Provisions.

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 continue to promote the public health, safety, convenience, and general welfare. The proposed amendments allow for procedures that provide efficient utilization of resources in processing routine permit applications, while ensuring the purposes and policies implemented through the standards continue to be achieved.

Chapter 17.58. Trees.

17.58.010 Purpose. The purpose of this ordinance is to establish and maintain the maximum amount of tree cover on public and private lands in the city; reduce costs for energy, stormwater management, and erosion control; provide tree-lined streets throughout the city; select, situate and maintain trees appropriately to minimize hazard, nuisance, damage, and maintenance costs; to enhance the appearance, beauty and charm of the City; to increase property values and build stronger ties within neighborhoods; to implement applicable adopted Downtown Improvement Plan provisions; to promote a diverse, healthy, and sustainable community forest; and to educate the public regarding community forest issues. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

FINDING: SATISFIED. The proposed amendments continue to achieve the purposes of Section 17.58.010, while streamlining the process for processing of routine tree permits.

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 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 this applicable Goal of Chapter X of the Comprehensive Plan.

Proposed amendments were developed with the appointed Landscape Review Committee, and the public hearing process provides further opportunity for consideration of citizen involvement and input and associated deliberation.

The proposed amendments make adjustments to the current review procedures so that routine tree removal and pruning permits would be reviewed by staff, while providing for review of more complex applications by the appointed Landscape Review Committee, providing a higher level of engagement for those more complex and less routine applications.



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EXHIBIT 4 – STAFF REPORT

DATE: April 18, 2024
TO: Planning Commission Members
FROM: Heather Richards, Community Development Director
SUBJECT: S 1-21. Land-Use Decision Extension Request

STRATEGIC PRIORITY & GOAL:

 <p>GROWTH & DEVELOPMENT CHARACTER Guide growth & development strategically, responsively & responsibly enhance our unique character.</p>	 <p>HOUSING OPPORTUNITIES (ACROSS THE INCOME SPECTRUM) Create diverse housing opportunities that support great neighborhoods.</p>
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Report in Brief:

This is the second request for a land-use decision extension of one year for S 1-21, a tentative subdivision plan for the Elysian Subdivision. The subject site is identified as Tax Lot R4418 00204 and is located generally east of Meadows Drive and south of 23rd Street and Fendle Way.

The Planning Director issued a land-use extension on July 28, 2023, extending the decision expiration from July 28, 2023, to July 28, 2024.

The applicant is now requesting an additional year extension to July 28, 2025. This action does not require a public hearing.

Background:

The land-use decision is for a Tentative Subdivision (S 1-21), for a 18 lot subdivision.

The subject property is a 3.79 acre parcel located generally east of Meadows Drive and south of 23rd Street and Fendle Way. It is zoned R3. The proposed subdivision will extend Meadows drive, creating a finished through street, and Fendle Way is proposed to be continued into the subdivision and terminated with a cul-de-sac. There is also a 16,925 SF open space tract along the southern property line which will contain stormwater facility and adjacent will be a 20-foot wide pedestrian access easement and 10 foot wide paved connection from Fendle to Meadows Drive. **See Exhibit 1 and 3.**

The subject property and properties to the north, east, and west, are zoned R-1, and property to the south is zoned R-2. Although the actual sizes of adjacent lots in the R-1 zone range from 4,600 to 6,400 square feet. The average lots proposed in this subdivision range between 5,436 at the smallest and 8,363 square feet at the largest. The proposed lot sizes are similar to the adjacent lots. **See Exhibit 2.** The predominant surrounding uses are single-family homes and duplexes to the north, single-family homes

to the east and south, and Jay Pearson Neighborhood Park to the west. The subject property is currently vacant with a natural drainageway generally running north to south on the property. Most lots would access off the proposed extension of Fendle Way, and six of the lots would access directly off of Meadows Drive.

Exhibit 1. Vicinity Map & Aerial Photo

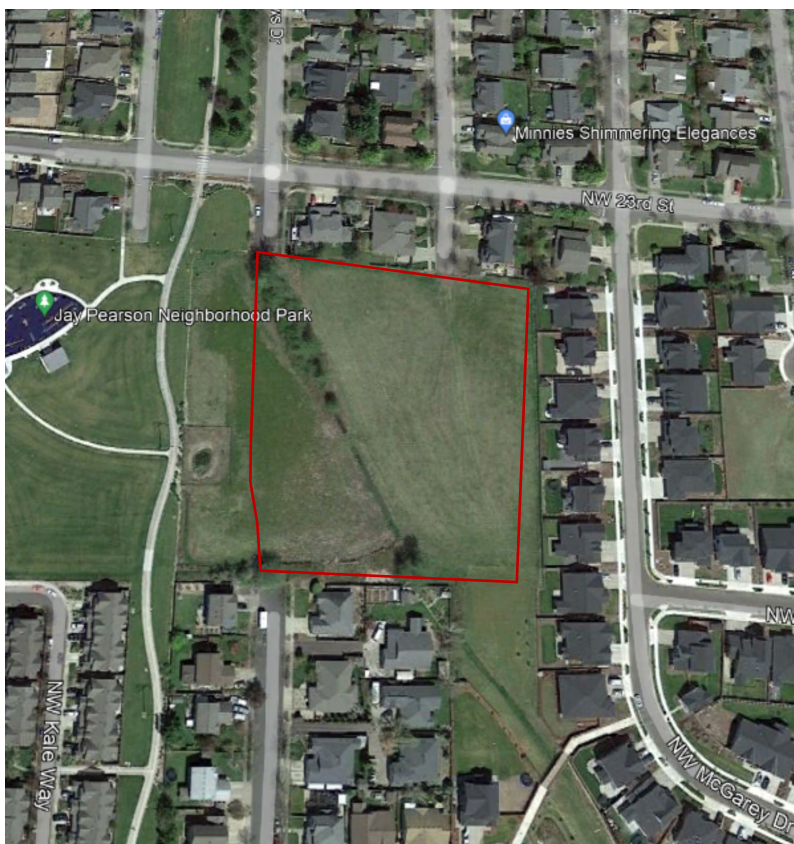
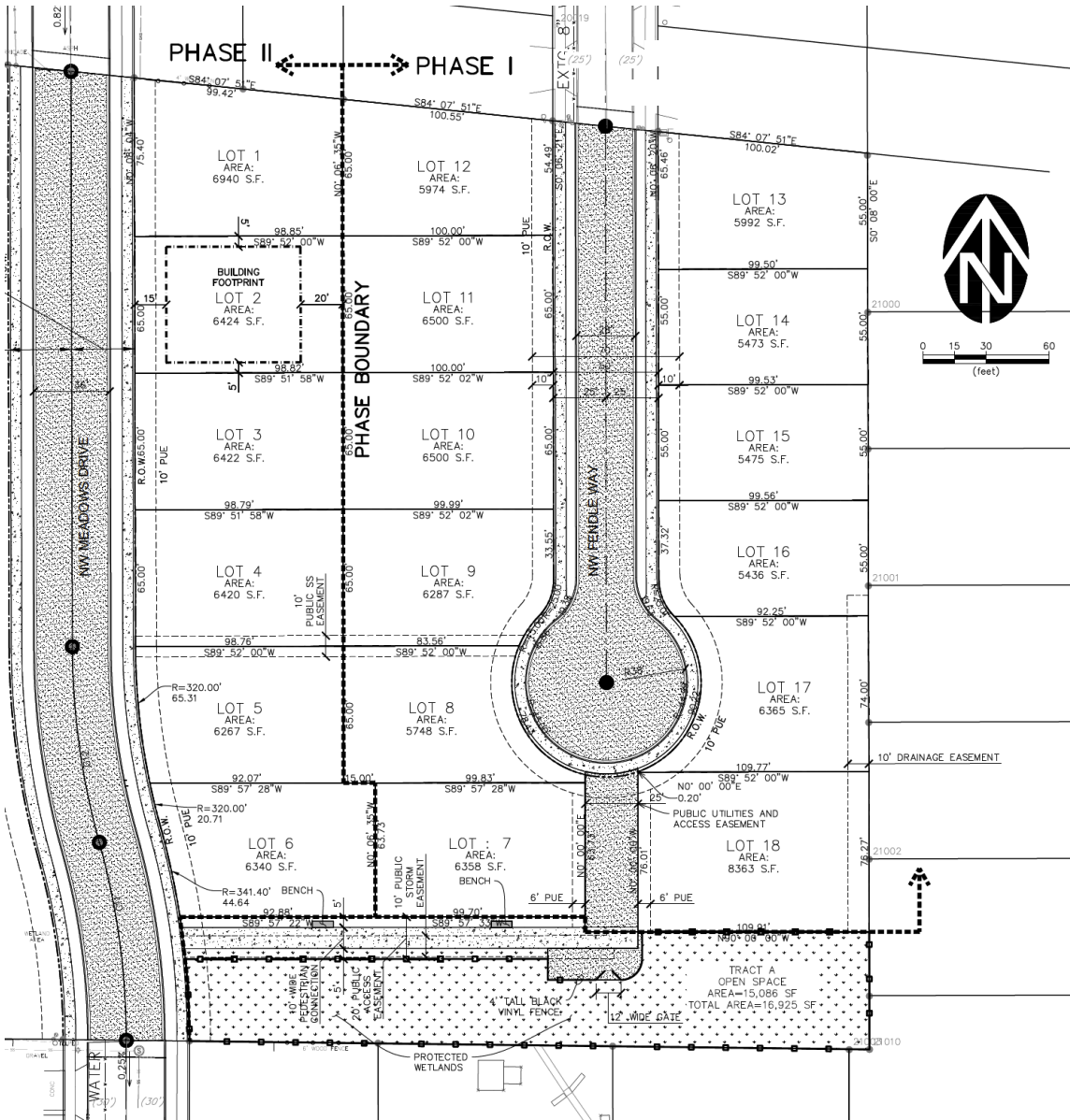


Exhibit 2. Approved Subdivision Tentative Plan



<p style="text-align: center;">PROFESSIONAL SEAL</p> <p style="text-align: center;">REGISTERED PROFESSIONAL ENGINEER</p> <p style="text-align: center;">WESTTECH ENGINEERING, INC.</p> <p style="text-align: center;">3841 Folsom Industrial Dr., S.E., Suite 100, Salem, OR 97302 Phone: (503) 585-2474 Fax: (503) 585-2886 E-mail: westtech@westtech-eng.com</p>	<p style="text-align: center;">REVIEW REVIEW</p> <p style="text-align: center;">PROFESSIONAL SEAL</p> <p style="text-align: center;">REGISTERED PROFESSIONAL ENGINEER</p> <p style="text-align: center;">WESTTECH ENGINEERING, INC.</p> <p style="text-align: center;">3841 Folsom Industrial Dr., S.E., Suite 100, Salem, OR 97302 Phone: (503) 585-2474 Fax: (503) 585-2886 E-mail: westtech@westtech-eng.com</p>
<p style="text-align: center;">VI-2 DEVELOPMENT</p> <p style="text-align: center;">ELYSIAN SUBDIVISION</p>	<p style="text-align: center;">OVERALL SUBDIVISION PLAN</p>
<p style="text-align: center;">DRAWING</p> <p style="text-align: center;">C2.0</p>	<p style="text-align: center;">JOB NUMBER</p>

Conditions of Approval:

Planned Development Overlay Requirements

1. The Elysian Subdivision plan shall be placed on file with the Planning Department and become a part of this planned development zone and binding on the developer. The developer will be responsible for requesting approval of the Planning Commission for any major change in the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by the Planning Director may be made only to the Planning Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.
2. The following standards shall be recorded with the planned development overlay.

Planned Development Overlay	Proposed Standards
Average Lot Size	6,000 sf
Minimum Lot Width	50 ft.
Minimum Setbacks	
- Front	15 ft.
- Street side	15 ft.
- Side	5 ft.
- Rear	20 ft.
- Garage	20 ft.
Maximum Height	35 ft.
Maximum Lot Coverage	80%
Minimum Landscape Area	20%

3. The majority of delineated wetland be preserved, and a minimum of two (2) wetland viewing areas that are accessible with seating be provided adjacent to the wetlands adjacent to the common open space Tract A. The developer and the Homeowner’s Association shall enter into a Revocable License Agreement with the City to establish and maintain wetland viewing areas in the public access easement that are accessible, meet city specifications and are maintained by the developer and Homeowner’s Association.
4. The City of McMinnville shall require evidence of compliance with all applicable local, state, and federal standards and regulations for wetland mitigation.
5. The following public amenities shall be included in the 20 foot public access easement connecting Fendle Way to Meadows Drive as approved by the Planning Director.:
 - a. Two benches as shown, or other public amenities such as art or stormwater and wetland educational components,
 - b. Split rail open black fencing or other fencing style aesthetically pleasing
 - c. Any exposed irrigation lines shall be black or camouflaged from the public view.
 - d. Walkway lighting shielded down as not to impact adjacent residents.
6. A direct Pedestrian connection to the Jay Pearson Park and the trail corridor is required. This connection shall connect Meadows Drive west to the existing trail corridor along the projects frontage. Approval by the Directors of Planning and Parks and Recreation is required prior to construction.

Subdivision Conditions

PRIOR TO COMMENCING SITE IMPROVEMENTS

7. The Applicant must submit plans showing the following required street improvements to Engineering for review and approval:

NW Meadows Drive (Minor Collector)

 - 60’ right-of-way dedication
 - 36’ paved width
 - 0.5’ curb

- 6' planter strip
- 5' sidewalk 1' from property line
- 10' public utility easement across road frontage, outside of right-of-way (on both sides of road.)

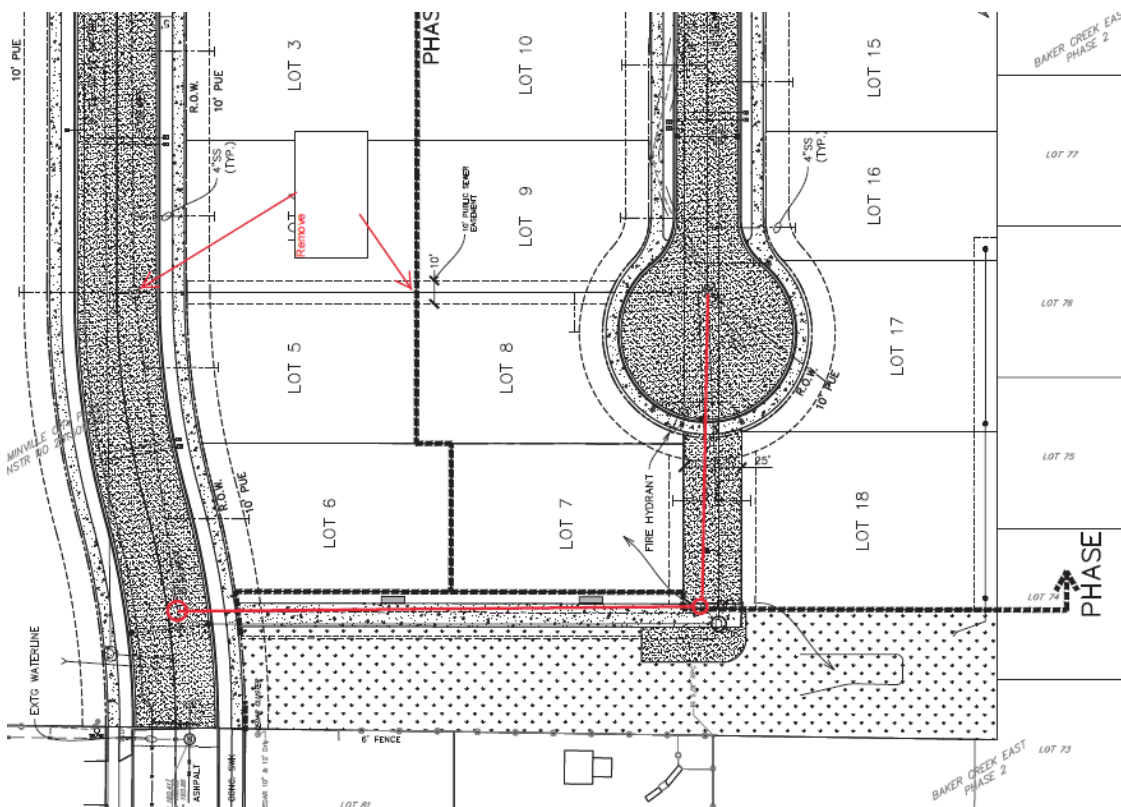
NW Fendle Way (Local Residential)

- 50' right-of-way dedication
 - 28' paved width
 - 0.5' curb
 - 5' planter strip
 - 5' sidewalk 1' from property line
 - 10' public utility easement across road frontage, outside of right-of-way (on both sides of road.)
 - The sidewalk shall be curb tight through the bulb of the cul-de-sac with the ROW extending 5' behind the sidewalk to place water utilities behind the sidewalk in the cul-de-sac.
8. The access to the storm pond will have a driveway approach with an 8" section of concrete or 6" section with #4 rebar and be PROWAG compliant. The access will be paved to city standards with 10" of 1 1/2" – 0 crushed rock under 2" of 3/4" – 0 crushed rock and a 3" level 2 WMAC paved section to accommodate maintenance vehicles.
 9. The pedestrian access off the end of Fendle Way shall be an improved 10-foot-wide concrete sidewalk connecting to the sidewalk on Meadows Drive. The pedestrian access will be located within a 20 foot wide continuous public access easement.
 10. Within the 20 foot public access easement it shall include public amenities such as two benches as shown, walkway lighting, split rail fencing, and upgraded landscaping, or other amenities as approved by the Planning Director.
 11. Prior to site work the Developer shall work with Planning and Parks and Recreation staff to site and design a direct Pedestrian connection to the Jay Pearson Park and trail corridor.
 12. On-street parking will not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb returns.
 13. The City Public Works Department will install, at the applicant's expense, the necessary street signage (including stop signs, no parking signage, and street name signage), curb painting, and striping (including stop bars) associated with the development. The applicant shall reimburse the City for the signage and markings prior to the City's approval of the final plat.
 14. The applicant shall submit cross sections for the public street system to be constructed. Cross sections shall depict utility location, street improvement elevation and grade, park strips, sidewalk location, and sidewalk elevation and grade. Said cross sections shall be submitted to the City Engineer for review and approval prior to submittal of the final plat. All such submittals must comply with the requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.
 15. Street grades and profiles shall be designed and constructed to meet the adopted Land Division Ordinance standards and the requirements contained in the Public Right-of-Way Accessibility Guidelines (PROWAG). Additionally, corner curb ramps shall be constructed to meet PROWAG requirements.
 16. That the street improvements shall have the City's typical "teepee" section.
 17. The applicant shall secure from the Oregon Department of Environmental Quality (DEQ) any applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.

18. The applicant shall secure all required state and federal permits, including, if applicable, those related to construction of the storm drain outfalls, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corp of Engineers. Copies of the approved permits shall be submitted to the City.
19. That the applicant submit evidence that all fill placed in the areas where building sites are expected is engineered. Evidence shall meet with the approval of the City Building Division and the City Engineering Division.

SANITARY SEWER

20. A detailed, engineered sanitary sewage collection plan, which incorporates the requirements of the City's adopted Conveyance System Master Plan, must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved sanitary sewage plan must be reflected on the final plat.
21. The City is proposing an alternate route for the sewer main as it prefers to avoid side lot sanitary sewer mains. Developers Engineer to determine if the proposed route is feasible.



STORM DRAINAGE

22. Prior to site work a detailed, engineered storm drainage plan, which satisfies the requirements of the City's Storm Drainage Master Plan, and that demonstrates that the existing downstream storm drainage system has adequate capacity, must be submitted to and approved by the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
23. No additional storm drainage runoff shall be conveyed onto any adjacent property without the appropriate public and/or private storm drainage easements. Copies of recorded private easements must be provided to the City prior to the City's approval of the final plat. Any offsite public easements must be dedicated to and accepted by the City prior to the City's approval of

the final plat. The HOA will be responsible for the maintenance for the wetland plantings and fencing.

PRIOR TO FINAL PLAT

24. Submit documents creating a Homeowner's Association for the subdivision and assigning to it maintenance responsibilities of any common ownership features must be submitted to and approved by the Planning Director. In order to assure that the Homeowner's Association maintains and repairs any needed improvements, the Covenants, Conditions, and Restrictions (CC&Rs) shall explicitly require the Homeowner's Association to provide notice to the City prior to amending the CC&Rs, and that all such amendments shall be subject to approval by the Planning Director. Additionally, the CC&Rs shall prohibit the Homeowner's Association from disbanding without the consent of the Planning Director. The CC&Rs shall be reviewed by and subject to City approval prior to final plat approval.
25. Prior to final plat the restrictive Covenants, Conditions, and Restrictions (CC&Rs) shall be prepared for the development and approved by the Planning Director.
26. The final plat shall reflect that access to the detention pond will be granted to the City for maintenance of the structures.
27. The final plat shall reflect that Tract A will be private.
28. The final plat shall reflect that the pedestrian pathway within tract A will be privately maintained but have a public access easement over its entirety.. The tract shall have private maintenance agreements which must be approved by the City prior to the City's approval of the final plat.
29. The final plat shall reflect that the sanitary line between Fendle Way and Meadows Dr shall be public.
30. Street names shall be submitted to the Planning Director for review and approval prior to submittal of the final plat.
31. The final plat shall include 10-foot public utility easements along both sides of all public rights-of-way for the placement and maintenance of required utilities.
32. The final plat shall include use, ownership, and maintenance rights and responsibilities for all easements and tracts.
33. The final plat shall include a public access easement from the terminus of Fendle Way to Meadows Drive.
34. The required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.
35. Prior to final plat the applicant shall submit a draft copy of the subdivision plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two copies of the final subdivision plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinville Water and Light and the County for appropriate signatures and for recording.

36. The City will not maintain the proposed enhanced wetland facility or proposed bioswale along the south boundary of the subject property. The City will maintain the structures (inlets, outfalls, WQ manholes, flow control MH's, etc).
37. All of Tract A, including the proposed wetland and associated pedestrian path should remain private.
38. Prior to final plat the applicant shall submit an application for a street tree plan and landscaping for Tract A and the pedestrian path to the Landscape Review Committee for review and approval prior to final plat submittal in accordance with Section 17.58. 100 of the Zoning Ordinance. The plan shall provide sufficient detail about location of utility services to the lots, locations of street lights, pedestals, and meter boxes, to evaluate the suitability of proposed street tree planting locations.
39. Prior to final plat all street trees shall be installed or security in place. All trees shall be a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and be spaced as appropriate for the selected species and as may be required for the location of above ground utility vaults, transformers, light poles, and hydrants.
40. Submit a Subdivision Design Application form to McMinnville Water and Light. The project will require the developer to enter into a Line Extension Agreement (contract) with McMinnville Water and Light (MW&L). The public water system will need to be designed by the Developer's engineer and reviewed/approved by MW&L.
41. Submit a Subdivision Design Application form to McMinnville Water and Light. The project will require the developer to enter into a Line Extension Agreement (contract) with McMinnville Water and Light. The portion of the PUE included in the Drainage Improvements abutting NW Meadows needs to be constructed with an elevation and profile that ensures utilities can be extended through it in a typical manner.

PRIOR TO ISSUANCE OF BUILDING PERMITS

42. The applicant shall coordinate the location of clustered mailboxes with the Postmaster, and the location of any clustered mailboxes shall meet the accessibility requirements of PROWAG and the State of Oregon Structural Specialty Code.
43. The applicant shall install fire hydrants to serve this development as may be required by the McMinnville Fire Department. Also, if fire hydrants are required, they shall be in working order prior to the issuance of building permits.
44. On-street parking will be restricted at all street intersections, in conformance with the requirements of the City's Land Development Ordinance.
45. The applicant shall provide a minimum of twenty-five percent (25%) of the single-family lots for sale to the general public. The applicant shall provide information detailing the number of lots that will be made available for individual sale to builders for review and approval by the Planning Director prior to recording of the final plat. Upon approval, the referenced lots will be made available for sale to the general public for a minimum of one hundred eighty (180) days.
46. Prior to issuance of building permits all applicable SDCs, including Parks SDCs shall be paid.
47. Prior to issuance of building permits Housing Variety shall be ensured. The neighborhood shall have a variety of building forms and architectural variety to avoid monoculture design.
48. If a security was provided prior to final plat for installation of street trees, the applicant shall complete installation of street trees, per the timing described in Subsection (B) below. The applicant shall plant street trees within curbside planting strips in accordance with the approved

street tree plan. All street trees shall be of good quality and shall conform to American Standard for Nursery Stock (ANSI Z60.1). The Planning Director reserves the right to reject any plant material which does not meet this standard.

- A. Trees shall be provided with root barrier protection in order to minimize infrastructure and tree root conflicts. The barrier shall be placed on the building side of the tree and the curb side of the tree. The root barrier protection shall be placed in 10-foot lengths, centered on the tree, and to a depth of eighteen (18) inches. In addition, all trees shall be provided with deep watering tubes to promote deep root growth.
- B. Each year the applicant shall install street trees, from November 1 to March 1, adjacent to those properties on which a structure has been constructed and received final occupancy. This planting schedule shall continue until all platted lots have been planted with street trees.
- C. It shall be the applicant's responsibility to relocate trees as may be necessary to accommodate individual building plans. The applicant shall also be responsible for the maintenance of the street trees, and for the replacement of any trees which may die, for one year from the date of planting

49. Any improvements which were secured prior to final plat approval shall be completed in accordance with the construction permit agreement.

Discussion:

Subdivision decisions are good for one year. The Planning Commission hosted public hearings on April 21, 2022 and May 19, 2022, voting to recommend approval to the City Council. On June 28, 2022, the City Council voted to approve S 1-21. Per section 17.53.075 of the McMinnville Municipal Code, applicants can request a one-year extension that the Planning Director may approve, and any additional extension requests need to be approved by the Planning Commission.

On July 28, 2023, the applicant requested an administrative one-year land-use decision extension, due to the delay in receiving a wetlands mitigation approval from the Department of State Lands. The Planning Director reviewed the request and issued a land-use extension on July 28, 2023, extending the deadline to July 28, 2024.

The applicant is now in contract to sell the property to Alan Ruden Construction. Brian Ruden, representing Alan Ruden Construction has requested an additional one-year extension to finish the conditions of approval required for the subdivision plat to record the final plat. (Please see attached letter).

The Planning Commission should consider whether or not the land-use regulations have changed significantly for subdivisions since the decision was first rendered. If they have, then the land-use extension should be denied. If the land-use regulations for subdivisions have not changed since the initial decision, then the land-use extension approval should be approved.

Attachments:

Land Use Extension Request Letter
July 28, 2023 Land Use Extension Approval – Planning Director’s Decision

Recommendation:

Staff recommends approving the land-use extension to July 28, 2025

ALAN RUDEN **CONSTRUCTION, INC.**

April 10, 2024

City of McMinnville Planning Department
Heather Richards, Planning Director
231 NE 5th Street
McMinnville, OR 97128
Email: heather.richards@mcminnvilleoregon.gov

RE: DOCKET NUMBER S 1-21

Please accept this letter as our request to extend the subdivision approval granted under docket number S 1-21 for a time period of 12 months. The approval was originally granted to Don Jones/VJ2 Development with a current expiration date of July 28, 2024.

Our firm is currently under contract with Mr. Jones to purchase the property and development rights for the Elysian Subdivision. One condition of our willingness and ability to close on the purchase is an extension of the subdivision approval that would allow us time to complete the development and record the plat prior to expiration. If the extension to July 28, 2025 hereby requested is granted, it is our intention to close on the purchase this month and immediately begin working to obtain the construction permits required to begin developing the property this summer.

Should you have any questions regarding this request, please don't hesitate to contact me.

Regards,



Brian Ruden



City of McMinnville

PLANNING

COMMUNITY DEVELOPMENT DEPT.
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

www.mcminnvilleoregon.gov

July 28, 2023

Don Jones
VJ2 Developers
695 Commercial Street
Salem, OR 97301

Re: Tentative Subdivision Plan (S 1-21) Land Use Extension Approval

Dear Mr. Jones,

This is a letter extending your tentative subdivision land-use decision for Docket S 1-21 for one year to July 28, 2024. The subject site is identified as Tax Lot R4418 00204 and is located generally east of Meadows Drive and south of 23rd Street and Fendle Way. The subdivision is known as the Elysian Subdivision.

At a meeting on June 28, 2022, the McMinnville City Council approved Ordinance No. 5116 approving land-use decisions PD 1-21, ZC 1-22 and S 1-21. This ordinance became effective on July 28, 2022. Your decision is effective for one year unless you request a land-use extension per Section 17.53.075.

We received a letter from you dated July 28, 2023, letting us know that due to the wetland mitigation required for the subdivision plan you did not receive final approvals from the Department of State Lands (DSL) and Army Corps of Engineers (USACE) until just recently and was not therefore able to plat your subdivision within the one year time period of the land-use decision. We understand that both DSL and the USACE is experiencing a backlog and due to this, your land-use extension is **APPROVED**. The new deadline is July 28, 2024.

Please note that if you are not able to plat your subdivision by July 28, 2024, you will need to request an extension to be reviewed by the Planning Commission in accordance with the Zoning Ordinance, or the application will expire, and a new application would need to be submitted at the time when the process can be completed in a timely manner.

If you have any questions concerning this matter, please contact me at (503) 434-7311.

Sincerely,

Heather Richards, PCED
Community Development Director