



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

www.mcminnvilleoregon.gov

Planning Commission
McMinnville Civic Hall, 200 NE 2nd Street
September 21, 2017

5:30 PM Work Session

6:30 PM Regular Meeting

Welcome! All persons addressing the Planning Commission will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. Public Hearings will be conducted per the outline on the board in the front of the room. The Chair of the Planning Commission will outline the procedures for each public hearing.

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

Commission Members	Agenda Items
Roger Hall, Chair	5:30 PM - WORK SESSION – CONFERENCE ROOM
Zack Geary, Vice-Chair	1. Call to Order
Erin Butler	2. Discussion Items
Martin Chroust-Masin	<ul style="list-style-type: none">• Vacation Home Rentals (Power Point Presentation – Ron Pomeroy)• Neighborhood Meetings (Exhibit 1)• Planning Commission By-Laws (Exhibit 2)
Susan Dirks	3. Adjournment
Gary Langenwalter	
Roger Lizut	
Lori Schanche	
Erica Thomas	

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.



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Commission Members	Agenda Items
Roger Hall, Chair	6:30 PM – REGULAR MEETING – COUNCIL CHAMBERS
Zack Geary, Vice-Chair	1. Call to Order
Erin Butler	2. Citizen Comments
Martin Chroust-Masin	3. Approval of Minutes:
Susan Dirks	A. July 20, 2017 Work Session (Exhibit 1)
Gary Langenwalter	4. Public Hearing
Roger Lizut	A. <u>Zone Change (ZC 11-17)</u> (Exhibit 2)
Lori Schanche	<i>(Continued from August 17, 2017 Meeting)</i>
Erica Thomas	Request: Approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.
	Location: North of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M.
	Applicant: Land Use Resources, LLC

B. Zoning Text Amendment (G 6-17) (Exhibit 3)

Request: Approval to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.

Applicant: City of McMinnville

5. Old/New Business

6. Commissioner/Committee Member Comments

7. Staff Comments

8. Adjournment



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Work Session

Exhibit 1 - STAFF REPORT

DATE: September 21, 2017
TO: McMinnville Planning Commission
FROM: Chuck Darnell, Associate Planner
SUBJECT: Neighborhood Meetings

Report in Brief:

The purpose of this discussion item is to consider requiring neighborhood meetings for certain types of land use applications, as a means of providing information to surrounding property owners and for the developer to identify neighborhood concerns that might be mitigated.

Background:

Based on the level and type of public testimony received at recent public hearings, the Planning Commission directed staff to explore the topic of neighborhood meetings and how they could potentially be included in the land use application review process. The Planning Commission's interest in exploring neighborhood meetings is driven by a desire to better provide information on land use applications and development projects to the residents and community members in the areas surrounding potential projects.

Discussion:

Citizen involvement is a key component of the Oregon Statewide Planning Program. Specifically, Goal 1 of the Oregon Statewide Planning Program is "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process". In addition, the McMinnville Comprehensive Plan supports and encourages citizen involvement. Goal X 1 in Chapter X of the McMinnville Comprehensive Plan is "To provide opportunities for citizen involvement in the land use decision making process established by the City of McMinnville." The establishment of a neighborhood meeting process would be consistent with and supported by these state and local planning goals, and neighborhood meetings are an example of a mechanism used to increase citizen involvement in the planning process.

Staff completed research and has found that neighborhood meeting requirements are common in many communities in Oregon. Some of the communities that require neighborhood meetings are:

- Portland
- Beaverton
- Hillsboro
- Tigard
- Gresham
- Fairview
- Bend
- Corvallis
- Eugene
- Albany
- Washington County
- Lane County

Attachments:

Attachment A: Gresham City Code Language on Neighborhood Meetings

Attachment B: TGM Model Development Code Related to Neighborhood Meetings

Neighborhood meetings are used as a tool in the land use process for a variety of reasons. These types of meetings provide an opportunity for residents in the immediate areas near a future project to gather information, preview a project proposal, and ask questions of the developer or applicant. In most communities, the intent of holding a neighborhood meeting is to provide an opportunity for affected property owners to provide input on a project earlier on in the project development or planning phases. The idea behind this is that project specifics could be revised based on the feedback received at neighborhood meetings, prior to an official land use application being submitted for City review. This could result in the submittal of land use applications that are more responsive to neighborhood concerns and could expedite the review and public hearing processes.

If the Planning Commission is interested in requiring neighborhood meetings, staff would recommend that the neighborhood meeting be held prior to the official land use application submittal. This would allow for the type of early engagement described above, and would also separate the neighborhood meeting from the City's state statute-required timeframe for reviewing a land use application. In order to achieve this, satisfactory evidence of a neighborhood meeting being held could be added as a required application material and would need to be provided along with a land use application in order for it to be deemed complete.

Types of Applications Requiring Neighborhood Meetings:

Another topic of discussion related to neighborhood meetings, should the Planning Commission decide to require them, is the types of land use applications that would warrant and require a neighborhood meeting to be held. In the research completed, the types of land use applications that require a neighborhood meeting to be held vary widely by individual community.

In McMinnville, land use applications are organized by the type of review process that an application requires. Applications that currently require a public hearing before the McMinnville Planning Commission include:

- Annexations
- Comprehensive Plan Amendment
- Zone Change
- Subdivision (more than 10 lots)
- Planned Development
- Planned Development Amendment
- Variance
- Conditional Use Permit

Applications that currently do not require a public hearing and are decided upon by the Planning Director after providing property owner notification, but often generate public testimony include:

- Partition
- Subdivision (up to 10 lots)
- Vacation Home Rental
- Bed and Breakfast

Attachments:

Attachment A: Gresham City Code Language on Neighborhood Meetings

Attachment B: TGM Model Development Code Related to Neighborhood Meetings

Most communities require neighborhood meetings for all application types that eventually go before an appointed body for review. Some communities require neighborhood meetings based on the specific type of development occurring, the zoning district the project is located within, or the project's location and relationship to surrounding development. For example, the City of Albany requires a neighborhood meeting for any multiple family development that is adjacent to a residential zone and any commercial development that includes the addition of outside eating areas within a certain distance of residential uses.

Process for Neighborhood Meetings

The process for how a neighborhood meeting is notified and managed, and the required documentation that could be provided to the City related to a neighborhood meeting taking place, also varies widely by community. A few examples of the processes required by different communities are provided below:

	Distance Notified	Requirements of Presentation at Meeting	Evidence Provided with Land Use Application
Bend	500 feet	Map; Site Plan; Elevations of Structures; Description of Use; Opportunity for public to provide comments	Neighborhood Association representative signs form showing that meeting occurred
Washington County	Require notification to "Surrounding Neighborhood". Post notice of meeting on project site.	None specified.	Meeting notes; Meeting notice
Fairview	No specified notification area.	None specified.	Meeting notes; Sign-in sheet
Gresham	300 feet. Larger notification area in some special districts. Post notice of meeting on project site.	Site Plan; Description of major elements of project; Land uses and densities; Building sizes and heights; Opportunity for attendees to speak	Copy of meeting notice; Copy of mailing list; Affidavits for mailed and posted notices; Copy of materials presented at meeting; Meeting notes
Eugene	300 feet or 500 feet, depending on type of application. Post notice of meeting on project site.	Site Plan; Opportunity for public to provide comments	Copy of meeting notice; Meeting notes; Sign-in sheet

Staff believes that the Gresham City Code language on neighborhood meetings is very thorough, and could be used as a template if the Planning Commission is interested in directing staff to draft language on neighborhood meetings for the McMinnville land use application process. The section of the Gresham City Code on neighborhood meetings is attached to this staff report.

In terms of the mailing of the notices to surrounding property owners, the City of McMinnville has different public hearing notification distances for different types of applications. Notices of public hearing are sent to surrounding property owners as follows:

Attachments:

Attachment A: Gresham City Code Language on Neighborhood Meetings

Attachment B: TGM Model Development Code Related to Neighborhood Meetings

- Variance – 100 feet
- Conditional Use – 200 feet
- Comprehensive Plan Amendment, Zone Change, Planned Development, Subdivision – 300 feet

To be consistent with the existing McMinnville public hearing notification processes and to avoid confusion with the public, staff would recommend that the neighborhood meeting noticing distances be the same as the noticing distances for public hearings for each different type of application.

The Oregon Department of Land Conservation and Development (DLCD) encourages neighborhood meetings as well, and their Transportation and Growth Management (TGM) program has a Model Development Code that they provide for cities to use in land development codes and zoning ordinances. The section of the Model Development Code related to neighborhood meetings is attached to this staff report, and includes the type of language on neighborhood meeting requirements and processes that are typically found in individual city codes and zoning ordinances. Staff is not recommending that the specific language in the Model Development Code be included in any zoning text amendment drafted for the City of McMinnville, but wanted to provide the Model Development Code language as another template for the type of language that could be included in any zoning text amendment.

Fiscal Impact:

None.

Recommendation/Suggested Motion:

No specific motion is required, but the Planning Commission may provide guidance to staff as to whether the Commission would like staff to begin drafting zoning text amendments to incorporate a requirement for neighborhood meetings in the McMinnville land use application review process.

If the Commission is interested in drafting neighborhood meeting requirements, staff recommends that the proposed language require that neighborhood meetings be held prior to submittal of a land use application, and that evidence of the neighborhood meeting being held be submitted as a required material with a land use application. Staff could draft zoning text amendments that specifically describe the requirements for the notification of the neighborhood meeting, the process and presentation at the meeting itself, and the materials that would be required to be submitted as evidence that the meeting was held.

If the Commission is interested in requiring neighborhood meetings, staff also requests that the Commission provide specific guidance on the types of land use applications or development projects that would warrant a neighborhood meeting. One option that staff would recommend would be to require a neighborhood meeting for any land use application type that would require a public hearing. If the Commission believes that this would be overly burdensome on smaller projects, the Commission could have a discussion on more narrowly specifying the types of projects that would require a neighborhood meeting. Examples of this would be a planned development that includes a certain number of dwelling units, or a zone change to a higher density, or any application adjacent to existing residential uses or zones.

Attachments:

Attachment A: Gresham City Code Language on Neighborhood Meetings

Attachment B: TGM Model Development Code Related to Neighborhood Meetings

SECTION 11.0800 NEIGHBORHOOD MEETING

11.0800 Neighborhood Meeting

11.0801 Purpose

11.0802 Applicability

11.0803 Procedures and Evidence of Compliance

11.0800 Neighborhood Meeting

11.0801 Purpose

The purpose of the neighborhood meeting is to provide an opportunity for the applicant, surrounding neighbors, interested parties, and representatives from a recognized neighborhood association to meet and to review a development proposal and identify any associated issues. The neighborhood meeting is intended to assist the applicant with preparing an application that considers neighborhood interests and is consistent with the requirements of the Development Code to reduce the likelihood of delays and appeals. The city expects the neighbors and neighborhood association will work with the applicant to provide reasonable concerns and recommendations. The city expects that the applicant will attempt to accommodate the reasonable concerns of the neighbors and recognized neighborhood association.

11.0802 Applicability

A neighborhood meeting is required for all applications that require a pre-application conference as indicated in **Table 11.0204**, unless otherwise noted. Industrial use reviews as described in **Section 7.0003(D)(6)(a)** and DR-C applications requiring a pre-application conference as described in **Section 7.0003.C** do not require a Neighborhood Meeting.

11.0803 Procedures and Evidence of Compliance

The applicant shall comply with the following neighborhood meeting procedures.

A. Scheduling of Meeting

1. The neighborhood meeting shall be held after the pre-application conference and before a land use application is submitted to the City.
2. The applicant is required to hold one neighborhood meeting prior to submitting an application for a specific site. Additional meetings may be held at the applicant's discretion.
3. Applications shall be submitted to the City within 180 calendar days of the neighborhood meeting. If an application is not submitted in this time frame, the applicant shall be required to hold a new neighborhood meeting.
4. If the development proposal is modified to an extent that it requires a new or follow-up pre-application conference with City staff, a second neighborhood meeting is required.
5. The date, time and location of the neighborhood meeting shall be coordinated with the recognized neighborhood association in which the proposal is located.
 - a. The applicant shall contact the President and Land Use Chair of the neighborhood association via email to coordinate the early neighborhood meeting. The contact information for the neighborhood association shall be obtained from the City.

- b. The neighborhood association designees must respond within 5 business days of the request.
 - c. If the neighborhood association designees fail to respond in the time allotted, the applicant may select the date, time and location of the meeting.
 - d. The neighborhood association designees and the applicant must agree upon a date, time and location within 10 business days. If no agreement can be reached, the Manager shall decide on the date, time and location within three business days after discussions with the applicant and neighborhood association President and Land Use Chair.
- B. Meeting Location and Time. Neighborhood meetings shall be held at a location in reasonable proximity to the subject site. The meeting shall be held at a location open to the public or at a public facility that is ADA accessible. The neighborhood meeting may be combined with a regularly scheduled meeting of the recognized neighborhood association in which the project is located, if feasible. An 8 ½ x 11” sign shall be posted at the entry of the building before the meeting. The sign will announce the meeting, state that the meeting is open to the public and that interested persons are invited to attend. The starting time for the meeting shall be limited to weekday evenings between the hours of 6 pm and 8 pm or Saturdays between the hours of 10 am and 4 pm. Neighborhood meetings shall not be held on national holidays. If no one arrives within 30 minutes of the scheduled starting time for the neighborhood meeting, the applicant may leave.
- C. Mailed Notice. The applicant shall mail notice of the neighborhood meeting to owners of properties within 300 feet of the perimeter of the subject property, the President and Land Use Chair of any recognized neighborhood associations whose boundaries are within 300 feet of the subject property and the Manager. The notice mailed to the President and Land Use Chair of the recognized neighborhood associations within 300 feet of the subject property shall be by certified mail.

In the GBSV District, the applicant shall mail notice of the neighborhood meeting to owners of properties within 500 feet of the perimeter of the subject property, and the Presidents and Land Use Chairs of all recognized neighborhood associations. The notice mailed to the Presidents and Land Use Chairs shall be by certified mail.

- 1. Notice shall be mailed at least 14 and not more than 20 calendar days prior to the scheduled neighborhood meeting.
- 2. An official list for the mailed notice may be obtained from the City of Gresham for the applicable fee and within 10 business days. A mailing list may also be obtained from other sources such as a title company, provided that the list shall be based on the most recent tax assessment rolls of the Multnomah County Department of Taxation and Assessment. A mailing list is valid for use up to 45 days from the date the mailing list was generated.
- 3. The mailed notice shall:
 - a. State the date, time and location of the neighborhood meeting and invite people for a conversation on the proposal.
 - b. Briefly describe the nature of the proposal (i.e., approximate number of lots or units, housing types, approximate building dimensions and heights, and proposed development action). The description shall take into consideration information provided by city staff at the pre-application conference.

- c. Include the website for viewing pre-application meeting notes, and the pre-application conference number.
 - d. Include the name of the neighborhood association in which the subject property is located.
 - e. Include a copy of the tax map or a GIS map that clearly identifies the location of the proposed development and a conceptual site plan. The conceptual site plan shall take into consideration information provided by city staff at the pre-application conference.
- 4. A signed and notarized affidavit of the mailed notice is required to demonstrate compliance with this section.
- 5. Failure of a property owner to receive mailed notice shall not invalidate the neighborhood meeting proceedings.
- D. **Posted Notice.** The applicant shall also provide notice of the meeting by posting a waterproof sign on the frontage of the subject property at least 14 and not more than 20 calendar days prior to the meeting. The sign and posting requirements will be provided by the City at the pre-application conference but it is the applicant's responsibility to post the sign within 30 feet of the adjacent right-of-way, viewable from the right-of-way, make sure the sign remains posted until the meeting and remove it following the meeting. A signed and notarized affidavit of the posting is required to demonstrate compliance with this section. If the posted sign is inadvertently removed (i.e., by weather, vandals, etc.), that shall not invalidate the neighborhood meeting proceedings.
- E. **Agenda for Meeting.** At the neighborhood meeting, the applicant shall provide a conceptual site plan and describe the major elements of the proposal. Depending on the type and scale of the particular application, the applicant should be prepared to discuss proposed land uses and densities; proposed building size and height; proposed access and parking; and proposed landscaping, buffering and/or protection of natural resources. Attendees will have an opportunity to speak at the meeting and may identify any issues that they believe should be addressed.
- F. **Meeting Notes.** The applicant shall take notes of the discussion at the neighborhood meeting, including a summary of issues raised. Notes will indicate how many people attended the meeting. Within seven (7) calendar days of the neighborhood meeting and before submitting an application to the City, the applicant shall send a copy of the meeting notes by certified mail to the President and Land Use Chair of the recognized neighborhood association in which the project is to be located. The neighborhood association may also prepare and submit notes of the neighborhood meeting. The purpose of the notes is to demonstrate that the meeting occurred.
- G. **Evidence of Compliance.** To comply with the neighborhood meeting requirements, the following evidence shall be submitted with the application:
 - 1. A copy of the information mailed to surrounding property owners and the recognized neighborhood association(s);
 - 2. A copy of the mailing list used to send out meeting notices;
 - 3. A certified mail receipt indicating mailing of the meeting notice to the President and Land Use Chair of the recognized neighborhood association(s) within 300 feet of the subject property;

4. Affidavits for the mailed and posted notices;
5. One copy of the written materials and 8 ½ x 11” plans presented by the applicant at the neighborhood meeting;
6. Notes of the meeting, including the meeting date, time and location, the names and addresses of those attending, and a summary of oral and written comments received; and
7. A certified mail receipt indicating mailing of the meeting notes to the President and Land Use Chair of the neighborhood association(s).

An application will not be accepted as complete for processing unless all of the evidence of compliance listed in **subsection G (1)-(7)** has been submitted with the application.

4.1 – General Review Procedures | Neighborhood Context

[4.1.070 Neighborhood Contact]

User's Guide: The following provision is optional. It is intended to help applicants and residents work through potential design issues before the city begins processing a land use application and is subject to 120-day clock. While it is not necessary to have formally recognized neighborhood associations in order for the procedure to work, it will work best where such organizations exist, because they can organize public meetings and help ensure that residents' concerns are heard.

- A. Purpose and Applicability.** Applicants for master planned development, subdivision, or site design review on projects involving parcels or lots larger than [one acre] [and located adjacent to any residential zone], and property owner-applicants for zone changes, are required to contact neighboring property owners and offer to hold a meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the City, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.

User's Guide: The following notification radius of 100 feet (measured from parcel boundaries) is intended to be consistent with the minimum notice requirements for land use decisions. Cities may adopt a wider notification radius. In areas with large lots or low population densities, where few residents live within 100 feet of one another, a larger area may be warranted.

- B. Notice.** Notice of the meeting must be given in writing and delivered in person, or by certified mail, to all of the property owners whose property is located within [100] feet of the site, at their addresses of record at the [County name] County Assessor's office, at least [14 days] before the meeting and at least [21 days] before submitting the application to the City. The notice must state the time, place, and purpose of the meeting, including a description of the proposed development.
- C. Meeting place, date, and time.** The meeting must be held within the City limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.
- D. Conduct of meeting.** At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, must make a sound or video recording or keep written minutes of the meeting that give a true reflection of the matters discussed at the meeting and the views of the participants. The applicant must also make a list of names of persons attending the meeting.
- E. Filing requirements.** Proof of having held the meeting, even if no affected property owners attend, is required and must be submitted to the City with a land use application for the application to be deemed complete. Copies of the following information must accompany the land use application: a copy of the notice mailed, certified mail receipts, all addresses for which notice was mailed (e.g., copy of mailing labels), a certificate of personal service for those persons who were provided notice by personal service (including the date of service and the name of the person who provided service), a record or minutes of the meeting with a list of attendees, and copies of the meeting notice and all other written materials provided prior to or distributed at the meeting.



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Work Session

EXHIBIT 2 - STAFF REPORT

DATE: September 21, 2017
TO: Planning Commission
FROM: Heather Richards, Planning Director
SUBJECT: Draft City Code Amendments – Planning Commission

Report in Brief:

This is a work session to review and consider proposed draft City Code amendments relative to the establishment, structure and responsibilities of the Planning Commission.

Background:

Chapter 2.32 is the enabling code for the Planning Commission. This language first originated in Ordinance No. 3688, adopted on December 4, 1973. Attached are proposed amendments to that language to bring the code up to date with Oregon Revised Statute 227 which governs planning commissions in the state of Oregon and the City of McMinnville's new standard for city codes relative to commissions and committees.

The proposed amendments include many of the original covenants from the 1973 Ordinance as well as an expanded Responsibilities and Power section to reflect the amendments made to ORS 227 since 1973.

Additionally the following items have been added to reflect the City's recent initiative to broaden its community outreach efforts and programs.

- Residency – Added language to reflect language in ORS 227 relative to make-up of the commission.
- Terms – establishes terms of four years and term limits of three full terms.
- Youth Ex-Officio – allows for the appointment of a youth ex-officio under the age of 21 years old. This provides the opportunity for a young person to participate on the committee and not only gain knowledge about planning but also the structure of city government. And it allows for the committee to benefit from the perspective of a different representative age group in their discussions.
- Establishes the need for an annual report to the City Council. In this way the commission can share with the City Council their past year's accomplishments and work plan for the following year. And it allows the City Council to engage with the volunteer committee and provide direction if necessary.

Attachments:

Attachment A – Proposed Amendments
Attachment B – Existing Code Language
Attachment C – ORS 227

Discussion:

The Planning Commission reviewed the proposed draft language at their work session on July 20, 2017. At that time they directed staff to add some additional language relative to quality of life initiatives in the code language. A track change document has been provided to demonstrate where that language has been added. (Attachment A).

Also attached to this staff report is the existing code language (Attachment B) and ORS 227 (Attachment C).

Fiscal Impact:

There is no anticipated fiscal impact.

Recommendation/Suggested Motion:

The Planning Department will provide a Power Point at the work session to help guide the Planning Commission through the proposed text amendments. Then per the direction of the Planning Commission, staff will revise the proposed text amendments and provide them at a future Planning Commission meeting as an action item. No motion is required at this time.

Attachments:

Attachment A – Proposed Amendments
Attachment B – Existing Code Language
Attachment C – ORS 227

ATTACHMENT A – PROPOSED AMENDMENTS

Note: This document tracks changes for the language that was amended based upon direction from the McMinnville Planning Commission at their July 20, 2017 work session.

Chapter 2.32

CITY PLANNING COMMISSION (Proposed Amendments – Clean Copy)

Sections:

<u>2.32.000</u>	<u>Establishment</u>
<u>2.32.010</u>	<u>Purpose. Re-establishment.</u>
<u>2.32.020</u>	<u>Responsibilities and Power.</u>
<u>2.32.030</u>	<u>Membership.</u>
<u>2.32.040</u>	<u>Officers.</u>
<u>2.32.050</u>	<u>Meeting/Quorum</u>
<u>2.32.060</u>	<u>Expenses / Reimbursements</u>
<u>2.32.070</u>	<u>Special Provisions</u>
<u>2.32.080</u>	<u>Staff Support</u>

2.32.000 Establishment. The McMinnville Planning Commission shall be the planning commission for the City of McMinnville as authorized in ORS 227.020.

2.32.010 Purpose. The purpose of the McMinnville Planning Commission is to serve in an advisory role to the City Council on the development and implementation of the City of McMinnville's Comprehensive Plan and its associated planning documents. The Planning Commission also serves in a quasi-judicial capacity on land-use decisions for the City of McMinnville, in order to ensure that the City of McMinnville grows and develops in an orderly fashion with adequate resources for housing, business, industry, transportation, recreation, culture, comfort, health and welfare of its population so that residents and businesses enjoy a high quality of life.

2.32.020 Responsibilities and Power. The Common Council of McMinnville delegates to the McMinnville Planning Commission such powers and duties as are now or may hereafter be provided by U.S. or Oregon state law, city charter or ordinances as may pertain to planning and subdivision matters, including but not limited to:

A. Per ORS 227, the Commission shall have the following powers and duties:

1. Recommend and make suggestions to the City Council and to all other public authorities concerning
 - a. The laying out, widening, extending, parking and locating of streets; sidewalks, bike paths, and boulevards, relief of traffic congestion; and
 - b. Betterment of housing and sanitation conditions; and

- c. Establishment of zones of districts limiting the use, height, area and bulk of buildings and structures; and
 - d. Protection and assurance of access to incident solar radiation; and
 - e. Protection and assurance of access to wind for potential future electrical generation or mechanical application.
2. Recommend to the City Council and all other public authorities plans for regulation of all future growth, development and beautification of the City in respect to its public and private buildings and works, streets, parks, grounds and vacant lots and plans consistent with future growth and development of the City in order to secure to the City and its inhabitants sanitation, proper service of public utilities and telecommunications utilities, including appropriate public incentives for overall energy conservation ~~and harbor~~, shipping and transportation facilities.
 3. Recommend to the City Council and all other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to private and public enterprises engaged in ~~economic and industrial development~~ pursuits.
 4. Advertise the ~~economic and industrial development~~ advantages and opportunities of the city and availability of real estate within the city for industrial settlement.
 5. Encourage industrial ~~and economic development settlement~~ within the city.
 6. Make economic surveys of ~~present~~ potential possibilities of the municipality with a view of ~~to~~ ascertaining its ~~economic and industrial development~~ needs.
 7. Study needs of existing local industries with view to strengthening and developing local industries and stabilizing employment conditions.
 8. Do and perform all other acts and things necessary or proper to carry out the provisions of ORS [227.010 \(Definition for ORS 227.030 to 227.300\)](#) to [227.170 \(Hearing procedure\)](#), [227.175 \(Application for permit or zone change\)](#) and [227.180 \(Review of action on permit application\)](#).
 9. Study and propose such measures as are advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area within ~~six miles thereof the city's urban growth boundary and adjacent properties.~~

Commented [HR1]: Do we want to include these. They are part of the recommended powers stated in ORS 227.090

- B. The Commission shall serve in a quasi-judicial capacity on land development proposals, conducting public hearings and issuing decisions per federal, state and local regulations.
- C. The Commission shall serve in an advisory capacity to the Common Council to recommend and make suggestions regarding preparation and revision of plans (land use goals and policies, comprehensive plan text and plan map, amendments to the urban growth boundary, amendments to the urban growth management agreement, zoning ordinance and zone map, implementation ordinances, etc.) for growth, development, and beautification of areas within the city limits and areas within the city's urban growth boundary, including but not limited to economic development (commercial and industrial), housing, **transportation (all modes)**, parks and open space, public facilities (transportation, water, wastewater and drainage), institutions, **quality of life initiatives**, etc.
- D. The Commission shall serve as the City of McMinnville's Committee for Citizen Involvement in accordance with the State of Oregon Land Conservation and Development Land Use Goal No. 1 and Oregon Administrative Rule (OAR) 660-015-0000(1), with the following responsibilities:
1. Evaluate the effectiveness of the citizen involvement program annually at its October meeting.
 2. Recommend and make suggestions to the City Council regarding revisions in the citizen involvement program, as the Commission deems appropriate.
- E. The Commission shall coordinate its activities with other jurisdictions, planning bodies and districts as appropriate.
- F. The Commission shall do such other tasks as may be requested by the City Council.

2.32.030 Membership

- A. Number of Members. The Planning Commission shall be composed of nine members. ~~The common council shall strive to appoint members who represent a cross-section of the citizens of McMinnville, and who will provide the planning commission with expertise in the area of planning, who possess broad areas of interest, and general concern with the planning process which is required for the functioning of this body. No more than two members shall be engaged principally in the buying, selling of real estate for profit as individuals, or be members of a partnership, or officers or employees of a corporation, that is engage principally in the buying, selling or developing of real estate for profit. No more than three members shall be engaged in the same kind of business, trade or profession.~~
- B. Residency/Representation. The planning commission shall have at least two representatives from each ward. Appointment to the planning

commission to secure this representation by ward shall occur as resignations are received or as current members' terms are completed. Subsequent appointments shall maintain this distribution and representation. Those individuals appointed to represent a particular ward must reside within that ward. In the event that a representative moves from his ward, then the position shall become vacant and the council will appoint a new member. If the boundaries of a ward are adjusted as required by the Charter or state election laws, then the individual may continue to hold office until his term expires. Three members of the planning commission shall be residents appointed at large from within the city or the urban growth boundary. In the event that a representative moves outside the urban growth boundary, then the position shall be declared vacant and the council shall appoint a new member.

- C. Qualifications. The common council shall strive to appoint members who represent a cross-section of the citizens of McMinnville, and who will provide the planning commission with expertise in the area of planning, who possess broad areas of interest, and general concern with the planning process which is required for the functioning of this body. No more than two members shall be engaged principally in the buying, selling of real estate for profit as individuals, or be members of a partnership, or officers or employees of a corporation, that is engage principally in the buying, selling or developing of real estate for profit. No more than three members shall be engaged in the same kind of business, trade or profession.
- D. Appointments. The Common Council will appoint the commission members.
- E. Terms. All terms are for four years commencing with January of each year. Any vacancy which may occur shall be filled by the common council for the unexpired portion of the term. Members shall not serve more than three full terms.
- F. Removal. A commission member may be removed by the Common Council for misconduct, nonperformance of duty, or three successive unexcused absences from regular meetings. The commission may, by motion, request that a member be removed by the appointing body. If the appropriate governing body finds misconduct, nonperformance of duties or three successive unexcused absences from regular meetings by the member, the member shall be removed.
- G. Ex-Officio Members. One ex-officio youth (21 years of age and under) may be appointed by the Common Council, to serve a two year term. The ex-officio youth shall not be a voting member.

2.32.040 Officers

- A. Chairperson / Vice-Chairperson. At its first meeting of each year, the Planning Commission shall elect from its membership a chairperson and vice-chairperson. The chairperson or vice-chairperson, acting as chairperson, shall have the right to make or correct motions and vote on all matters before the committee. A majority of the commission may replace its

chairperson or vice-chairperson with another member at any time during the calendar year.

- B. The City shall provide a secretary who shall keep an accurate record of all Commission proceedings.
- C. Annual Report to City Council. The Chairperson of the commission shall make an annual report to the City Council by December 31 of each year. The annual report shall include a survey and report of the Commission's activities during the preceding year, in addition to specific recommendations to the City Council not otherwise requested by the City Council, relating to the planning process, plan implementation measures within the City, or the future activities of the Commission.

2.32.050 Meeting/Quorum

- A. Meeting Schedule. The Commission shall meet as required to accomplish their responsibilities.
- B. Meeting Conduct. The Rules of Parliamentary Law and Practice as in Roberts Rules of Order Revised Edition shall govern each commission meeting.
- C. Open to the Public. All meetings shall be open to the public.
- D. Quorum. A majority of the members of the commission shall constitute a quorum. Quorum will be based on the number of people officially appointed to the committee at the time and should not include vacancies.
- E. The common council shall assign to the city planning commission an office or headquarters in the City Hall, if possible, in which to hold its meetings, transact its business and keep its records. The city planning commission shall have the power and authority to employ consulting advice on municipal problems, a secretary, and such other clerks as may be necessary and to pay for their service and for such other expenses as may be lawfully incurred, including the necessary disbursements incurred by the members in the performance of their duties as members of said commission as may be specifically authorized by the common council.

2.32.060 Expenses / Reimbursements. Commission members shall receive no compensation. Any expense incurred by a commission member that will need to be reimbursed by the City of McMinnville must be pre-authorized by the City Manager or designee.

2.32.070 Special Provisions.

- A. The Planning Commission shall operate within the laws and guidelines of the federal government, the state government, Yamhill County and the City of McMinnville.
- B. The Common Council may appoint an ad-hoc committee to address issues that are not under the purview of the existing committee.

2.32.080 Staff Support. Staffing shall be determined by the City Manager or City Manager designee

DRAFT

ATTACHMENT B – CURRENT CODE LANGUAGE

Chapter 2.32

CITY PLANNING COMMISSION— (Current Language)

Sections:

2.32.010	Re-establishment.
2.32.020	Membership—Qualifications for appointment.
2.32.025	Representatives from each ward.
2.32.030	Terms of office.
2.32.040	Officers.
2.32.050	Compensation—Secretary.
2.32.060	Powers and duties—Meetings—Quorum.
2.32.070	Delegation of authority.

2.32.010 Re-establishment. The city recreates and reestablishes the city planning commission. Members of the planning commission shall be appointed by the common council in accordance with the terms as set forth in this chapter. (Ord. 3688 §1, 1973).

2.32.020 Membership—Qualifications for appointment. The city planning commission shall consist of nine members who shall be appointed by the council. The common council shall strive to appoint members who represent a cross-section of the citizens of McMinnville, and who will provide the planning commission with expertise in the area of planning, who possess broad areas of interest, and general concern with the planning process which is required for the functioning of this body. (Ord. 3688 §2, 1973).

2.32.025 Representatives from each ward.

A. Commencing January 1, 1980 the planning commission shall have at least two representatives from each ward (established by the McMinnville Charter 1970 amended 1978). Appointment to the planning commission to secure this representation by ward shall occur as resignations are received or as current members' terms are completed. Subsequent appointments shall maintain this distribution and representation.

B. Those individuals appointed to represent a particular ward must reside within that ward. In the event that a representative moves from his ward, then the position shall become vacant and the council will appoint a new member. If the boundaries of a ward are adjusted as required by the Charter or state election laws, then the individual may continue to hold office until his term expires.

C. Three members of the planning commission shall be residents appointed at large from within the city or the urban growth boundary. In the event that a representative moves outside the urban growth boundary, then the position shall be declared vacant and the council shall appoint a new member. (Ord. 4069 §1-§3, 1980).

2.32.030 Terms of office. The terms of office of the appointed members shall be four years except as this chapter may otherwise provide. Any vacancy which may occur shall be filled by the common council for the unexpired portion of the term. Those members presently occupying positions on the city planning commission are reappointed and shall serve for the duration of their original term of office. At such time as the common council appoints the new

planning commission members in January, 1974, they shall choose two individuals to serve for three-year terms and two individuals to serve for four-year terms. (Ord. 3688 §3, 1973).

2.32.040 Officers. The city planning commission at its first meeting of each calendar year shall elect a chairman and vice-chairman who shall hold office during the remainder of said year. (Ord. 3688 §4, 1973).

2.32.050 Compensation—Secretary.

- A. Members of the city planning commission shall receive no compensation.
- B. The city planning commission shall elect a secretary who need not be a member of the commission. Such secretary shall keep an accurate record of all proceedings of said commission, and the commission shall regularly make and file a monthly report with the common council of all transactions of the commission. (Ord. 3688 §5, 1973).

2.32.060 Powers and duties—Meetings—Quorum. Five members of the city planning commission shall constitute a quorum. The city planning commission, with two-thirds of its members concurring, may make and alter rules and regulations for its government and procedure consistent with the laws of the state and with the city charter and ordinances, and shall meet at least once a month. The common council shall assign to the city planning commission an office or headquarters in the City Hall, if possible, in which to hold its meetings, transact its business and keep its records. The city planning commission shall have the power and authority to employ consulting advice on municipal problems, a secretary, and such other clerks as may be necessary and to pay for their service and for such other expenses as may be lawfully incurred, including the necessary disbursements incurred by the members in the performance of their duties as members of said commission as may be specifically authorized by the common council. (Ord. 3688 §6, 1973).

2.32.070 Delegation of authority. The common council of the city delegates to the city planning commission such powers and duties as are now or may hereafter be provided by U.S. or Oregon state law, city charter or ordinances as may pertain to planning and subdivision matters. (Ord. 3688 §7, 1973).

OREGON REVISED STATUTES

Chapter 227 — City Planning and Zoning

2015 EDITION

CITY PLANNING AND ZONING

CITIES

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227.505 Solar energy systems on residential and commercial structures

PLANNING AND ZONING PREAPPLICATION PROCESS

227.600 Land use approval preapplication review

CITY PLANNING COMMISSION

227.010 Definition for ORS 227.030 to 227.300. As used in ORS 227.030 to 227.300, “council” means a representative legislative body. [Amended by 1975 c.767 §1]

227.020 Authority to create planning commission. (1) A city may create a planning commission for the city and provide for its organization and operations.

(2) This section shall be liberally construed and shall include the authority to create a joint planning commission and to utilize an intergovernmental agency for planning as authorized by ORS 190.003 to 190.130. [Amended by 1973 c.739 §1; 1975 c.767 §2]

227.030 Membership. (1) Not more than two members of a city planning commission may be city officers, who shall serve as ex officio nonvoting members.

(2) A member of such a commission may be removed by the appointing authority, after hearing, for misconduct or nonperformance of duty.

(3) Any vacancy in such a commission shall be filled by the appointing authority for the unexpired term of the predecessor in the office.

(4) No more than two voting members of the commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the

same kind of occupation, business, trade or profession. [Amended by 1969 c.430 §1; 1973 c.739 §2; 1975 c.767 §3]

227.035 [1973 c.739 §5; renumbered 244.135 in 1993]

227.040 [Repealed by 1973 c.739 §13]

227.050 [Amended by 1969 c.430 §2; repealed by 1975 c.767 §16]

227.060 [Repealed by 1975 c.767 §16]

227.070 [Amended by 1969 c.430 §3; 1973 c.739 §3; repealed by 1975 c.767 §16]

227.080 [Repealed by 1973 c.739 §13]

227.090 Powers and duties of commission. (1) Except as otherwise provided by the city council, a city planning commission may:

(a) Recommend and make suggestions to the council and to other public authorities concerning:

(A) The laying out, widening, extending and locating of public thoroughfares, parking of vehicles, relief of traffic congestion;

(B) Betterment of housing and sanitation conditions;

(C) Establishment of districts for limiting the use, height, area, bulk and other characteristics of buildings and structures related to land development;

(D) Protection and assurance of access to incident solar radiation; and

(E) Protection and assurance of access to wind for potential future electrical generation or mechanical application.

(b) Recommend to the council and other public authorities plans for regulating the future growth, development and beautification of the city in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of public utilities and telecommunications utilities, including appropriate public incentives for overall energy conservation and harbor, shipping and transportation facilities.

(c) Recommend to the council and other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to industrial pursuits.

(d) Advertise the industrial advantages and opportunities of the city and availability of real estate within the city for industrial settlement.

(e) Encourage industrial settlement within the city.

(f) Make economic surveys of present and potential industrial needs of the city.

(g) Study needs of local industries with a view to strengthening and developing them and stabilizing employment conditions.

(h) Do and perform all other acts and things necessary or proper to carry out the provisions of ORS 227.010 to 227.170, 227.175 and 227.180.

(i) Study and propose such measures as are advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area within six miles thereof.

(2) For the purposes of this section:

(a) "Incident solar radiation" means solar energy falling upon a given surface area.

(b) "Wind" means the natural movement of air at an annual average speed measured at a height of 10 meters or at least eight miles per hour. [Amended by 1975 c.153 §3; 1975 c.767 §4; 1979 c.671 §3; 1981 c.590 §8; 1987 c.447 §118]

227.095 Definitions for ORS 227.100 and 227.110. As used in ORS 227.100 and 227.110, "subdivision" and "plat" have the meanings given those terms in ORS 92.010. [1955 c.756 §28]

227.100 Submission of plats for subdivisions and plans for street alterations and public buildings to commission; report. All subdivision plats located within the city limits, and all plans or plats for vacating or laying out, widening, extending, parking and locating streets or plans for public buildings shall first be submitted to the commission by the city engineer or other proper municipal officer, and a report thereon from the commission secured in writing before approval is given by the proper municipal official. [Amended by 1955 c.756 §26]

227.110 City approval prior to recording of subdivision plats and plats or deeds dedicating land to public use within six miles of city; exception. (1) All subdivision plats and all plats or deeds dedicating land to public use in that portion of a county within six miles outside the limits of any city shall first be submitted to the city planning commission or, if no such commission exists, to the city engineer of the city and approved by the commission or engineer before they shall be recorded. However, unless otherwise provided in an urban growth area management agreement jointly adopted by a city and county to establish procedures for regulating land use outside the city limits and within an urban growth boundary acknowledged under ORS 197.251, if the county governing body has adopted ordinances or regulations for subdivisions and partitions under ORS 92.044, land within the six-mile limit shall be under the jurisdiction of the county for those purposes.

(2) It shall be unlawful to receive or record such plat or replat or deed in any public office unless the same bears thereon the approval, by indorsement, of such commission or city engineer. However, the indorsement of the commission or city engineer of the city with boundaries nearest the land such document affects shall satisfy the requirements of this section in case the boundaries of more than one city are within six miles of the property so mapped or described. If the governing bodies of such cities mutually agree upon a boundary line establishing the limits of the jurisdiction of the cities other than the line equidistant between the cities and file the agreement with the recording officer of the county containing such boundary line, the boundary line mutually agreed upon shall become the limit of the jurisdiction of each city until superseded by a new agreement between the cities or until one of the cities files with such recording officer a written notification stating that the agreement shall no longer apply. [Amended by 1955 c.756 §27; 1983 c.570 §5; 1991 c.763 §25]

227.120 Procedure and approval for renaming streets. Within six miles of the limits of any city, the commission, if there is one, or if no such commission legally exists, then the city engineer, shall recommend to the city council the renaming of any existing street, highway or

road, other than a county road or state highway, if in the judgment of the commission, or if no such commission legally exists, then in the judgment of the city engineer, such renaming is in the best interest of the city and the six mile area. Upon receiving such recommendation the council shall afford persons particularly interested, and the general public, an opportunity to be heard, at a time and place to be specified in a notice of hearing published in a newspaper of general circulation within the municipality and the six mile area not less than once within the week prior to the week within which the hearing is to be held. After such opportunity for hearing has been afforded, the city council by ordinance shall rename the street or highway in accordance with the recommendation or by resolution shall reject the recommendation. A certified copy of each such ordinance shall be filed for record with the county clerk or recorder, and a like copy shall be filed with the county assessor and county surveyor. The county surveyor shall enter the new names of such streets and roads in red ink on the county surveyor's copy of any filed plat and tracing thereof which may be affected, together with appropriate notations concerning the same. The original plat may not be corrected or changed after it is recorded with the county clerk.
[Amended by 2001 c.173 §4]

227.130 [Repealed by 1975 c.767 §16]

227.140 [Repealed by 1975 c.767 §16]

227.150 [Repealed by 1975 c.767 §16]

PLANNING AND ZONING HEARINGS AND REVIEW

227.160 Definitions for ORS 227.160 to 227.186. As used in ORS 227.160 to 227.186:

(1) "Hearings officer" means a planning and zoning hearings officer appointed or designated by a city council under ORS 227.165.

(2) "Permit" means discretionary approval of a proposed development of land, under ORS 227.215 or city legislation or regulation. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) An expedited land division, as described in ORS 197.360. [1973 c.739 §6; 1975 c.767 §5; 1991 c.817 §8a; 1995 c.595 §13; 2015 c.260 §5]

227.165 Planning and zoning hearings officers; duties and powers. A city may appoint one or more planning and zoning hearings officers, to serve at the pleasure of the appointing authority. Such an officer shall conduct hearings on applications for such classes of permits and zone changes as the council designates. [1973 c.739 §7; 1975 c.767 §6]

227.170 Hearing procedure; rules. (1) The city council shall prescribe one or more procedures for the conduct of hearings on permits and zone changes.

(2) The city council shall prescribe one or more rules stating that all decisions made by the council on permits and zone changes will be based on factual information, including adopted comprehensive plans and land use regulations. [1973 c.739 §8; 1975 c.767 §7; 1997 c.452 §3]

227.172 Siting casino in incorporated city. (1) As used in this section:

(a) “Casino” means a facility in which casino games, as defined in ORS 167.117, are played for the purpose of gambling.

(b) “Tribal casino” means a facility used for:

(A) Class I gaming or class II gaming regulated by the Indian Gaming Regulatory Act of October 17, 1988 (25 U.S.C. 2701 et seq.);

(B) Class III gaming conducted under a tribal-state compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(8)); or

(C) Gaming conducted in accordance with the Indian Gaming Regulatory Act and federal regulations.

(2) A casino may not be sited on land in an incorporated city unless the electors of the city approve the development.

(3) Before a permit, as defined in ORS 227.160, can be approved authorizing a proposed development of land in an incorporated city as a site for a casino, the governing body of the city that contains the site shall submit the question of siting the casino to the electors of the city for approval or rejection.

(4) Subsections (2) and (3) of this section do not apply to a tribal casino. [2007 c.724 §2]

227.173 Basis for decision on permit application or expedited land division; statement of reasons for approval or denial. (1) Approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance and which shall relate approval or denial of a discretionary permit application to the development ordinance and to the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.

(2) When an ordinance establishing approval standards is required under ORS 197.307 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(3) Approval or denial of a permit application or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(4) Written notice of the approval or denial shall be given to all parties to the proceeding. [1977 c.654 §5; 1979 c.772 §10b; 1991 c.817 §16; 1995 c.595 §29; 1997 c.844 §6; 1999 c.357 §3]

227.175 Application for permit or zone change; fees; consolidated procedure; hearing; approval criteria; decision without hearing. (1) When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least one public hearing on the application.

(4) The application shall not be approved unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not invalidate any zone change.

(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this

subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city's land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the city. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(11) A decision described in ORS 227.160 (2)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(12) At the option of the applicant, the local government shall provide notice of the decision described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(13) Notwithstanding other requirements of this section, limited land use decisions shall be subject to the requirements set forth in ORS 197.195 and 197.828. [1973 c.739 §§9,10; 1975 c.767 §8; 1983 c.827 §24; 1985 c.473 §15; 1987 c.106 §3; 1987 c.729 §18; 1989 c.648 §63; 1991 c.612 §21; 1991 c.817 §6; 1995 c.692 §2; 1997 c.844 §5; 1999 c.621 §2; 1999 c.935 §24; 2001 c.397 §2]

227.178 Final action on certain applications required within 120 days; procedure; exceptions; refund of fees. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The 120-day period set in subsection (1) of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section does not apply to a decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee; or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The period set forth in subsection (1) of this section and the period set forth in subsection (5) of this section may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated. [1983 c.827 §27; 1989

c.761 §16; 1991 c.817 §15; 1995 c.812 §3; 1997 c.844 §8; 1999 c.533 §8; 2003 c.150 §1; 2003 c.800 §31; 2009 c.873 §16; 2011 c.280 §12]

227.179 Petition for writ of mandamus authorized when city fails to take final action on land use application within 120 days; jurisdiction; notice of petition. (1) Except when an applicant requests an extension under ORS 227.178 (5), if the governing body of a city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

(2) The governing body shall retain jurisdiction to make a land use decision on the application until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.

(3) A person who files a petition for a writ of mandamus under this section shall provide written notice of the filing to all persons who would be entitled to notice under ORS 197.763 and to any person who participated orally or in writing in any evidentiary hearing on the application held prior to the filing of the petition. The notice shall be mailed or hand delivered on the same day the petition is filed.

(4) If the governing body does not take final action on an application within 120 days of the date the application is deemed complete, the applicant may elect to proceed with the application according to the applicable provisions of the local comprehensive plan and land use regulations or to file a petition for a writ of mandamus under this section. If the applicant elects to proceed according to the local plan and regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the governing body makes a preliminary decision, provided a final written decision is issued within 14 days of the preliminary decision.

(5) The court shall issue a peremptory writ unless the governing body or any intervenor shows that the approval would violate a substantive provision of the local comprehensive plan or land use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the local comprehensive plan or land use regulations. [1999 c.533 §10; 2003 c.150 §2]

227.180 Review of action on permit application; fees. (1)(a) A party aggrieved by the action of a hearings officer may appeal the action to the planning commission or council of the city, or both, however the council prescribes. The appellate authority on its own motion may review the action. The procedure for such an appeal or review shall be prescribed by the council, but shall:

(A) Not require that the appeal be filed within less than seven days after the date the governing body mails or delivers the decision of the hearings officer to the parties;

(B) Require a hearing at least for argument; and

(C) Require that upon appeal or review the appellate authority consider the record of the hearings officer's action. That record need not set forth evidence verbatim.

(b) Notwithstanding paragraph (a) of this subsection, the council may provide that the decision of a hearings officer or other decision-making authority in a proceeding for a discretionary permit or zone change is the final determination of the city.

(c) The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer, planning commission or other designated person. The amount of the fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing body may establish a fee for the preparation of a written transcript. The fee shall be reasonable and shall not exceed the actual cost of preparing the transcript up to \$500. In lieu of a transcript prepared by the governing body and the fee therefor, the governing body shall allow any party to an appeal proceeding held on the record to prepare a transcript of relevant portions of the proceedings conducted at a lower level at the party's own expense. If an appellant prevails at a hearing or on appeal, the transcript fee shall be refunded.

(2) A party aggrieved by the final determination in a proceeding for a discretionary permit or zone change may have the determination reviewed under ORS 197.830 to 197.845.

(3) No decision or action of a planning commission or city governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

(4) A communication between city staff and the planning commission or governing body shall not be considered an ex parte contact for the purposes of subsection (3) of this section.

(5) Subsection (3) of this section does not apply to ex parte contact with a hearings officer. [1973 c.739 §§11,12; 1975 c.767 §9; 1979 c.772 §12; 1981 c.748 §43; 1983 c.656 §2; 1983 c.827 §25; 1991 c.817 §12]

227.181 Final action required within 120 days following remand of land use decision. (1)

Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 remanding a decision to a city, the governing body of the city or its designee shall take final action on an application for a permit, limited land use decision or zone change within 120 days of the effective date of the final order issued by the board. For purposes of this subsection, the effective date of the final order is the last day for filing a petition for judicial review of a final order of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS 197.830, the 120-day period established under this subsection shall not begin until final resolution of the judicial review.

(2)(a) In addition to the requirements of subsection (1) of this section, the 120-day period established under subsection (1) of this section shall not begin until the applicant requests in writing that the city proceed with the application on remand, but if the city does not receive the request within 180 days of the effective date of the final order or the final resolution of the judicial review, the city shall deem the application terminated.

(b) The 120-day period established under subsection (1) of this section may be extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The city shall deem the application terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension.

(3) The 120-day period established under subsection (1) of this section applies only to decisions wholly within the authority and control of the governing body of the city.

(4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610. [1999 c.545 §5; 2011 c.280 §13; 2015 c.522 §3]

227.182 Petition for writ of mandamus authorized when city fails to take final action within 120 days of remand of land use decision. (1) If the governing body of a city or its designee fails to take final action on an application for a permit, limited land use decision or zone change within 120 days as provided in ORS 227.181, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105 to 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days from the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been advised by the parties that the matter has been settled.

(2) A writ of mandamus issued under this section shall order the governing body of the city or its designee to make a final determination on the application. The court, in its discretion, may order such remedy as the court determines appropriate.

(3) In a mandamus proceeding under this section the court shall award court costs and attorney fees to an applicant who prevails on a petition under this section. [1999 c.545 §6; 2015 c.522 §4]

227.184 Supplemental application for remaining permitted uses following denial of initial application. (1) A person whose application for a permit is denied by the governing body of a city or its designee under ORS 227.178 may submit to the city a supplemental application for any or all other uses allowed under the city's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

(2) The governing body of a city or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under this section.

(3) A supplemental application submitted under this section shall include a request for any rezoning or zoning variance that may be required to issue a permit under the city's comprehensive plan and land use regulations.

(4) The governing body of a city or its designee shall adopt specific findings describing the reasons for approving or denying:

(a) A use for which approval is sought under this section; and

(b) A rezoning or variance requested in the application. [1999 c.648 §4]

227.185 Transmission tower; location; conditions. The governing body of a city or its designate may allow the establishment of a transmission tower over 200 feet in height in any zone subject to reasonable conditions imposed by the governing body or its designate. [1983 c.827 §27a]

227.186 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost. (1) As used in this section, "owner" means the owner of the

title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

(3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (city) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance Number _____. The (city) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ is available for inspection at the _____ City Hall located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (city) Planning Department at _____.

(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (city) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (city) has proposed Ordinance Number _____. (City) has determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ will become effective on (date).

Ordinance Number _____ is available for inspection at the _____ City Hall located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (city) Planning Department at _____.

(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the city:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047 or resulting from an order of a court of competent jurisdiction.

(11) The governing body of the city is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse a city for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section. [1999 c.1 §3; 1999 c.348 §11; 2003 c.668 §3]

227.187 Public sale of copies of city comprehensive plan and land use regulations. A city shall maintain copies of its comprehensive plan and land use regulations, as defined in ORS 197.015, for sale to the public. [1991 c.363 §3]

SOLAR ACCESS ORDINANCES

227.190 Solar access ordinances; purpose; standards. (1) City councils may adopt and implement solar access ordinances. The ordinances shall provide and protect to the extent feasible solar access to the south face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation and planned uses and densities. The city council shall consider for inclusion in any solar access ordinance, but not be limited to, standards for:

(a) The orientation of new streets, lots and parcels;

- (b) The placement, height, bulk and orientation of new buildings;
 - (c) The type and placement of new trees on public street rights of way and other public property; and
 - (d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.
- (2) The State Department of Energy shall actively encourage and assist city councils' efforts to protect and provide for solar access.
- (3) As used in this section, "solar heating hours" means those hours between three hours before and three hours after the sun is at its highest point above the horizon on December 21. [1981 c.722 §5]

227.195 Effect of land use regulations and comprehensive plans. Solar access ordinances shall not be in conflict with acknowledged comprehensive plans and land use regulations. [1981 c.722 §6]

227.210 [Repealed by 1975 c.767 §16]

DEVELOPMENT ORDINANCES

227.215 Regulation of development. (1) As used in this section, "development" means a building or mining operation, making a material change in the use or appearance of a structure or land, dividing land into two or more parcels, including partitions and subdivisions as provided in ORS 92.010 to 92.285, and creating or terminating a right of access.

(2) A city may plan and otherwise encourage and regulate the development of land. A city may adopt an ordinance requiring that whatever land development is undertaken in the city comply with the requirements of the ordinance and be undertaken only in compliance with the terms of a development permit.

(3) A development ordinance may provide for:

- (a) Development for which a permit is granted as of right on compliance with the terms of the ordinance;
- (b) Development for which a permit is granted discretionarily in accordance and consistent with the requirements of ORS 227.173;
- (c) Development which need not be under a development permit but shall comply with the ordinance; and
- (d) Development which is exempt from the ordinance.

(4) The ordinance may divide the city into districts and apply to all or part of the city. [1975 c.767 §11 (enacted in lieu of 227.220 to 227.270); 1977 c.654 §3]

227.220 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.220)]

227.230 [Amended by 1971 c.739 §2; 1975 c.153 §4; repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.230)]

227.240 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.240)]

227.250 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.250)]

227.260 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.260)]

227.270 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.270)]

227.280 Enforcement of development legislation. The council may provide for enforcement of any legislation established under ORS 227.215. [Amended by 1975 c.767 §14]

227.285 [1959 c.601 §1; repealed by 1969 c.460 §2 (227.286 enacted in lieu of 227.285)]

227.286 City ordinances applicable to public property. City ordinances regulating the location, construction, maintenance, repair, alteration, use and occupancy of land and buildings and other structures shall apply to publicly owned property, except as the ordinances prescribe to the contrary. [1969 c.460 §3 (enacted in lieu of 227.285); 1975 c.767 §12]

227.290 Building setback lines established by city council; criteria. (1) The council or other governing body of any incorporated city, under an exercise of its police powers, may establish or alter building setback lines on private property adjacent to any alley, street, avenue, boulevard, highway or other public way in such city. It may make it unlawful and provide a penalty for erecting after said establishment any building or structure closer to the street line than such setback line, except as may be expressly provided by ordinance. The council or body shall pass and put into effect such ordinances as may be needed for the purpose of providing for a notice to and hearing of persons owning property affected before establishing any such setback line. Such setback lines may be established without requiring a cutting off or removal of buildings existing at the time.

(2) The council may consider, in enacting ordinances governing building setback lines, the site slope and tree cover of the land with regard to solar exposure. The council shall not restrict construction where site slope and tree cover make incident solar energy collection unfeasible, except an existing solar structure's sun plane shall not be substantially impaired.

(3) The council may consider, in enacting ordinances governing building setback lines and maximum building height, the impact on available wind resources. The ordinances shall protect an existing wind energy system's wind source to the extent feasible.

(4) The powers given in this section shall be so exercised as to preserve constitutional rights. [Amended by 1979 c.671 §4; 1981 c.590 §9]

227.300 Use of eminent domain power to establish setback lines. The council or other governing body of any incorporated city, under an exercise of the power of eminent domain, may establish or alter building setback lines on private property adjacent to any alley, street, avenue, boulevard, highway, or other public way in such city in cases where the establishment of such setback lines is for street widening purposes, and in cases where the establishment of such setback lines affects buildings or structures existing at the time. The council or other governing body of the city shall pass and put into effect such ordinances as may be needed for the purpose of providing for a notice to and hearing of persons whose property is affected by such establishment. In case of the exercise of the power of eminent domain, provision shall be made for ascertaining and paying just compensation for any damages caused as the result of establishing such setback lines.

227.310 [1957 c.67 §1; 1975 c.767 §13; repealed by 1977 c.766 §16]

WETLANDS DEVELOPMENT

227.350 Notice of proposed wetlands development; exception; approval by city. (1) After the Department of State Lands has provided the city with a copy of the applicable portions of the Statewide Wetlands Inventory, the city shall provide notice to the department, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory:

- (a) Subdivisions;
- (b) Building permits for new structures;
- (c) Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
- (d) Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
- (e) Planned unit development approvals.

(2) The provisions of subsection (1) of this section do not apply if a permit from the department has been issued for the proposed activity.

(3) Approval of any activity described in subsection (1) of this section shall include one of the following notice statements:

- (a) Issuance of a permit under ORS 196.600 to 196.905 by the department required for the project before any physical alteration takes place within the wetlands;
- (b) Notice from the department that no permit is required; or
- (c) Notice from the department that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(4) If the department fails to respond to any notice provided under subsection (1) of this section within 30 days of notice, the city approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.

(5) The city may issue local approval for parcels identified as or including wetlands on the Statewide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the department with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

(6) Notice of activities authorized within an approved wetland conservation plan shall be provided to the department within five days following local approval.

(7) Failure by the city to provide notice as required in this section will not invalidate city approval. [1989 c.837 §31; 1991 c.763 §26]

TRUCK ROUTES

227.400 Truck routes; procedures for establishment or revision; notice; hearing. (1) A city council shall not establish a new truck route or revise an existing truck route within the city unless the council first provides public notice of the proposed truck route and holds a public hearing concerning its proposed action.

(2) The city council shall provide notice of a public hearing held under this section by publishing notice of the hearing once a week for two consecutive weeks in some newspaper of general circulation in the city. The second publication of the notice must occur not later than the fifth day before the date of the public hearing.

(3) The notice required under this section shall state the time and place of the public hearing and contain a brief and concise statement of the proposed formation of the truck route, including a description of the roads and streets in the city that will form the truck route.

(4) As used in this section:

(a) "Truck" includes motor truck, as defined in ORS 801.355, and truck tractor, as defined in ORS 801.575.

(b) "Truck route" means the roads or streets in a city which have been formally designated by the city council as the roads or streets on which trucks must travel when proceeding through the city. [1985 c.564 §1]

RECYCLING CONTAINERS

227.450 Recycling containers; recommendations for new construction. (1) Each multifamily residential dwelling with more than 10 individual residential units that is constructed after October 4, 1997, should include adequate space and access for collection of containers for solid waste and recyclable materials.

(2) Each commercial building and each industrial and institutional building that is constructed after October 4, 1997, should include adequate space and access for collection of containers for solid waste and recyclable materials.

(3) As used in this section, "commercial," "recyclable material" and "solid waste" have the meanings given in ORS 459.005. [1997 c.552 §32]

CLUSTERED MAILBOXES

227.455 Clustered mailboxes in city streets and rights-of-way. Each city in this state shall adopt standards and specifications for clustered mailboxes within the boundaries of city streets and rights-of-way that conform to the standards and specifications for such mailboxes contained in the State of Oregon Structural Specialty Code. [2011 c.488 §2]

Note: 227.455 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 227 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PERMITTED USES IN ZONES

227.500 Use of real property for religious activity; city regulation of real property used for religious activity. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations. [2001 c.886 §4]

227.505 Solar energy systems on residential and commercial structures. (1) The installation and use on a residential structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which residential structures are an allowed use.

(2) The installation and use on a commercial structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which commercial structures are an allowed use.

(3) Approval of a permit application under ORS 227.160 to 227.186 is, notwithstanding the definition of “permit” in ORS 227.160, a ministerial function if:

(a) The installation of a solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed; and

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof.

(4) As part of the permit approval process, a city:

(a) May not charge a fee pursuant to ORS 227.175 for processing a permit;

(b) May not require extensive surveys or site evaluations including, but not limited to, vegetation surveys, contour maps and elevation drawings; and

(c) May charge building permit fees pursuant to ORS 455.020, 455.210 and 455.220.

(5) Subsections (3) and (4) of this section do not apply to a permit application for a residential or commercial structure that is:

(a) A federally or locally designated historic building or landmark or that is located in a federally or locally designated historic district.

(b) A conservation landmark designated by a city or county because of the historic, cultural, archaeological, architectural or similar merit of the landmark.

(c) Located in an area designated as a significant scenic resource unless the material used is:

(A) Designated as anti-reflective; or

(B) Eleven percent or less reflective.

(6) As used in this section, “solar photovoltaic energy system” has the meaning given that term in ORS 757.360. [2011 c.464 §2]

Note: 227.505 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 227 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PLANNING AND ZONING PREAPPLICATION PROCESS

227.600 Land use approval preapplication review. (1) As used in this section:

- (a) “Compost” has the meaning given that term in ORS 459.005.
- (b) “Disposal site” has the meaning given that term in ORS 459.005.
- (c) “Local government” has the meaning given that term in ORS 174.116.

(2) Before an applicant may submit an application under ORS 227.160 to 227.186 for land use approval to establish or modify a disposal site for composting that requires a permit issued by the Department of Environmental Quality, as provided in subsection (3) of this section, the applicant shall:

(a) Request and attend a preapplication conference described in subsections (4) to (6) of this section; and

(b) Hold a preapplication community meeting described in subsections (7) to (9) of this section.

(3) Subsection (2) of this section applies to an application to:

- (a) Establish a disposal site for composting that sells, or offers for sale, resulting product; or
- (b) Allow an existing disposal site for composting that sells, or offers for sale, resulting product to:

(A) Accept as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste; or

(B) Increase the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.

(4) During the preapplication conference:

(a) The applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.

(b) The city with land use jurisdiction over the proposed disposal site for composting and the other representatives described in subsection (5) of this section shall inform the applicant of permitting requirements to establish and operate the proposed disposal site for composting and provide all application materials to the applicant.

(5) The applicant shall submit a written request to the city with land use jurisdiction to request a preapplication conference. A representative of the planning department of the city and a representative of the Department of Environmental Quality shall attend the conference along with representatives, as determined necessary by the city, of the following entities:

(a) Any other state agency or local government that has authority to approve or deny a permit, license or other certification required to establish or operate the proposed disposal site for composting.

(b) A state agency, a local government or a private entity that provides or would provide to the proposed disposal site for composting one or more of the following:

(A) Water systems.

(B) Wastewater collection and treatment systems, including storm drainage systems.

(C) Transportation systems or transit services.

(c) A city or county with territory within its boundaries that may be affected by the proposed disposal site for composting.

(d) The Department of Land Conservation and Development.

(e) The State Department of Agriculture.

(6) The city with land use jurisdiction may use preapplication procedures, if any, in the acknowledged land use regulations of the city, consistent with the requirements that the city shall:

(a) Provide notice of the preapplication conference to the entities described in subsection (5) of this section by mail and, as appropriate, in any other manner that ensures adequate notice and opportunity to participate;

(b) Hold the preapplication conference at least 20 days and not more than 40 days after receipt of the applicant's written request; and

(c) Provide preapplication notes to each attendee of the conference and the other entities described in subsection (5) of this section for which a representative does not attend the preapplication conference.

(7) After the preapplication conference and before submitting the application for land use approval, the applicant shall:

(a) Hold a community meeting within 60 days after the preapplication conference:

(A) In a public location in the city with land use jurisdiction; and

(B) On a business day, or Saturday, that is not a holiday, with a start time between the hours of 6 p.m. and 8 p.m.

(b) Provide notice of the community meeting to:

(A) The owners of record, on the most recent property tax assessment roll, of real property located within one-half mile of the real property on which the proposed disposal site for composting would be located;

(B) The resident or occupant that receives mail at the mailing address of the real property described in subparagraph (A) of this paragraph if the mailing address of the owner of record is not the mailing address of the real property;

(C) Neighborhood and community organizations recognized by the governing body of the city if a boundary of the organization is within one-half mile of the proposed disposal site for composting;

(D) A newspaper that meets the requirements of ORS 193.020 for publication;

(E) Local media in a press release; and

(F) The entities described in subsection (5) of this section.

(8) During the community meeting, the applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.

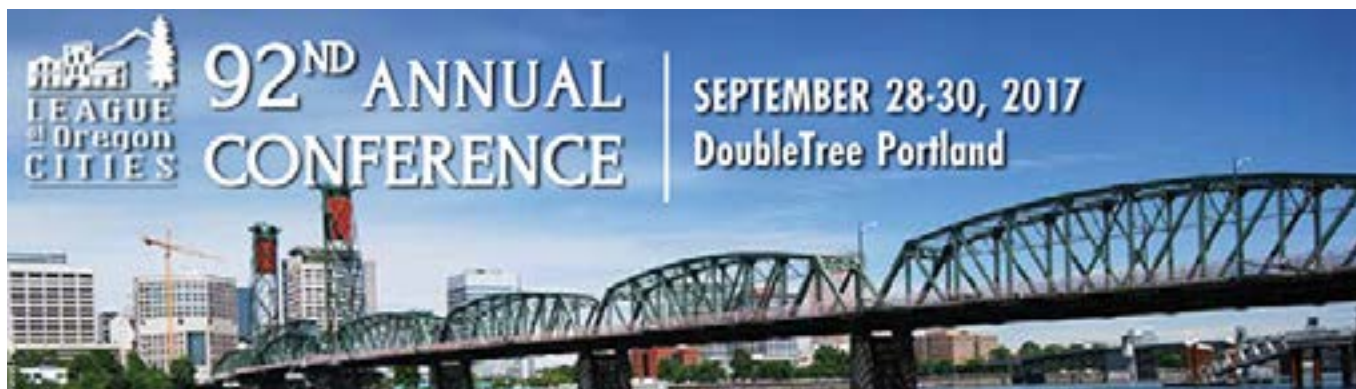
(9) The applicant's notice provided under subsection (7)(b) of this section must include:

(a) A brief description of the proposed disposal site for composting;

(b) The address of the location of the community meeting; and

(c) The date and time of the community meeting. [2013 c.524 §2]

Note: 227.600 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 227 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.



Preliminary Conference Program

Topics & times subject to change

Thursday, September 28

8:30 a.m. - 12:00 p.m.	Mayors Business Meeting & Workshop
8:30 a.m. - 12:00 p.m.	Managers Workshop & Business Meeting
9:00 a.m. - 12:00 p.m.	Councilors Workshop
9:00 a.m. - 12:00 p.m.	Planning Directors Board Meeting
12:00 p.m. - 1:00 p.m.	Box lunches available for Mayors, Managers, Councilors Workshops & City Tour participants
1:00 p.m. - 4:30 p.m.	City Tours

-
- Tigard – Downtown Revitalization on a Suburban Main Street
 - Portland – Best of Portland
 - Portland – Smart Cities
 - Troutdale – Small Town Feel with Big Time Development
-

1:00 p.m. - 2:30 p.m. **Breakout Sessions**

-
- The Homeless in Our Communities
 - Oregon Statewide Housing Plan
 - Right of Way Management: The Political Implications of Local Decisions
 - Innovate to Recreate!
 - Youth Council – Engaging Youth in Local Government
 - The Future of Retail, Workforce, and Commerce in Your Community (presented by Walmart)
-

1:00 p.m. - 5:00 p.m. **Planning Commissioner Training**

2:45 p.m. - 4:15 p.m. **Breakout Sessions**

-
- Pathways to Alleviating Homelessness
 - Business Oregon: Financing and Funding Programs Available to Cities
 - Assuring Superior Customer Service as City Officials
 - Unmanned Aircraft
 - The 2017 Legislative Session: What Cities Need to Know
-

4:15 p.m. - 4:45 p.m. **Newcomers Orientation**

4:30 p.m. - 6:30 p.m. **Welcome Reception with Trade Show**

4:30 p.m. - 6:30 p.m. **LOC Board Nominating Committee Meeting**

Friday, September 29

7:00 a.m. - 8:00 a.m.	Small Cities Network
7:00 a.m. - 8:45 a.m.	Breakfast with Trade Show
8:00 a.m. - 2:00 p.m.	U.S. Congressional Offices
9:00 a.m. - 10:30 a.m.	Opening Ceremonies & Keynote Speaker MJ Hegar
10:30 a.m. - 12:30 p.m.	Visit with State Agency Directors
10:45 a.m. - 12:15 p.m.	Breakout Sessions

-
- Beyond Shelters: Community Conversations About Housing the Homeless
 - What's the Risk? Best Practices for Cities – **presented by CIS (Citycounty Insurance Services)**
 - Developing and Testing Your City's Emergency Plan
 - Incentivizing & Building Affordable Housing
 - Protecting and Leveraging Your City's Historic Resources
 - Visioning, Strategic Planning & Goal Setting: Turning Possibilities into Outcomes
-

12:00 p.m. - 2:00 p.m. **Lunch with Trade Show**

1:00 p.m. - 4:30 p.m. **City Tours**

-
- Portland – Innovative Housing Solutions
 - Lake Oswego – Downtown Development
 - Lake Oswego & Tigard – Water Treatment Plant Tour
 - Portland – Gateway Green Mountain Bike Park
-

2:15 p.m. - 3:45 p.m. **Breakout Sessions**

-
- State and Local Tax Reform and Property Tax Reform's Place In It
 - Performance-Based Infrastructure (PBI) for the Public Sector
 - Fundamentals of Municipal Water and Wastewater Infrastructure
 - Being an Effective Leader Across Generations
 - Building Healthy Cities Through Partnership with Public Health Departments
 - Saving Time and Money with Cooperative Procurement – **presented by NPPGov**
-

4:00 p.m. - 5:30 p.m. **Breakout Sessions**

-
- From Potholes to Easy Street: The Road to Successful Pavement Management
 - Testing Your Emergency Plan
 - Transient Lodging Tax in the Sharing Economy
 - We're Getting Engaged!
-

5:45 p.m. - 6:45 p.m. **CIS Reception and Safety Awards**

6:45 p.m. - 9:00 p.m. **Awards Dinner**

Saturday, September 30

8:00 a.m. - 10:00 a.m. **Breakfast, Annual Membership Meeting & City Awards**

10:15 a.m. - 11:45 a.m. **Breakout Sessions**

-
- Unpacking the Property Tax System
 - Find Your Productivity Sweet Spots for Success
 - Focus on Your Small City Assets for Community and Economic Vitality
 - Public Meetings- Preventing & Managing Conflict
-

12:00 p.m. - 2:00 p.m. **Lunch and Closing Program – Lincoln Town Hall**

2017 OAPA / ISOCARP Conference - Program

DAY 1	Tuesday, October 24	MOBILE WORKSHOPS (TECHNICAL TOURS)			
		morning (a.m.)	MW1 Innovation Quadrant	MW2 Willamette Falls Legacy Project	MW3 Columbia River Gorge National Scenic Area - All day -
		afternoon (p.m.)	MW4 Transportation, Urban Development and Cultural Change in the Jade District	MW5 Emerging Planners Group Walking Tour	



CONFERENCE SESSION TRACKS

Track 1:	Track 2:	Track 3:	Track 4:	Track 5:	Track 6:
Technology, Infrastructure, & Buildings	Governance & Inclusive Communities	Culture, Community Experience & Sharing Economy	Resilience, Adaptation, & Disaster Mitigation	Technology & Small Communities	Post-Smart Communities & the New Frontiers

DAY 2	Wednesday, October 25	9:00	10:30	Opening Plenary (Keynote) and Introduction to the Tracks			
		10:30	11:00	Break with Exhibitors & Poster Presentations (Poster Session 1)			
		11:00	12:30	Information & Communication Technology & Data Systems	The Portland Plan: Measuring Progress Towards Equity (Engstrom)	Making Good Great: Transforming 20th Century Industrial District into a Next Generation Employment Center (Koski)	Mitigation & Adaptation on Climate Change
		12:30	14:00	Lunch - ISOCARP Awards			
		14:00	15:30	Streetsmart: Evidence & Insight for Better Transportation (Rodgers)	Defining Inclusive Smart Communities	Smart Mobility, Digital Transformation, & Energy Efficiency Smart culture, regenerative planning and sustainable economy	Hydrological Vulnerabilities
		15:30	16:00	Break with Exhibitors & Poster Presentations (Poster Session 2)			
		16:00	17:30	Sustainable Buildings & Urban Space	The International Guidelines on Urban & Territorial Planning (Oyuela)	Smart City Placemaking in Kashiwa-no-ha, Japan (Kervin)	Strategic Planning for Climate Change
		17:30	19:00	Reception			
		19:00		Pub Crawl & Trivia			

DAY 3	Thursday, October 26	9:00	10:30	Plenary Keynote and ISOCARP Projects			
		10:30	11:00	Break with Exhibitors & Poster Presentations (Poster Session 3)			
		11:00	12:30	The Unpaved Road to Housing Affordability: What Role Does Technology Play? (Meltzer)	Indigeneous People & Traditional Planning	Smart Communities, Smart Technology, & New Planning Tools	Natural Disaster Mitigation
		12:30	14:00	Lunch - Presentations			
		14:00	15:30	Autonomous Vehicles: What the Revolution Means for You (Weber)	Governance & Citizen Participation	Story of Place: A Framework for Regenerative Planning (Murphy)	City of Portland: Central City Scenic Resources Protection Plan (Brooks)
		15:30	16:00	Break with Exhibitors & Poster Presentations (Poster Session 4)			
		16:00	17:30	Smart Infrastructure & Transport	Smart City Governance Co-Creating Inclusive Places (Ludlow)	Shared Economies, Social Integration, & Engagement	Sustainable and Resilient Communities
		19:00		Dinner Reception			

DAY 4	Friday, October 27	9:00	10:30	Final Day Opening Plenary (Keynote Speaker) and YPP Presentation			
		10:30	11:00	Break with Exhibitors & Poster Presentations (Poster Session 5)			
		11:00	12:30	Washington County Transportation Futures Study (Wardell)	Neighborhood Cohesion	UPAT Seminar	Beyond Disaster Mitigation: The Role of Equity in Fostering Resilient Communities (Papaefthimiou)
		12:30	14:00	Final Day Lunch - OAPA Awards			
		14:00	15:30	Green Smart Buildings & Development	Equitable Growth Policies & Community Partnerships (Curren)	What Can We Learn from Portland's Urban Economy? (Zaman)	UN Habitat Workshop: Digital Innovations in Urban Planning and Design from a Global Perspective
		15:30	17:30	Closing Plenary with Track Results and Announcement of 2018 ISOCARP Congress			
		17:30	19:00	ISOCARP Members Program - Bureau Meeting / Annual General Meeting			



City of McMinnville
Planning Department
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McMinnville, OR 97128
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MINUTES

July 20, 2017
Planning Commission
Work Session Meeting

5:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Commissioners: Erin Butler, Susan Dirks, Gary Langenwalter, Roger Lizut, Lori Schanche, and Erica Thomas

Members Absent: Martin Chroust-Masin and Zack Geary

Staff Present: Chuck Darnell – Associate Planner, Ron Pomeroy – Principal Planner, David Koch – City Attorney, and Heather Richards – Planning Director

1. Call to Order

Chair Hall called the meeting to order at 5:30 p.m.

2. Swearing in New Commissioner – Gary Langenwalter

City Attorney David Koch swore in new Commissioner Gary Langenwalter.

3. Discussion Items:

- **Wireless Facilities**

Planning Director Heather Richards said the wireless facilities chapter update had been reviewed and approved by legal counsel. It would be brought back to the Commission in a public hearing process next month.

Principal Planner Ron Pomeroy highlighted the proposed changes. The intent was to replace the entire chapter in the zoning ordinance. The chapter was written in 2000 and since that time the FCC had made a number of changes to their regulations and some affected local jurisdictions. He reviewed the current requirements. Wireless towers were allowed in industrial zones without height limits, however current regulations also allowed an additional 20 feet to be placed on top of other existing antennas and antenna mounds in all zoning areas. Landscaping was to be at the base of the antenna with a six foot tall fence around the perimeter. Antennas located in the historic district had to go through a Conditional Use permit. The current heights of these towers ranged from 135 feet on Highway 18 to 160 feet in the Gateway District. The permits issued for these towers were on average 20 feet less than that, but the code allowed for an extension of an additional 20 feet to an existing tower. There were alternative support structures as well. The new updated elements to the chapter included limiting the height of the towers to 100 feet, the additional height allowed to existing towers would be ten feet, anything proposed in the downtown design guidelines area would have to go through a Conditional Use permit, in residential zones all utility cabinets would

have to be undergrounded, no symbols, flags, or banners could be attached to the towers, the color needed to be non-reflective and neutral, façade mounted antennas would need to integrate the wiring as much as possible into the building or at least be compatible with the site and surrounding characteristics, roof mounted antennas needed to be set back as far as possible from the edge of the roof, the landscape buffer would be a minimum of a ten foot wide area, no artificial lighting would be allowed unless it was required by FAA, no towers or guide wires would be located in required zoning setbacks, co-location analysis would be required, and accessory equipment would have to be placed in enclosures. Some recommended exemptions were cells on wheels such as mobile broadcasting units for news or emergency situations and AM radio broadcasting. Also exempted were ham radios, federally licensed amateur antennas, and antennas that were for Dish network and Direct TV. Stealth would be required in regard to color, setbacks, buffering, and architectural blending. He showed examples of stealth for these towers. The ideas were unlimited for what applicants could propose for stealth.

Commissioner Schanche did not think public land should be exempted from these regulations except for public safety issues. Planning Director Richards thought even those being exempted should attempt to conform with the stealth requirements. The Commission agreed.

Associate Planner Chuck Darnell suggested including the current practice for changes to an existing tower, such as adding antennas to an existing pole. Currently if the tower height was not being increased, if equipment was not being added to the ground, and if the ground space was not increased, then it was not required to meet the standards. Principal Planner Pomeroy would look into it.

Commissioner Schanche asked if these standards were similar to what other cities were doing. Planning Director Richards replied they were similar, however there was potential for people to object to these standards.

- Citizen Advisory Committee

Planning Director Richards said the number one land use priority in Oregon was citizen involvement. The State required a committee for citizen involvement. In McMinnville there were two designated committees for citizen involvement, the Planning Commission and Citizen Advisory Committee. The last meeting of the Citizen Advisory Committee was in 2000. It was set up through a resolution which created bylaws for the Committee. The resolution also assigned this Committee to the Planning Commission. This Committee was set up to do long range planning, but because they had not been active it had not been achieving that work. The recommendation was to dissolve this Committee officially and leave the Planning Commission as the committee for citizen involvement and set up citizen advisory committees that were ad hoc and project specific. Staff had text amendments to the Comprehensive Plan to make this change. A goal was added to engage a broad cross section of the community, not a homogenous committee of similar demographic profiles and ages. Policies were also added. One stated the Planning Commission would serve as the officially recognized citizen involvement committee. There would be an annual review of the Citizen Involvement Plan and a report would be given to the City Council. They would engage citizens for input on major elements of the Comprehensive Plan by creating special citizen advisory bodies and ad hoc committees. They would also strive to include youth in the planning activities and strive to assure technical information was available to citizens in an understandable form and when needed provide translations to non-English speaking members of the community. Proposals were also added. One was to periodically evaluate

the citizen involvement program and make adjustments as needed. The other was that the committee for citizen involvement would report annually to the City Council.

There was discussion regarding how the ad hoc committee members would be interviewed and appointed.

Planning Director Richards said these Comprehensive Plan text amendments would come back in a public hearing format and the Planning Commission would make a recommendation to the City Council.

Mark Davis, member of the current Citizen Advisory Committee, encouraged the Commission to look at issues differently when they put on their Citizen Advisory Committee hats. They needed to have more informal conversations back and forth with citizens.

- Planning Commission Code Amendments

Planning Director Richards said the Planning Commission enabling ordinance would need to be updated to take on some items that had been assigned to the Citizen Advisory Committee. The ordinance was from 1973 and had to be updated as well to be compliant with the Oregon Revised Statute requirements. The proposed amendments were to include the additional ORS language and to add the annual report to Council and encouraging youth service. She reviewed the responsibilities and power language from the ORS. The Commission's responsibility was to make recommendations regarding transportation, housing, sanitation conditions, zoning, energy efficiencies, future growth, development and beautification of the City, and economic development. The Commission would serve in a quasi-judicial capacity on land use decisions and was an advisory board to the Council on a number of decisions. They would serve as the Committee for Citizen Involvement and would evaluate the effectiveness of the citizen involvement program annually in October and provide an annual report to the Council. There was an addition that for the types of members represented on the Commission, there would not be too much of the collective body involved in real estate or development. The Chair of the Planning Commission would give an annual report to the Council by December 31 of each year regarding the Commission's activities. They would meet as required to accomplish their responsibilities and they would operate within the laws of the State, County, and City. They could appoint ad hoc committees to address issues that were not under the purview of the existing Commission that would be supported by staff. There would also be a youth appointment.

Commissioner Langenwaller pointed out that the language stated they would study and propose measures for the promotion of public interest, health, comfort, safety, convenience, and welfare of the City and of the area within six miles of the City. That included Riverbend as it was within six miles of the City. Planning Director Richards said that language came from the ORS.

Commissioner Schanche suggested adding to their responsibilities livability, sustainability, and great neighborhoods. That would make it clear the Commission considered their mandate to include those elements. There was consensus to add that language.

Commissioner Schanche recommended another phrase to add was that they were working towards housing and land use that met the needs of all citizens.


Planning Director Richards would bring the changes back to another work session for further review.

Planning Director Richards gave an update on the work of the Affordable Housing Task Force. They were working on efficiency measures for affordable housing in the Code. They would send recommendations for Code amendments to the Planning Commission. Staff picked six communities that were comparable to McMinnville and looked at their codes in regard to affordable housing. Staff put together charts with this information. The Task Force was looking at Code amendments for Accessory Dwelling Units and Cottage Codes.

Planning Director Richards said the Land Use Economics presentation would be held next week.

4. Adjournment

Chair Hall adjourned the meeting at 6:30 p.m.



Heather Richards
Secretary



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EXHIBIT 2 - STAFF REPORT

DATE: September 21 17, 2017
TO: McMinnville Planning Commissioners
FROM: Ron Pomeroy, Principal Planner
SUBJECT: ZC 11-17 (Zone Change) Land Use Resources, LLC

Report in Brief:

This is the continued consideration of a zone change request from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site. (The remaining acreage is in the flood plain and as such is zoned FP and will remain zoned FP.)

The subject site is located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M. Attachment A to this staff report contains the Decision, Conditions of Approval, Findings of Fact, Comments, Attachments, and Conclusionary Findings.

This land use request was considered in a public hearing by the McMinnville Planning Commission on August 17, 2017. At that time the Commission heard public testimony, and then elected to close the public hearing to additional oral testimony but to keep the record open for an additional seven days, until 5:00 p.m., August 25, 2017 for receipt of additional written testimony. Then by an additional seven day period for the applicant to provide written rebuttal testimony with that period ending at 5:00 p.m. on September 1, 2017. Review of this application was continued to the evening of September 21, 2107 for Commission deliberation.

This application was deemed complete by the Planning Department on July 10, 2017.

Background:

The site is undeveloped with a large stand of trees, and is located east of and across Fircrest Drive from the Fircrest Community development that provides both assisted living and memory care residential opportunities as well as retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

All adjacent land to the west and northwest is zoned R-4 (Multiple-Family Residential) and R-4 PD (Multiple-Family Residential Planned Development), respectively while adjacent land to the south is zoned AH. The site's southeastern edge is bounded to Oregon Department of Transportation (ODOT) right-of-way providing no access rights to the site.

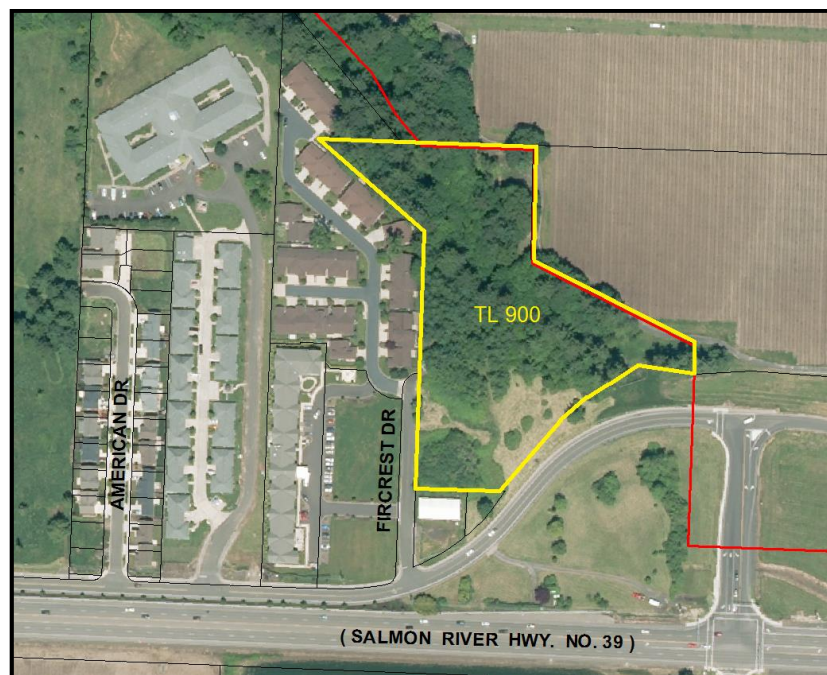
Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

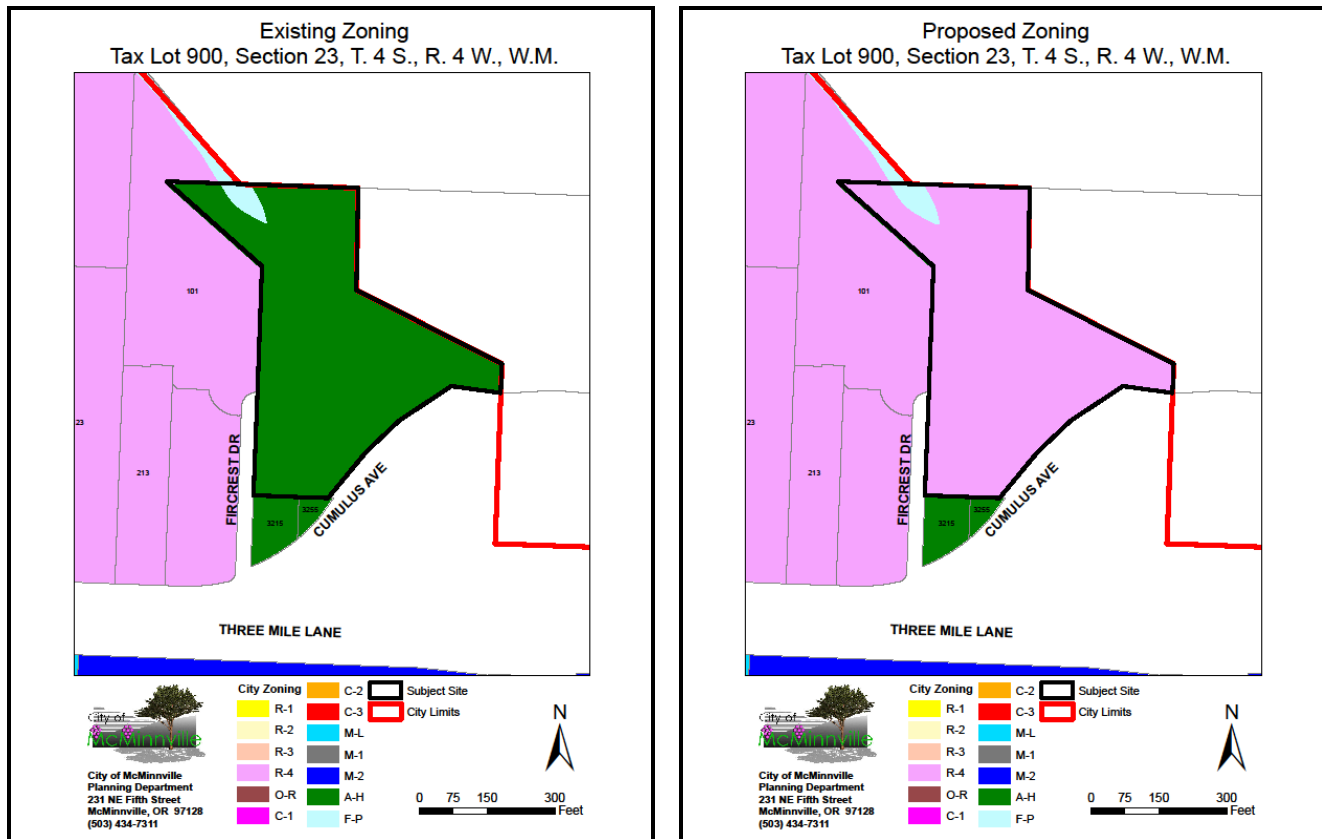
The southern portion of the site is relatively flat and generally covered in native grasses that are periodically mowed. The northern portion of the site is characterized by a downward slope of approximately 15 feet in elevation forming a drainage ravine the flows northwesterly eventually emptying into the South Yamhill River beyond the boundary of this site. This northern portion of the property is also covered in a fairly thick stand of, mostly, evergreen trees.

The site is identified as residential zoning on the McMinnville Comprehensive Plan map.

A graphic identifying the subject parcel has been provided below. While the full parcel is outlined in yellow for identification purposes, approximately 1/10th of an acre located in the northwest corner of the parcel is proposed to retain its current F-P (Flood Plain) zone and is not part of this zone change request.



In addition, the two graphics below provide a depiction of current zoning designations on the subject site and surrounding properties in addition to identifying how the zoning map would appear should these zone change requests be approved.



The Planning Commission's responsibility regarding this type of land-use request is to hold a public hearing and, following public testimony and deliberation, recommend to the City Council that the application be approved, or approved with conditions, or the Commission may act to deny the application. Such actions shall be based upon the City's comprehensive plan policies and the review criteria contained in Section 17.74.020 (Comprehensive Plan Map Amendment and Zone Change – Review Criteria) of the McMinnville Zoning Ordinance.

This request, if approved, would allow the applicant to amend the residential zoning designation from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site to afford the ability to pursue a future multiple-family development project on this site as noted in the submitted application, findings, and Traffic Impact Analysis (TIA). Please note that submittal of a conceptual development plan is not a required element of a zone change request and the applicant has not included such as part of this submittal. Additionally, the provision of other site graphics by the applicant are for general illustrative purposes only.

Evaluation of Review Criteria:

An amendment of the zoning map may be authorized provided that the proposal satisfies all applicable review criteria and provided that the applicant demonstrates the following:

Section 17.74.020

A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.

Comprehensive Plan Policies: There are numerous Comprehensive Plan Goals and Policies that are applicable to this request. Most of those have been well addressed in the applicant's submitted narrative. Some of the more notable guidance is found in Chapter V (Housing and Residential Development) which includes Goals that speak to quality housing for all city residents and achieving a residential development pattern that is land intensive and energy efficient as well as Policies encouraging opportunities for multiple-

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

family development in locations that have sufficient access opportunities and service availability to support such development.

Section 17.74.020

- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment.

Existing Development Pattern: The area to the west of this site is comprised of a mix of residential types including the Fircrest Community development that provides both assisted living opportunities and retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

Section 17.74.020

- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

Utility and Service Provision: This area is well served by existing sanitary and storm sewer systems as well as other public utilities. The Engineering Department notes that there is an existing 15" diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT). At the time of development, the applicant will need to design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements.

Street System: Regarding adjacent public rights-of-way, a portion of the western edge of the site is site is adjacent to NE Fircrest Drive. The other right-of-way that is adjacent to this site is Oregon Department of Transportation (ODOT) right-of-way located along the site's southeasterly edge; as the ODOT right-of-way is intended to serve as portion of a fully constructed future clover-leaf interchange to serve Highway 18, local access to this roadway is not possible. Access to serve future development of this site would be provided from Fircrest Drive.

NE Fircrest Drive has been constructed to a 26-foot wide, curb to curb, paved section within a 30-foot wide public right-of-way. Currently, there is no sidewalk installed along the property's Fircrest Drive frontage. At the time of development, 11-feet of additional right-of-way, to accommodate a planter strip and sidewalk, will need to be dedicated along the site's Fircrest Drive frontage. Additionally, a 10-foot wide public utility easement shall be granted along the Fircrest Drive frontage to enable adequate service to this site.

As noted in comments by the City's Engineering Department, a Traffic Impact Analysis (TIA) of projected vehicular impacts to the surrounding street network resulting from development of a multiple-family project on the subject site has been provided as part of the applicant's submittal with a conclusion that the surrounding network has the capacity to sufficiently accommodate the anticipated traffic; the TIA model assumed the site's maximum development capacity of 95 multiple-family residences.

Based on the analysis provided in the submitted TIA, the projected maximum residential yield on the 5.2-acre site of this zone change request is 95 multiple-family residential units. The corresponding trip generation from this site then is limited to a maximum total of 48 morning peak hour trips and a maximum total of 59 evening peak hour trips as referenced in the Executive Summary, (page 1) of the TIA. A condition speaking to this maximum trip generation will be recommended as a condition of approval in the associated Decision Document.

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

Site Hydrology: Due to the presence of the on-site drainage ravine and the approximately one-tenth acre of floodplain located at the parcel's far northwest end, the developer will be required, at the time of development, to acquire any necessary erosion control permits from the Oregon Department of Environmental Quality (DEQ), and any necessary wetlands / waterway permits from the Division of State Lands (DSL) and the US Army Corps of Engineers (COE) to address.

R-4 Multiple-Family Residential Zone:

The applicant's materials submitted to support this zone change application speak to a future intent to development multiple-family residential on this property. While the applicant has not provided a conceptual development plan with this zone change proposal, and is not required to do so at this time, it is instructive to note the permitted and conditional uses that could potentially locate on R-4 zoned land.

R-4 Multiple-Family Residential Zone:

17.21.010 Permitted Uses. In an R-4 zone, the following uses and their accessory uses are permitted:

- A. Single-family dwelling
- B. Two-family dwelling
- C. Multiple-family dwelling
- D. Accessory dwelling unit (ADU) subject to the following standards:
 - 1. The accessory dwelling unit may be established by:
 - a. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - b. Adding floor area to the primary dwelling, including a second story; or
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling
 - 2. The square footage of the accessory dwelling shall not exceed 40 percent of the primary dwelling exclusive of the garage, or 800 square feet, whichever is less. The minimum area shall not be less than 300 square feet.
 - 3. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction.
 - 4. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit.
 - 5. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
 - 6. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.
 - 7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.
 - 8. The accessory dwelling unit shall contain a kitchen, bathroom, living and sleeping area that [is] completely independent from the primary dwelling.
 - 9. The property owner shall reside on site within the primary dwelling unit.
 - 10. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures shall not be used as an accessory dwelling unit.
- E. Condominium
- F. Boardinghouse, lodginghouse, or roominghouse
- G. Single-family dwelling having a common wall with one or more other single-family dwelling, provided:
 - 1. Each dwelling unit shall be situated on an individual, legally subdivided or partitioned lot.
 - 2. The dwelling shall have a common wall at the "zero" lot line.
 - 3. Each lot shall comprise not less than twenty-five hundred square feet in area.
 - 4. Lot area and setback requirements will apply to the combined dwelling units as one structure and the combined lots as one lot.

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

5. Each dwelling unit must have independent services which include, but are not limited to sewer, water and electricity.
 6. The common wall shall be a fire wall, and shall be a kind of construction that will insure fire protection as per the Uniform Building Code as adopted by the State
 7. Common wall, single-family structures shall be required to provide a sound barrier at the common wall which has a sound transmission class rating of not less than fifty (50) as per the Uniform Building Code as adopted by the State. The building technique used to achieve the sound barrier rating shall be the responsibility of the general contractor and will be accepted upon inspection if it meets the code requirements and is supported by proof of meeting sound emission controls as specified.
 8. Existing duplexes will be allowed to be converted to common wall, single-family units if they meet the provisions of this title and were constructed after January, 1974.
- H. Day care facility, under the following provisions:
1. The structure is maintained in its residential character, operators own, lease, or rent the property and reside therein; and the center is operated at a usage level equal to or subservient to the residential use of the structure.
 2. Twelve or fewer people are present at any one time at the center.
 3. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met.
 4. That a certificate of approval be obtained for facilities with seven or more people as defined by ORS 418.810.
- I. Residential Home as defined in Chapter 17.06 (Definitions)
- J. Residential Facility as in Chapter 17.06 (Definitions)
- K. Social relief facility, under the following provisions:
1. The structure is maintained in its residential character, operators own, lease, or rent the property and reside therein, and the center is operated at a usage level equal to or subservient to the residential use of the structure.
 2. Five or less people unrelated to the operator, reside at the home at any one time.
 3. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met.
- L. Home occupation subject to the provisions of Chapter 17.67 (Home Occupations)
- M. Mobile home subdivision, provided that the provisions of both the McMinnville Subdivision Ordinance and the Mobile Home Development Ordinance are met and that a minimum of ten contiguous lots are developed solely for mobile home occupation;]
- N. Model home subject to the provisions of Section 17.54.060 of this ordinance
- O. Public park and recreation area
- P. Sewage pump station
- Q. Mobile home park, subject to the provisions of the Mobile Home Development Ordinance
- R. Bed and breakfast establishments, subject to the provisions of Section 17.12.010(N)
- S. Satellite dish, provided such dish is screened from abutting or facing residential properties by a sight obscuring fence, wall, or planting.
- T. Vacation home rental, subject to the provisions of Section 17.12.010(O).

17.21.020 Conditional Uses. In an R-4 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74.030:

- A. Campus living organization (fraternity, sorority or dormitory)
- B. Cemetery
- C. Church
- D. Community building, including library
- E. Day care facility, when the following situations exist:
 1. The structure is not used as a residence by the operators, and/or
 2. Thirteen or more people are present at any one time;
 3. That a certificate of approval be obtained for the facilities with seven or more people as required by ORS 418.810.

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

- F. Social relief facility, when the following situations exist:
 - 1. The structure is not used as a residence by the operators, and/or
 - 2. Six or more people unrelated to the operator reside at the home at any one time.
- G. Farming and keeping of domestic animals
- H. Golf course, except driving range and miniature golf course when operated as a business
- I. Home office of a physician or minister
- J. Hospital and clinic
- K. Nursing/convalescent home
- L. A multi-family dwelling constructed to a higher density than normally allowed in the R-4 Multiple-Family zone provided that the following conditions are met. It is the applicant's burden to show that the conditions have been met:
 - 1. That public and private utilities and services would not be overtaxed by the proposed development. Utilities and services include, but are not necessarily limited to, water, sanitary sewer, public schools, fire protection, police protection, electricity, natural gas, and telephone service.
 - 2. That the transportation network in the immediate area as well as in the adjoining areas is capable of handling the prospective increase in traffic flow.
 - 3. That off-street parking be provided at the rate of one and one-half parking stalls per unit. A variance to this requirement may be considered by the Planning Commission when the proposed housing structure is limited solely to elderly residents.
 - 4. That adjacent properties in other ownerships would not be caused to be limited to a lesser density than allowed in the zone as a direct result of the proposal using a "share" of that adjacent property's public or private utilities or services.
 - 5. That the provisions of this section may be utilized only in the core area, defined as that area bounded by First Street, Fifth Street, Adams Street, and Johnson Street
- M. Public or private school or college
- N. Electrical power substation
- O. Water reservoir
- P. Windmill, for generation of electricity or pumping water
- Q. Bed and Breakfast establishment, provided:
 - 1. That three or more guest sleeping rooms are provided on a daily or weekly basis for the use of six or more travelers or transients at any one time.
 - 2. That a minimum of one off-street parking space be provided for the first two guest sleeping rooms with an additional parking space for each additional guest sleeping room. The required off-street guest parking area may be provided within 200 feet from the bed and breakfast establishment.
 - 3. That signing be limited to only one non-illuminated or indirectly illuminated wooden sign not exceeding six square feet of face area.
 - 4. That smoke detectors be provided as per the requirements for "lodginghouses" in Ordinance 3997.
- R. Wireless communications facilities, not to include antenna support structures and their associated facilities subject to the provisions of Chapter 17.55 (Wireless Communications Facilities)
- S. Fire Service Substation.

Below are some of the standards of the R-4 zone that would be applicable to development of this site in the future should this current request be approved. This information is offered only as an additional observation relative to the requested zoning redesignation. If approved, some of those applicable opportunities and development standards incumbent upon future development could include:

17.21.030 Lot size. In an R-4 zone, the lot size shall not be less than five thousand square feet, except that the lot area for common wall, single-family lots shall not be less than two thousand five hundred square feet per family.

17.21.040 Yard requirements. In an R-4 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 fifteen feet;
- B. A side yard shall not be less than six feet, except an exterior side yard shall not be less than fifteen feet;
- C. A rear yard shall not be less than twenty feet;
- D. Whether attached to a residence or as a separate building, a covered storage facility for a vehicle on which the main opening is toward a street shall be located not less than twenty feet to the property line bordering the street;
- E. All yards shall be increased, over the requirements of this section, one foot for each two feet of building height over thirty-five feet.

17.21.060 Density requirements. In an R-4 zone, the lot area per family shall not be less than fifteen hundred square feet for each unit with two bedrooms or less, and not less than seventeen hundred fifty square feet for each unit with three bedrooms, and an additional five hundred square feet for each additional bedroom in excess of three in any one unit. [..]

While the above information is presented relative to the requested R-4 zoning designation, it is important to note that the applicant's traffic impact analysis was prepared based upon the amount of land suited for development (removing flood plain, topographical and woodland compromised land) and the resulting potential number of residential units that could be constructed on that acreage to assess the traffic impact upon the surrounding street network. The results of this model analysis identified the maximum a.m. and p.m. peak hour trips volumes resulting from that conceptual amount of residential development on this site. Although the density calculation noted above would potentially yield an increased number of developable multiple-family residential units on the entire site, the applicant's submitted materials and TIA did not analyze that, resulting in a traffic capacity as a condition of approval.

Discussion:

Decision Document Attachment 2 (letter from Tom and Kath Murtiashaw dated August 16, 2017 and received August 17, 2017) was presented during the public testimony portion of the August 17, 2017 public hearing.

Below is a summary of the testimony received since the public hearing on Thursday, August 17, 2017;

The Planning Commission kept the record open for additional written public testimony for seven days.

Written public testimony received by the McMinnville Planning Department between Friday, August 18, 2017 and 5:00 p.m., Friday, August 25, 2017.

- Decision Document Attachment 3 - August 22, 2017 Email from Lee Eggers received August 22, 2017
- Decision Document Attachment 4 – August 24, 2017 Letter from John and Sharon O'Gieblyn received August 24, 2017
- Decision Document Attachment 5 – August 24, 2017 Email from LaVerne Rickard received August 24, 2017

The applicant, Land Use Resources, LLC, then had seven days extending from 5:01 p.m., Friday, August 25th, 2017 to 5:00 p.m., Friday, September 1, 2017 to submit written testimony. The applicant provided testimony during that period.

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

Applicant's written response testimony provided on September 1, 2017.

- Decision Document Attachment 6 – September 1, 2017 Email from Denny Elmer representing Land Use Resources, LLC, received September 1, 2017.

Summary of Public Written Testimony Comments:

Much of the written testimony received since this proposal's August 17, 2017, public hearing is similar to that received during the public testimony portion of that public hearing. Those concerns are summarized below and can be reviewed in their original entirety by review of the attachments to this staff report.

Adequacy of utilities to serve the site:

Summary – Will existing public utilities have the capacity to sufficiently serve the future development of this site?

Response – This request to rezone the property to match that of existing zoning designation of adjacent properties to the west has been reviewed by the service and utility providers: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, McMinnville Water and Light, McMinnville School District No. 40, Yamhill County Public Works, Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas, and Oregon Department of Transportation. All of their comments have been included in this Staff Report and Decision Document (Attachment A) and have raised no concerns regarding their ability to provide sufficient services to support the future residential development of this site.

Emergency service access to the site and surrounding neighborhood:

Summary – Will emergency service providers retain the ability to sufficiently serve the surrounding neighborhood upon future development of this site?

Response – The McMinnville Police and Fire Departments, as noted above, reviewed this request and raised no concerns relative to their ability to continue to provide sufficient services to the surrounding neighborhood as well as this site upon future development.

Environmental impact:

Summary – What will the environmental impact be on the natural area that exists largely on the northern portion of the site?

Response – Condition of Approval number one requires a preservation plan for this site prior to approval of any development. Specifically, this condition states:

“That, prior to development, the applicant shall submit a preservation plan relative to the natural drainage swale and wooded area of the site, as far as practicable, as part of any development proposal. This plan shall be reviewed and approved by the McMinnville Planning Director prior to approval of any development plan for the site.”

With a Planned Development request not being part of this zone change application, and no specific development plan provided as part of this proposal to rezone the site, and not required, this condition is as far reaching as current requirements allow regarding the protection of the site's natural area as a land use action. This condition does obligate any future development plan to include a preservation plan that will be reviewed by the Planning Director as assurance that every effort will be made to conserve this area in its natural state.

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

Density and livability:

Summary – What about the effects upon the livability of the surrounding area should this site develop with multiple-family residences?

Response – This site has been designated as Residential on the McMinnville Comprehensive Plan Map since 1980 for the purpose of residential development along this portion of the Highway 18 corridor. The applicant is requesting that this site be rezoned to match that of adjacent properties to the west to allow for future residential development. Such future development will have to comply with all applicable land use requirements just as the existing development to the west did when those properties developed. Additionally, as noted above, all local service and utility providers, as well as the McMinnville City Manager, City Attorney, and the Yamhill County Planning Department have reviewed this proposal and find no conflicts with their interests. The Decision Document (Attachment A) to this Staff Report also provides findings relative to all applicable Goals and Policies of the McMinnville Comprehensive Plan and finds that this proposal meets or exceeds those requirements. In review of the questions raised by opponents to this application, staff does not find evidence to the contrary.

Safe transportation network:

Summary – Does the surrounding transportation network sufficiently accommodate the trip volume modeled in the applicant's TIA?

Response – The answer to this question has already been provided in the applicant's TIA and in the McMinnville Community Development Director's review of the surrounding street network and that answer is "yes" the surrounding network can sufficiently accommodate the volume modeled. However, the opponent testimony also asked a capacity question specific to the intersection of NE Cumulus and NE Fircrest. In response, the Community Development Director reviewed specific traffic counts and proposed traffic that would result in development of 95 multiple-family residential units on the subject site. That analysis and response is provided in a memo dated August 23, 2017, and included as Decision Document Attachment 7 to this Staff Report.

In sum, the conclusion of that analysis states: "The total expected daily traffic on NE Fircrest Drive, including existing and proposed developments, is 1,058 trips per day. Thus, the expected traffic on NE Fircrest Drive is within the 1,200 vehicle per day designation for local residential streets and, as staff noted at the public hearing, there is adequate capacity to serve the proposed development."

Since a condition of approval for the rezone includes a traffic limitation if the development proposed is larger than 95 units or the maximum number of trips allowed with this land use decision, the developer will be required to conduct a new traffic impact analysis.

Additional email testimony was received on August 22, 2017 (Decision Document Attachment 3), citing a property line encroachment issue stating:

"Be advised that a notice of property line encroachment has been sent to Mr. Denny Elmer in the matter of Docket ZC 11-17. This encroachment was discovered in October of 2013 when Fredrick Motor Company surveyed for future development. At that time, he did not want to deal with the issue and differed it to the new owner when it sold. Since Mr. Elmer is planning on the development, we have advised him of the encroachment of 557.16 feet of the west boundary line which consists of approximately .22 acres."

-- Lee Eggers, President Fircrest Village Condominiums

This is a matter between adjacent land owners and is not in the purview of the review of this zone change request.

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of ZC 11-17

Summary of Applicant's Written Testimony:

Land Use Resources, LLC provided a written rebuttal to the public testimony comments that the City of McMinnville received via email on September 1, 2017, prior to 5:00 pm. (Decision Document Attachment 6)

Summary – The applicant states that, between their TIA that was provided as part of the original application submittal, the memo from Community Development Director, Mike Bisset, and the analysis provided in the previous Staff Report and Decision Document, that the concerns of the opponents are sufficiently addressed and requests that this zone change request be approved.

Fiscal Impact:

None

Planning Commission Options:

- 1) **DELIBERATE** and recommend that the City Council **APPROVE** the application, per the decision document provided which includes the findings of fact.
- 2) **DELIBERATE** and recommend that the City Council **DENY** the application, providing findings for the denial as part of the motion to deny,.

Recommendation/Suggested Motion:

The Planning Department recommends that the Commission make the following motion recommending approval of ZC 11-17 to the City Council:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE ZC 11-17 SUBJECT TO THE CONDITIONS OF APPROVAL AS RECOMMENDED BY STAFF.

RP:sjs



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

503-434-7311
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**DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A
ZONE CHANGE REQUEST FOR PROPERTY LOCATED NORTH OF NE CUMULUS AVENUE AND
EAST OF NE FIRCREST DRIVE.**

DOCKET: ZC 11-17 (Zone Change)

REQUEST: The applicant is requesting approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.

LOCATION: The subject site is located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M.

ZONING: The subject site's current zoning is AH (Agricultural Holding) and F-P (Flood Area).

APPLICANT: Land Use Resources, LLC

STAFF: Ron Pomeroy, Principal Planner

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: August 17, 2017 and September 21, 2017. Meetings held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY: McMinnville City Council

DATE & TIME: October 10, 2017. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

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

Attachments:

Attachment 1: ZC 11-17 Application and Attachments

Attachment 2: August 16, 2017 Letter from Tom and Kathy Murtiashaw received August 17, 2017

Attachment 3: August 22, 2017 Email from Lee Eggers received August 22, 2017

Attachment 4: August 24, 2017 Letter from John and Sharon O'Gieblyn received August 24, 2017

Attachment 5: August 24, 2017 Email from LaVerne Rickard received August 24, 2017

Attachment 6: September 1, 2017 Email from Denny Elmer representing Land Use Resources, LLC, received September 1, 2017.

Attachment 7: August 23, 2017 Memo from Mike Bisset, Community Development Director received August 23, 2017

Based on the findings and conclusions, the Planning Commission recommends that the City Council **APPROVE** zone change ZC 11-17 **subject to the conditions of approval provided in this document.**

City Council: _____ Date: _____
 Scott Hill, Mayor of McMinnville

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

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

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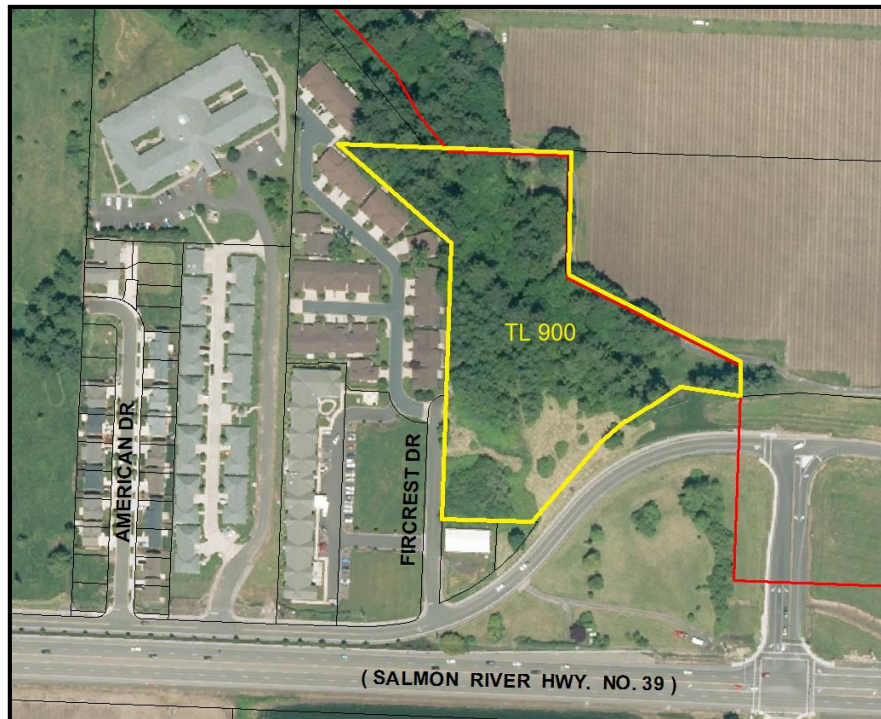
Attachment 5: August 24, 2017 Email from LaVerne Rickard received August 24, 2017

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Application Summary:

The applicant is requesting approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site.



The two graphics below provide depiction of current zoning designations on the subject site and surrounding properties in addition to identifying how the zoning map would appear should this zone change request be approved.

Attachments:

Attachment 1: ZC 11-17 Application and Attachments

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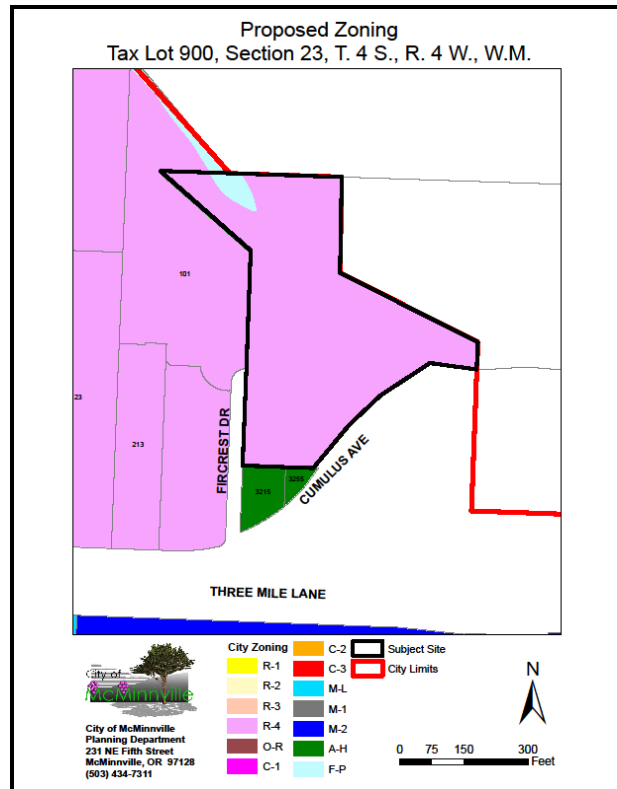
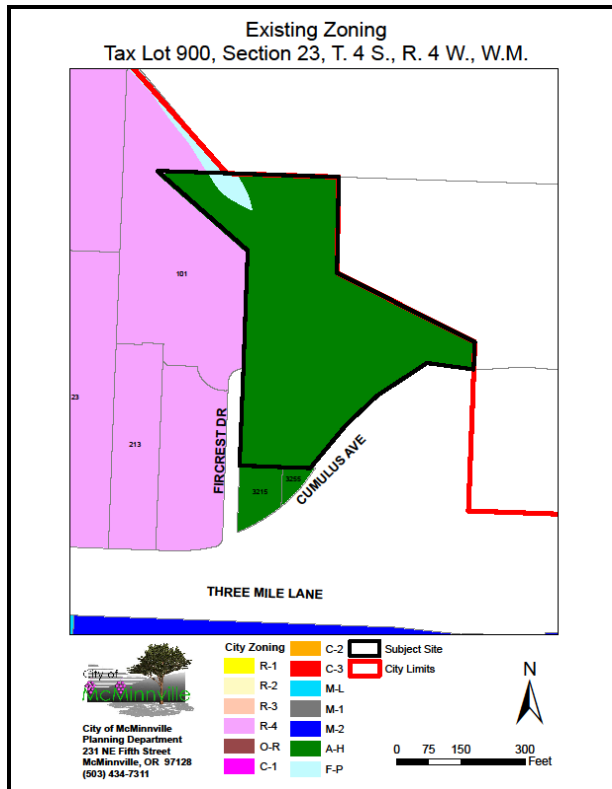
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CONDITIONS OF APPROVAL:

The following conditions of approval shall be required to ensure that the proposal is compliant with the City of McMinnville's Comprehensive Plan and Zoning Ordinance:

1. That, prior to development, the applicant shall submit a preservation plan relative to the natural drainage swale and wooded area of the site, as far as practicable, as part of any development proposal. This plan shall be reviewed and approved by the McMinnville Planning Director prior to approval of any development plan for the site.
2. That, based on the analysis provided in the submitted Traffic Impact Analysis (TIA) prepared for the applicant by Lancaster Engineering (June 28, 2017), the residential density allowed on this site of this 5.2-acre zone change request shall be limited to a maximum total of 48 morning peak hour trips and a maximum total of 59 evening peak hour trips as referenced in the Executive Summary (page 1) of the TIA unless a subsequent TIA is submitted by the applicant and the conclusions of which are found to be acceptable to the City.
3. That NE Fircrest Drive has been constructed to be 26' wide in a 30' public right-of-way, and there is not sidewalk along the property's frontage. At the time of development, 11-feet of additional right-of-way, to accommodate a planter strip and sidewalk, will need to be dedicated along the site's Fircrest Drive frontage. Additionally, a 10-foot wide public utility easement shall be granted along the Fircrest Drive frontage.

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4. That there is an existing 15" diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT). At the time of development, the applicant will need to design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements.
5. That, at the time of development, the applicant will need to acquire any necessary erosion control permits from the Oregon Department of Environmental Quality (DEQ), and any necessary wetlands / waterway permits from the Division of State Lands (DSL) and the US Army Corps of Engineers (COE).
6. That, at the time development, the applicant shall provide any geotechnical engineering analyses / reports required by the Building Division to accommodate the construction of any proposed structures.

ATTACHMENTS

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COMMENTS

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

Engineering Department:

We have completed our review of proposed ZC 11-17. As noted below, we concur with the conclusion in the submitted traffic impact analysis that the zone change will not result in any level of service issues on the adjacent transportation network. Also, based on the City's adopted Conveyance System Master Plan (October 2008), staff can conclude that there is adequate sanitary sewer system capacity to accommodate the proposed zone change. Thus, we have no concerns with the proposed zone change.

At the time of development, the following items/issues will need to be addressed:

- NE Fircrest Drive has been constructed to be 26' wide in a 30' public right-of-way, and there is not sidewalk along the property's frontage. At the time of development, 11-feet of additional

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right-of-way, to accommodate a planter strip and sidewalk, will need to be dedicated along the site's Fircrest Drive frontage. Additionally, a 10-foot wide public utility easement shall be granted along the Fircrest Drive frontage.

- There is an existing 15" diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT). At the time of development, the applicant will need to design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements.
- At the time of development, the applicant will need to acquire any necessary erosion control permits from the Oregon Department of Environmental Quality (DEQ), and any necessary wetlands / waterway permits from the Division of State Lands (DSL) and the US Army Corps of Engineers (COE).
- At the time development, the applicant shall provide any geotechnical engineering analyses / reports required by the Building Division to accommodate the construction of any proposed structures.

In a supplemental memo provided by the McMinnville Community Development Director (Attachment 7) additional analysis of the potential impact on the intersection of NE Cumulus and NE Fircrest by adding a conceptual 95 multiple-family residential residences to the subject site was provided. In sum, the conclusion of that analysis states: "The total expected daily traffic on NE Fircrest Drive, including existing and proposed developments, is 1,058 trips per day. Thus, the expected traffic on NE Fircrest Drive is within the 1,200 vehicle per day designation for local residential streets and, as staff noted at the public hearing, there is adequate capacity to serve the proposed development."

Building Department:

No objections from this end.

Fire Department:

We have no issues with this zone change but please note that all construction will need to meet required Fire Code requirements.

McMinnville Water and Light:

MW&L has no comments on this application.

Yamhill County Public Works:

The subject proposal does not conflict with the interests of Yamhill County Public Works.

Recology Western Oregon:

No concerns here from our end.

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FINDINGS OF FACT

1. Land Use Resources, LLC is requesting approval of a zone change from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site. The subject site is located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M..
2. The site is currently designated as Residential and Flood Plain on the McMinnville Comprehensive Plan Map, 1980.
3. Sanitary sewer and municipal water and power can adequately serve the site. The municipal water reclamation facility has sufficient capacity to accommodate expected waste flows resulting from development of the property.
4. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

CONCLUSIONARY FINDINGS

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

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

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

Policy 59.00 Opportunities for multiple-family and mobile home developments shall be provided in McMinnville to encourage lower-cost renter and owner-occupied housing. Such housing shall be located and developed according to the residential policies in this plan and the land development regulations of the City.

Finding: Goal V 1 and Policies 58.00 and 59.00 are met by this proposal in that approval of the zone change request from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) will allow for the opportunity of this land to be developed with a variety of housing types including higher density housing as noted in the applicant's submitted findings. Higher density residential development of this site is commensurate with nearby development in that the site is located east of and across Fircrest Drive from the Fircrest Community development that provides both assisted living opportunities and retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

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

Policy 68.00 The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the city center and to those areas where urban services are already available before committing alternate areas to residential use.

Policy 71.00 The City of McMinnville shall designate specific lands inside the urban growth boundary as residential to meet future projected housing needs. Lands so designated may be developed for a variety of housing types. All residential zoning classifications shall be allowed in areas designated as residential on the Comprehensive Plan Map.

Policy 71.09 Medium and High-Density Residential (R-3 and R-4) – The majority of residential lands in McMinnville are planned to develop at medium density range (4 – 8 units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses. High density residential development (8 – 30 dwelling units per net acre) uses typically include townhouses, condominiums, and apartments. The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the city center and to those areas where urban services are already available before committing alternate areas to residential use.

- 1. Areas that are not committed to low density development;*
- 2. Areas that have direct access from collector or arterial streets;*
- 3. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;*
- 4. Areas where the existing facilities have the capacity for additional development;*
- 5. Areas within one-quarter mile of existing or planned public transportation; and,*
- 6. Areas that can be buffered from low density residential areas in order to maximize the privacy of established low density residential areas.*

Policy 71.13 The following factors should serve as criteria in determining areas appropriate for high-density residential development:

- 1. Areas which are not committed to low or medium density development;*
- 2. Areas which can be buffered by topography, landscaping, collector or arterial streets, or intervening land uses from low density residential areas in order to maximize the privacy of established low density residential areas;*
- 3. Areas which have direct access from a major collector or arterial street;*
- 4. Areas which are not subject to development limitations;*
- 5. Areas where the existing facilities have the capacity for additional development;*

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6. *Areas within a one-half mile wide corridor centered on existing or planned public transit routes;*
7. *Areas within one-quarter mile from neighborhood and general commercial shopping centers; and*
8. *Areas adjacent to either private or public permanent open space.*

Finding: Goal V 2 and Policies 68.00, 71.00, 71.09, and 71.13 are met by this application in that the proposal to rezone this land as requested is encouraged by the existing Residential designation of the site on the Comprehensive Plan Map. In addition, rezoning of this site to allow higher residential density encourages more efficient residential development in an area where urban services are already available before committing alternate areas to residential development. The adjacent residential neighborhood to the west currently exhibits a range of medium and higher residential densities and housing types including single-family attached dwellings, condominiums, assisted living, apartments, and residential memory care facilities. A graphic has been provided below identifying the locations of these residential opportunities. Additionally, it is instructive to recall that Condition of Approval number 1 of this Decision Document requires preservation of open space within the wooded portion of this site which satisfies Policy 71.13(8) and can also be seen on the aerial graphic below as well as the site identification graphic provided on page 3 of this document.

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A traffic impact analysis (TIA) of the anticipated vehicular impacts on the surrounding street network from multiple-family residential development of this site was submitted by the applicant. The TIA concluded that the vehicular impact of development of 95 multiple-family dwelling units on this site can be sufficiently accommodated by the surrounding transportation network. While Policy 71.13(3) states that an area identified for high-density residential development *should* have direct access from a major collector or minor arterial, the identified site access is located on a non-through street and only some 200 to 300 feet away from NE Cumulus Avenue which is identified in the McMinnville Transportation System Plan as a Major Collector street (see graphic below). In the context of the applicant's request, while future residential construction may be multiple-family in form, the density limitation placed on this site (Condition of Approval 2) which is governed by maximum trip generation figures, places the

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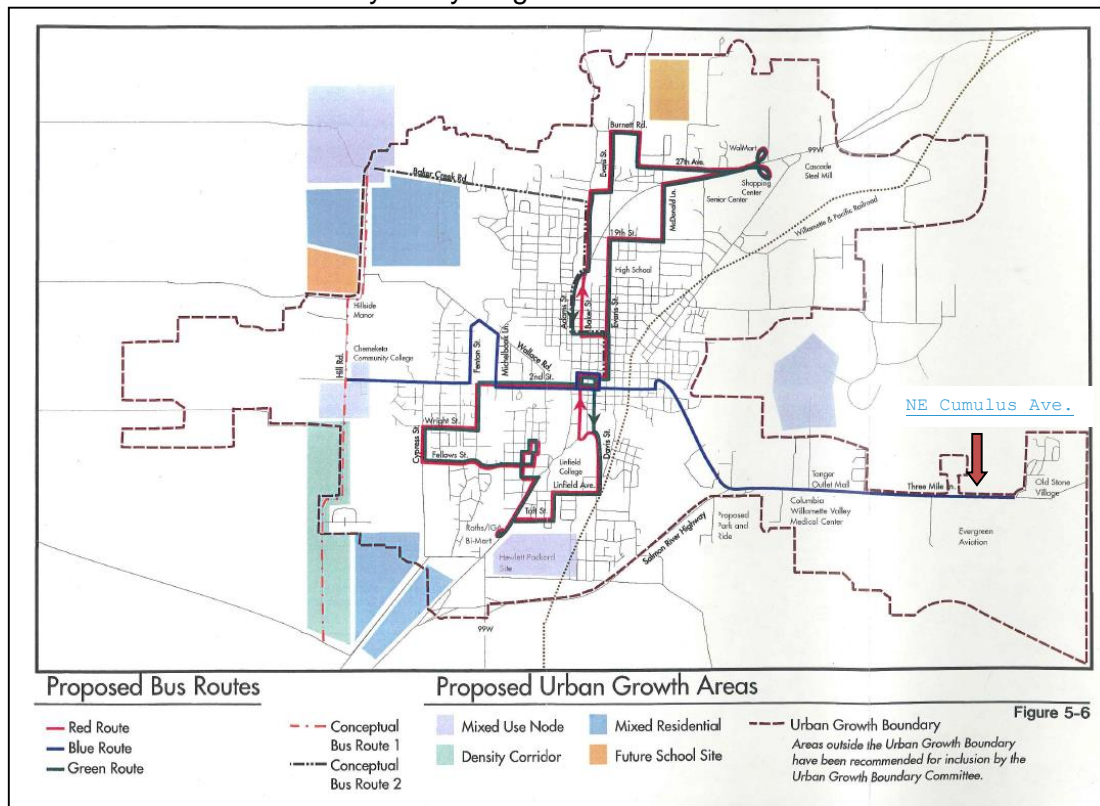
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maximum buildout of this site in a medium density range where access onto a Collector (major or minor) is suggested by Policy 71.09(2). This vehicular access location and the impacts of potential development on the surrounding street network, based on an analysis of the findings of the submitted TIA, is found acceptable to the City Engineer. The graphic below demonstrates the designation of NE Cumulus Avenue as a Minor Collector street.

This site is also located within 200 feet of an existing public transit route which is available to serve this site as noted in the adopted McMinnville Transit Feasibility Study as shown below.

McMinnville Transit Feasibility Study - Figure 5-6



While Policy 17.13(7) requires high density residential development to be located within $\frac{1}{4}$ mile of neighborhood and general commercial shopping centers, it is important to recall that, while the form of development may be multiple-family, the overall site density will be limited to the medium residential density range to which this subsection of this policy does not apply. That said, general commercial shopping opportunities do exist within $\frac{1}{4}$ mile of this site at the Wings and Waves Water Park snack and gift shops located just east of the site; other commercial offerings could also develop at that site in the future.

Policy 79.00 *The density allowed for residential developments shall be contingent on the zoning classification, the topographical features of the property, and the capacities and availability of public services including but not limited to sewer and water. Where densities are determined to be less than that allowed under the zoning classification, the allowed density shall be set through adopted clear and objective code standards enumerating the reason for the limitations [...].*

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Finding: Policy 79.00 is satisfied by this proposal as the requested zoning designation allows multiple-family development as a permitted use which is the type of residential development discussed by the applicant in their proposal. It is important to note that, while the topographic and forested features of the site are graphically represented by the applicant for illustrative purposes only, the applicant's traffic impact analysis (TIA) was based on an assumption of development occurring on only a portion of the site. While not binding on the City, the applicants' TIA is based on a reduced development concept and analyzes the vehicular impact of a maximum of 95 multiple-family dwelling units on the surrounding transportation network. This modeled transportation impact is provided as an important part of the justification for approval of the requested zone change. The analysis and conclusions of the TIA have been reviewed, and are supported, by the City Engineer. City staff accepts this analysis and proposal and justification for density limitation of 95 multiple-family dwelling units and finds that this Policy is satisfied. Based on the analysis provided in the submitted Traffic Impact Analysis prepared for the applicant by Lancaster Engineering (June 28, 2017), Condition of Approval 2 relates to residential development in that the residential development of this 5.2-acre zone change site is limited to a maximum total of 48 morning peak hour trips and a maximum total of 59 evening peak hour trips as referenced in the page 1 Executive Summary of the TIA unless a subsequent TIA is submitted by the applicant and the conclusions of which are found to be acceptable to the City.

Policy 80.00 In proposed residential developments, distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales shall be preserved wherever feasible.

Finding: Policy 80.00 is satisfied by this proposal in that, prior to development, the applicant will be required to provide evidence of preservation methods relative to the natural drainage swale and wooded area, as far as practicable, as part of the development proposal. This plan shall be reviewed and approved by the McMinnville Planning Director prior to approval of any development plan for the site. A condition to require this has been drafted and provided as part of the recommended conditions of approval.

Policy 86.00 Dispersal of new multiple-family housing development will be encouraged throughout the residentially designated areas in the City to avoid a concentration of people, traffic congestion, and noise. The dispersal policy will not apply to areas on the fringes of the downtown "core," and surrounding Linfield College where multiple-family developments shall still be allowed in properly designated areas.

Policy 89.00 Zoning standards shall require that all multiple-family housing developments provide landscaped grounds.

Policy 90.00 Greater residential densities shall be encouraged to locate along major and minor arterials, within one-quarter mile from neighborhood and general commercial shopping centers, and within a one-half mile wide corridor centered on existing or planned public transit routes. (Ord. 4840, January 11, 2006; Ord. 4796, October 14, 2003)

Policy 91.00 Multiple-family housing developments, including condominiums, boarding houses, lodging houses, rooming houses but excluding campus living quarters, shall be required to access off of arterials or collectors or streets determined by the City to have sufficient traffic carrying capacities to accommodate the proposed development. (Ord. 4573, November 8, 1994)

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- Policy 92.00 High-density housing developments shall be encouraged to locate along existing or potential public transit routes.*
- Policy 92.01 High-density housing shall not be located in undesirable places such as near railroad lines, heavy industrial uses, or other potential nuisance areas unless design factors are included to buffer the development from the incompatible use. (Ord. 4796, October 14, 2003)*
- Policy 92.02 High-density housing developments shall, as far as possible, locate within reasonable walking distance to shopping, schools, and parks, or have access, if possible, to public transportation. (Ord. 4796, October 14, 2003)*

Finding: Policies 86.00, 89.00, 91.00 and 92.01 are satisfied by this proposal as follows. While the applicant has indicated intent to construct multiple-family housing on this site, no development plan has been provided as part of this zone change request. However, in light of the possibility that a future multiple-family development project would be designed for this site, should this zone change request be approved, these policies are relevant. With approval of this request, the opportunity for higher density residential development will continue to be supported by the City in a manner that disperses this type of development throughout the community. While this site, if rezoned to R-4, would be adjacent to other R-4 zoned properties to the west, the existing medium and higher density dwelling opportunities exhibit a wide range of residential living situations as previously described. Provision of general rent market rate, or lower cost multiple-family residences on the subject site would add a type of residential opportunity in this area that is effectively not presently available making this rezoning request compliant with the intent of the City's policy of dispersing the location of new and various types of multiple-family development. Public transit will be available within approximately 200 feet of the site to the site identified as the proposed Blue Route bus line to serve Cumulus Avenue shown on Figure 5-6 shown in the adopted McMinnville Transit Feasibility Study. Additionally, future multiple-family residential development of this site shall be required to provide landscaped grounds commensurate with the requirements of the McMinnville Zoning Ordinance. Further, this site is not located in an undesirable place such as near railroad lines, heavy industrial uses, or other potential nuisance areas. Please see McMinnville Transit Feasibility Study - Figure 5-6 above.

Policy 90.00 encourages the location of professional and commercial uses within one-quarter mile from multiple-family residential development. Additionally, Policy 92.02 requires High-density housing developments to, as far as possible, locate within reasonable walking distance to shopping, schools, and parks, or have access, if possible, to public transportation. The reference of proximity to public transportation is also found in Policy 92.00. Professional, educational and commercial uses are currently limited to those found within approximately one-quarter to the east (The Wings and Waves Water Park and the Evergreen Aviation campus) and within approximately one-half mile to the west (including Chemeketa Community College, McDonalds Restaurant, Coming Attractions Theaters, Housing Authority of Yamhill County the adopted McMinnville Transit Feasibility Study identifies a proposed bus route (Blue Route shown on Figure 5-6) that is proposed to operate along Hwy 18 east to the Olde Stone Village Manufactured Home community (approximately one-mile east of the subject site). Additional opportunities for commercial, professional and educational development remain within this corridor. Therefore, Policies 90.00, 92.00 and 92.02 are satisfied by this proposal.

Policy 91.00 is satisfied by this proposal in that a Traffic Impact Analysis (TIA) for this proposal modeling 95 apartment units on this site was submitted by Lancaster Engineering. The results of this analysis show that there are no safety issues that need to be addressed and no safety mitigations recommended at the intersection of NE Cumulus Avenue and Highway 18. The area of vehicular

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ingress and egress to this site will be from NE Fircrest Drive and between 200 to 300 feet, approximately, north of the intersection of NE Cumulus Avenue and Fircrest Drive. It is also instructive to note that while Policy 91.00 encourages multiple-family development to gain direct access from arterial or collector streets it is not required if an alternative method is found to have sufficient traffic carrying capacities to accommodate the proposed development. The submitted traffic analysis was considered by the McMinnville Engineering Department and it is the determination of the City Engineer that there would be no appreciable loss of functionality at the Fircrest/Cumulus intersection.

Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:

- 1. Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.*
- 2. Storm sewer and drainage facilities (as required).*
- 3. Streets within the development and providing access to the development, improved to city standards (as required).*
- 4. Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light). (as amended by Ord. 4796, October 14, 2003)*
- 5. Deleted as per Ord. 4796, October 14, 2003.*

Finding: Policy 99.00 is satisfied by this proposal as adequate levels sanitary sewer collection, storm sewer and drainage facilities, and municipal water distribution systems and supply either presently serve or can be made available to adequately serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Required street improvements commensurate with future development shall be required at the time of development.

GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.

Policy 117.00 The City of McMinnville shall endeavor to insure that the roadway network provides safe and easy access to every parcel.

Policy 118.00 The City of McMinnville shall encourage development of roads that include the following design factors:

- 1. Minimal adverse effects on, and advantageous utilization of, natural features of the land.*
- 2. Reduction in the amount of land necessary for streets with continuance of safety, maintenance, and convenience standards.*
- 3. Emphasis placed on existing and future needs of the area to be serviced. The function of the street and expected traffic volumes are important factors.*
- 4. Consideration given to Complete Streets, in consideration of all modes of transportation (public transit, private vehicle, bike, and foot paths). (Ord.4922, February 23, 2010)*

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5. *Connectivity of local residential streets shall be encouraged. Residential cul-de-sac streets shall be discouraged where opportunities for through streets exist*

Policy 119.00 The City of McMinnville shall encourage utilization of existing transportation corridors, wherever possible, before committing new lands.

Policy 120.00 The City of McMinnville may require limited and/or shared access points along major and minor arterials, in order to facilitate safe access flows.

Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications: [in part]

2. *Local streets.*
 - a. *Designs should minimize through-traffic and serve local areas only.*

Finding: Goal VI 1 and Policies 117.00, 118.00, 119.00, 120.00, and 122.00 are satisfied by this proposal in that the subject site is currently adjacent to NE Fircrest Drive, a public local street, that serves only the local area and does not connect to other public streets due to the proximity of limiting geographic features and other existing development. Fircrest Drive will be required to be improved commensurate with the future development of this site as per the requirements of the adopted McMinnville Transportation System Plan (TSP) to ensure safe and efficient transportation opportunities for all citizens.

Policy 126.00 The City of McMinnville shall continue to require adequate off-street parking and loading facilities for future developments and land use changes.

Policy 127.00 The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and right-of-ways as transportation routes.

Finding: Policies 126.00 and 127.00 are satisfied by this proposal in that off-street parking will be required for all residential development as specified by Chapter 17.60 (Off-Street Parking and Loading) of the McMinnville Zoning Ordinance.

Policy 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connect residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities.

Policy 132.15 The City of McMinnville shall require that all new residential developments such as subdivisions, planned developments, apartments, and condominium complexes provide pedestrian connections with adjacent neighborhoods.

Finding: Policies 130.00 and 132.15 are satisfied by this proposal in that, when a specific development is proposed for this site, public sidewalks commensurate with that proposal will be required as part of the street improvements and will provide pedestrian connections from this site to the surrounding area. Provision of safe, accessible bicycle routes continue to be provided throughout the city as directed by the McMinnville TSP.

GOAL VII 1: TO PROVIDE NECESSARY PUBLIC AND PRIVATE FACILITIES AND UTILITIES AT LEVELS COMMENSURATE WITH URBAN DEVELOPMENT, EXTENDED IN A PHASED MANNER, AND PLANNED AND PROVIDED IN ADVANCE OF OR

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CONCURRENT WITH DEVELOPMENT, IN ORDER TO PROMOTE THE ORDERLY CONVERSION OF URBANIZABLE AND FUTURE URBANIZABLE LANDS TO URBAN LANDS WITHIN THE McMinnville Urban Growth Boundary.

Policy 136.00 The City of McMinnville shall insure that urban developments are connected to the municipal sewage system pursuant to applicable city, state, and federal regulations.

Policy 139.00 The City of McMinnville shall extend or allow extension of sanitary sewage collection lines with the framework outlined below:

- 1. Sufficient municipal treatment capacities exist to handle maximum flows of effluents.*
- 2. Sufficient trunk and main line capacities remain to serve undeveloped land within the projected service areas of those lines.*
- 3. Public water service is extended or planned for extension to service the area at the proposed development densities by such time that sanitary sewer services are to be utilized*
- 4. Extensions will implement applicable goals and policies of the comprehensive plan.*

Policy 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

Policy 143.00 The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage.

Policy 144.00 The City of McMinnville, through McMinnville Water and Light, shall provide water services for development at urban densities within the McMinnville Urban Growth Boundary.

Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:

- 1. Facilities are placed in locations and in such manner as to insure compatibility with surrounding land uses.*
- 2. Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.*
- 3. For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized;*
- 4. Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.*

Policy 147.00 The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas. The City shall also continue to coordinate with McMinnville Water and Light in making land use decisions.

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Policy 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:

- 1. Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, are available or can be made available, to fulfill peak demands and insure fire flow requirements and to meet emergency situation needs.*
- 2. Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluents.*
- 3. Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.*
- 4. Federal, state, and local water and waste water quality standards can be adhered to.*
- 5. Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.*

Finding: Goal VII 1 and Policies 136.00, 139.00, 142.00, 143.00, 144.00, 145.00, 147.00, and 151.00 are satisfied by the request as, based on comments received, adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities, either presently serve or can be made available to sufficiently serve the site. Additionally, the municipal Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas and in making land-use decisions.

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

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

Finding: Policies 153.00 and 155.00 are satisfied in that emergency services departments have reviewed this request and raise no concerns.

GOAL VII 3: TO PROVIDE PARKS AND RECREATION FACILITIES, OPEN SPACES, AND SCENIC AREAS FOR THE USE AND ENJOUMENT OF ALL CITIZENS OF THE COMMUNITY.

Policy 163.00 The City of McMinnville shall continue to require land, or money in lieu of land, from new residential developments for the acquisition and/or development of parklands, natural areas, and open spaces.

Attachments:

Attachment 1: ZC 11-17 Application and Attachments

Attachment 2: August 16, 2017 Letter from Tom and Kathy Murtiashaw received August 17, 2017

Attachment 3: August 22, 2017 Email from Lee Eggers received August 22, 2017

Attachment 4: August 24, 2017 Letter from John and Sharon O'Gieblyn received August 24, 2017

Attachment 5: August 24, 2017 Email from LaVerne Rickard received August 24, 2017

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Finding: Goal VII 3 and Policy 163.00 are satisfied in that park fees shall be paid for each housing unit at the time of building permit application as required by McMinnville Ordinance 4282, as amended.

GOAL VIII 1: TO PROVIDE ADEQUATE ENERGY SUPPLIES, AND THE SYSTEMS NECESSARY TO DISTRIBUTE THAT ENERGY, TO SERVICE THE COMMUNITY AS IT EXPANDS.

Policy 173.00 The City of McMinnville shall coordinate with McMinnville Water and Light and the various private suppliers of energy in this area in making future land use decisions.

Policy 177.00 The City of McMinnville shall coordinate with natural gas utilities for the extension of transmission lines and the supplying of this energy resource.

Finding: Goal VIII 1 and Policies 173.00 and 177.00 are satisfied in that McMinnville Water and Light and Northwest Natural Gas were provided opportunity to review and comment regarding this proposal and no concerns were raised.

Policy 178.00 The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.

Finding: Policy 178.00 is satisfied in that the applicant is proposing to amend the current zoning designation of 5.2 acres of this 5.3 acre site to R-4 to allow for the possibility of providing multiple-family type housing thereby achieving a more compact form of urban development and energy conservation than would have otherwise been achieved.

GOAL X1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

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

Finding: Goal X1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertized public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

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

17.03.020 Purpose. The purpose of this ordinance 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, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.

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Finding: Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.

17.57.010 Landscaping – Purpose and intent. The purpose and intent of this chapter is to enhance the appearance of the city by encouraging quality landscaping which will benefit and protect the health, safety, and welfare of the general public. By relating all the requirements of the zoning ordinance to the project in one review procedure, the review will assist the developer in integrating the uses of the property with the landscaping, will relate the project to surrounding property uses in existence or projected, and will attempt to minimize project costs. The landscaping provisions in Section 17.57.050 are in addition to all other provisions of the zoning ordinance which relate to property boundaries, dimensions, setback, vehicle access points, parking provisions and traffic patterns. [..]

17.57.050 Area Determination—Planning factors.

A. Landscaping shall be accomplished within the following ranges:

1. Multiple-family, twenty-five percent of the gross area. This may be reduced to not less than fifteen percent upon approval of the [landscape] review committee. (The gross area to be landscaped may only be reduced by the review committee if there is a showing by the applicant that the intent and purpose of this chapter and subsection B of this section are met).

B. The following factors shall be considered by the applicant when planning the landscaping in order to accomplish the purpose set out in Section 17.57.010. The Landscape Review Committee shall have the authority to deny an application for failure to comply with any or all of these conditions:

1. Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon.
2. Screen the proposed use by sight-obscurating, evergreen plantings, shade trees, fences, or combinations of plantings and screens.
3. The retention of existing trees and natural areas that may be incorporated in the development of the project. The existing grade should be preserved to the maximum practical degree. Existing trees shall be provided with a watering area equal to at least one-half the crown area.

Finding: Sections 17.57.010 and 17.57.050(B)(1-3) are satisfied by the request in that any future proposal to develop this site as a multiple-family development will be required to comply with these standards as per the review authority of the McMinnville Landscape Review Committee. Additionally, staff recommends adoption of a condition of approval of this application that would require sufficient buffering and screening along the site's western edge for the benefit of established senior and assisted care facilities that border the site along that edge. This buffering and screening shall utilize methods for the express purpose of mitigating noise, headlight glare, and visual intrusion from the site's development onto adjacent land west of the site and shall include a mix of vertical and horizontal vegetation, fencing and/or berms as may be approved by the Landscape Review Committee at the time of development. The existence of the 1.4 acre natural greenway along the northern portion of the site will further add to the buffering of existing residences to the northwest.

17.74.020 Review Criteria. An amendment to the official zoning map may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

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- A. The proposed amendment is consistent with the goals and policies of the comprehensive plan;
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;
- C. Utilities and services can be efficiently provided to service the proposed uses or other potential uses in the proposed zoning district.

When the proposed amendment concerns needed housing (as defined in the McMinnville Comprehensive Plan and state statutes), criterion "B" shall not apply to the rezoning of land designated for residential use on the plan map.

In addition, the housing policies of the McMinnville Comprehensive Plan shall be given added emphasis and the other policies contained in the plan shall not be used to: (1) exclude needed housing; (2) unnecessarily decrease densities; or (3) allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delay.

Finding: Criterion "B" of this review standard does not apply when the proposed amendment concerns needed housing. Table B-11 of Appendix B of the 2001 McMinnville Buildable Land Needs Analysis and Growth Management Plan demonstrates that McMinnville had a deficit of 162 R-4 zoned acres needed to meet future projected housing needs; the year 2020 was the identified planning horizon for this projection. Since 2001, approximately 51 acres have been rezoned to R-4 leaving a residual deficit of approximately 111 R-4 zoned acres still needed to meet projected needs. Approval of this zone change request would reduce that deficit to approximately 105.8 acres.

Section 17.74.020 is satisfied in that the proposed R-4 zoning designation for this site is consistent with the goals and policies of the McMinnville Comprehensive Plan, and is orderly and timely given considering existing nearby residential development and the site's proximity to public streets, transit facility options, the ability to be adequately served by required utilities and services, and the local need for additional higher density and/or affordable housing options. While this site is located within approximately one-half mile from Airport Park, the park's location on the south side of Highway 18 makes it rather difficult to reach by means of pedestrian or bicycle travel. However, the applicant proposes, as shown on the submitted conceptual site plan, the provision of an approximately 1.4 acre area to be retained as an onsite nature reserve. While not an active park, this area would potentially provide similar opportunities to Tice Park for the benefit of the site's residents. Chemeketa Community College is located approximately one-half mile to the west of the subject site which provides a wide range of educational opportunities. While commercial opportunities are not readily available within a reasonable distance to this site, the alleviation of meeting Criterion "B" above allows recognition of the current development character of this area as meeting the needs of a diverse residential population by numerous means. This current proposal to rezone the subject to R-4 would allow the continuation of this established development pattern in recognition of its unique location along Highway 18 and adjacent to the urban growth boundary (UGB). In addition, there are no policies contained in the Comprehensive Plan that are being utilized to unnecessarily decrease densities or discourage any form of housing.

RP:sjs

Attachments:

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August 16, 2017

McMinnville Planning Commission and
Heather Richards, Planning Director
City of McMinnville Planning Department

HAND DELIVERED 8-17-2017

RE: Docket Number ZC 11-17 (Zoning Change Request at NE Cumulus Avenue and NE Fircrest Drive)

Dear Planning Commission Members and Ms. Richards:

We are homeowners at 378 NE Fircrest Place and members of the Fircrest Village Condominiums Association. We are submitting this letter in response to the above referenced zoning change request. We would respectfully ask that your decision on this matter be postponed to allow a complete study and review of any proposed development plans for the subject property, with thorough consideration given to the effects those development plans will have on the surrounding neighborhood, community and any public utilities servicing the area. We are concerned about any construction design or density plans that widely deviate from existing development and construction in this neighborhood and community. We are concerned about access for emergency vehicles to our area which could be restricted by a substantial increase of traffic and on-street parking on narrow NE Fircrest Drive, and concerned about pedestrian and vehicle safety from increased traffic at the sometimes visually challenging intersection with NE Cumulus Avenue. (NOTE: The Fircrest Community Assisted Living and Memory Care Unit Facility, which utilizes NE Fircrest Drive, experiences frequent emergency vehicle traffic and regularly scheduled deliveries by large trucks, including semi-trailer trucks. There are residents of Fircrest Community who are wheelchair bound and regularly cross the intersection at NE Fircrest and NE Cumulus.) Finally, we are concerned about the environmental impact the proposed development would have on the vital old growth forest covering a large portion of the subject property, and the storm and water drainage tributary running through the property to the South Yamhill River. We also join in any concerns raised by our neighbors to this zoning change request.

Previous scheduling conflicts prevent our presence at the August 17th public hearing.

Hopefully you will consider our request to delay your decision on this matter until after a comprehensive study and review of any proposed development on the subject property, and its impact on adjacent property owners and facilities, the immediate neighborhood and this community. Thank you.

Handwritten signatures of Tom and Kathy Murtiashaw in black ink.

Tom & Kathy Murtiashaw
378 NE Fircrest Place
McMinnville, OR 97128

Ron Pomeroy

From: Heather Richards
Sent: August 22, 2017 1:08 PM
To: Ron Pomeroy
Subject: Fwd: Fircrest Village Condominiums

See below

Heather Richards
Sent from my Iphone

Begin forwarded message:

From: Lee <leggers111@comcast.net>
Date: August 22, 2017 at 12:36:36 PM PDT
To: <heather.richards@mcminnvilleoregon.gov>
Subject: **Fircrest Village Condominiums**

Be advised that a notice of property line encroachment has been sent to Mr. Denny Elmer in the matter of Docket ZC 11-17. This encroachment was discovered in October of 2013 when Fredrick Motor Company surveyed for future development. At that time, he did not want to deal with the issue and differed it to the new owner when it sold. Since Mr. Elmer is planning on the development, we have advised him of the encroachment of 557.16 feet of the west boundary line which consists of approximately .22 acres.

Lee Eggers, President Fircrest Village Condominiums

August 24, 2017
McMinnville Planning Department
231 NE Fifth Street
McMinnville, Or. 92128

Dear Sirs,

We have lived in the Kingwood neighborhood for almost 25 years. We have watched an awful lot of construction taken place since that time we moved in. Your decision to make this piece of land into a multifamily apartment building destroys the balance of the entire Cumulus stretch of land.

The area has truly reached the limit of growth. Please reconsider. Not every piece of green space needs to be destroyed. We were hoping the city would consider buying the land for a much needed park. There are many senior citizens nearby who would benefit from having a nice area to visit and enjoy the sunshine.

There is already a large sub division being constructed presently, and if the city approves this apartment complex, it will most assuredly detract from the livability of the area, and will show without a doubt that the city would like to see McMinnville be the next Beaverton.

Sincerely yours,



John and Sharon O'Gieblyn
201 NE Kingwood Street
McMinnville, Or. 97128

RECEIVED

AUG 24 2017

COMMUNITY DEVELOPMENT
CENTER

Ron Pomeroy

From: Heather Richards
Sent: August 24, 2017 10:31 PM
To: Ron Pomeroy
Subject: Fwd: Fircrest and Cumulus plans

Ron,

Please see below. Public testimony received for the Fircrest rezone.

Heather Richards
Sent from my Iphone

From: LaVerne <rick2lav@comcast.net>
Date: August 24, 2017 at 9:05:33 PM PDT
To: <heather.richards@mcminnvilleoregon.gov>
Subject: Fircrest and Cumulus plans

Hello, Planning Commission! I'm writing in regards to the planned development of the property on Fircrest and Cumulus. I'm a resident in the Fircrest Condo Village and have concerns.

1. The traffic study at the above intersection is much needed. It also needs to take into consideration the people who cross the non-existent cross-walk to walk/ride to the Vineyard to visit and watch the world go by on Cumulus..... they include people walking dogs, people with walkers, and a lot of people on motorized wheelchairs and scooters. All of these people also walk up and down Fircrest.
2. It boggles the mind to think the developer is in compliance when he says that shopping at the Evergreen Museum Gift Shop meets one of his criteria.
3. There is no public transportation on Cumulus or Hwy 18. Period. The developer cannot say that some day there will be transportation on said roads and, therefore, meets the criteria. Who knows if that will come to fruition? Again, the mind boggles.

Please vote against this proposed development. Please.
Thank You.

LaVerne Rickard
395 NE Fircrest Pl
MAC, OR 97128
503-883-9688

Ron Pomeroy

From: Denny Elmer [dennyselmer@gmail.com]
Sent: September 01, 2017 11:00 AM
To: Ron Pomeroy; Chuck Darnell; Heather Richards
Subject: Fircrest Response
Attachments: Fircrest Response.docx; ZC 11-17 Memo - Bisset 082317.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Denny Elmer

Fircrest Response

McMinnville City Planning Commissioners thank you for taking the time to hear out the opposition and myself in the application for a zone change on the parcel located on Fircrest Ave. I have read the opposition letters and wish to respond to a few of their concerns. I do feel most of the concerns we answered or explained in the application and the recommendation response from the City Planning and other offices. As I re-read through the application the criteria is clearly explained. I have re-read the application I feel we meet the criteria set forth.

The concern that was most prominent from the opposition was traffic. I did a traffic study that covered the two main intersections

- Oregon Highway 18 at Cumulus Avenue (Salmon River Highway connection road) □
- □ NE Cumulus Avenue at Cumulus Avenue (Salmon River Highway connection road) □

The findings on these intersections were well below capacity after construction is complete. Please see the attachment from City of McMinnville Engineering that shows the capacity for the intersection at Fircrest Dr. and Cumulus Ave. This assessment shows that this development would stay well below the capacity that the city street was designed to handle. In conclusion, I have received professional assessments on the traffic impact and see no reason to hinder this zone change.

I am a local real estate and business owner and have been involved in a few committees on the city and county levels that are dealing with the housing need in McMinnville and Yamhill County. There is a need, we are all aware of this, this zone change would allow for some immediate development that would meet these needs. Please consider this approval as it comes before you recommended for approval from McMinnville City Planning Dept.



City of McMinnville
Community Development Department
 231 NE Fifth Street
 McMinnville, OR 97128
 (503) 434-7312

www.mcminnvilleoregon.gov

MEMORANDUM

DATE: August 23, 2017
TO: Heather Richards, Planning Director
FROM: Mike Bisset, Community Development Director
SUBJECT: ZC 11-17 (Zone Change) Land Use Resources, LLC

This memo is in response to questions regarding traffic on NE Fircrest Drive raised during public testimony, and by Planning Commissioners, during the public hearing for proposed ZC 11-17 held on August 17, 2017. Some concern was expressed that the traffic study prepared by the applicant's traffic engineer did not address the capacity of NE Fircrest Drive to handle the additional traffic generated from the proposed 95 unit multi-family development.

As I noted during the hearing, NE Fircrest Drive is local residential street in the City's transportation plan. The table below includes descriptions of street classifications adopted as part of the City's Transportation System Plan. As noted, local residential streets are intended to carry less than 1,200 vehicles per day, and they are intended to serve the adjacent land without carrying through traffic:

:

McMinnville Transportation System Plan

May 2010

Table 2-1 Street Functional Classification Descriptions

Street Classification	Description and Land Use Context
Expressway	The portion of Highway 18 through McMinnville west of Norton Lane is currently grade separated and functions as a single-lane expressway with speeds of 50-55 mph. The Highway 18 Corridor Refinement Plan (mutually adopted by ODOT and the City) recommends full grade separation for that section of Highway 18 east of Three Mile Lane. Upon completion of the Highway 18 Corridor Plan, Highway 18 can be re-classified from Major Arterial to Expressway. Expressways serve regional and statewide through-traffic at higher but managed speeds, with no or very limited local access.
Arterial (Major and Minor)	Arterial streets form the primary street network within and through McMinnville. They provide a continuous system which distributes traffic between different neighborhoods and districts. Highway 99W is a major arterial, typically with two lanes in each direction of travel. Major arterials are intended to carry no more than 32,000 vehicles per day. Lafayette Avenue, North Baker Street/Westside Road, Baker Creek Road, Hill Road and Old Sheridan Road are Minor Arterials. Minor arterials are intended to be 2- or 3-lane streets, and carry no more than 20,000 vehicles per day.
Collector (Major and Minor)	Collector streets are primarily intended to serve abutting lands and local access needs of neighborhoods. They are intended to carry from 3,000 (maximum for Minor Collector) to 10,000 (maximum for Major Collector) vehicles per day, including some through traffic. The collector street serves either residential, commercial, industrial, or mixed land uses.
Neighborhood Connector	Neighborhood Connector streets serve mostly residential or mixed land uses. They are intended to carry between 1,200 and 3,000 vehicles per day. While through traffic connectivity is not a typical function, they may carry limited amounts. Neighborhood Connector routes are identified in McMinnville to help prioritize pedestrian improvements along previously classified Local Residential Streets; and it is possible or likely that slightly higher traffic volumes are expected on a daily basis.
Local Residential Street	Local residential streets are intended to serve the adjacent land without carrying through traffic. These streets are designed to carry less than 1,200 vehicles per day. To maintain low volumes, local residential streets should be designed to encourage low speed travel. Narrower streets generally improve the neighborhood aesthetics, and discourage speeding as well. They also reduce right-of-way needs, construction cost, storm water run-off, and vegetation clearance. If the forecast volume exceeds 1,200 vehicles per day, as determined in the design stage, the street system configuration should either be changed to reduce the volume through the City's Neighborhood Traffic Calming Program, or the street shall be designed as a Neighborhood Connector route.
Alley	Alley streets provide secondary access to residential properties where street frontages are narrow; where the street is designed with a narrow width to provide limited on-street parking; or where alley access development is desired to increase residential densities. Alleys are intended to provide rear access to individual properties and may provide alternative areas for utility placement.
Cul-De-Sac	Cul-de-sac streets are a type of neighborhood street. They are intended to serve only the adjacent land in residential neighborhoods. These streets shall be short, serving a maximum of 20 single family houses. Because the streets are short and the traffic volumes relatively low, the street width can be narrow, allowing for the passage of two lanes of traffic when no vehicles are parked at the curb or one lane of traffic when vehicles are parked at the curb. To encourage local street circulation capability, the use of cul-de-sac streets shall be discouraged, and shall not be permitted if future connections to other streets are likely. Sidewalk connections from a new cul-de-sac shall be provided to other nearby streets and sidewalks.

Staff has reviewed the existing and proposed developments that access NE Fircrest Drive to verify that the expected traffic is within the 1,200 vehicle per day designation for local residential streets. Per the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (9th Edition, 2012), the expected traffic from the developments that access NE Fircrest Drive is as shown on the map below:



As shown, the existing traffic from Fircrest Village Condominiums and the Fircrest Community Living complex is approximately 426 vehicle trips per day. The expected daily traffic associated with ZC 11-17 (95 units of multi-family) is 632 vehicle trips per day. The total expected daily traffic on NE Fircrest Drive, including existing and proposed developments, is 1,058 trips per day. Thus, the expected traffic on NE Fircrest Drive is within the 1,200 vehicle per day designation for local residential streets and, as staff noted at the public hearing, there is adequate capacity to serve the proposed development.

Please let me know if you have any questions.

Mike Bisset, Director

City of McMinnville Community Development

231 NE Fifth Street | McMinnville, OR 97128

Office: 503.434.7312

<http://www.mcminnvilleoregon.gov>



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

www.mcminnvilleoregon.gov

EXHIBIT 3 - STAFF REPORT

DATE: September 21, 2017
TO: McMinnville Planning Commission
FROM: Ron Pomeroy, Principal Planner
SUBJECT: **G 6-17 Accessory Dwelling Units** – Proposed Text Amendments to the McMinnville Zoning Ordinance (Ord. No. 3380)

Report in Brief:

This is a public hearing to review and consider proposed amendments to the McMinnville Zoning Ordinance (Ordinance 3380), Section 17.12.010(D) - Accessory Dwelling Units (ADUs).

Attachment A to this staff report contains the Decision, Findings of Fact, Comments, Attachments, and Conclusionary Findings.

This legislative amendment was considered in a public work session by the McMinnville Planning Commission on the evening of August 17, 2017. At that meeting, the Planning Commission directed staff to bring this proposed amendment forward as a hearing item for public review, comment and consideration.

Background:

The proposed amendments first started as a recommendation of the McMinnville Affordable Housing Task Force (MAHTF). As part of their efforts to remove barriers for affordable housing in McMinnville, the MAHTF reviewed the McMinnville Zoning Ordinance for affordable housing initiatives and efficiencies. They used the State of Oregon's Affordable Housing Measures checklist as a framework for their discussions. (See Decision Document Attachment 1).

At their January 25, 2017 meeting, the MAHTF started their evaluation of the current McMinnville Zoning Ordinance to identify additional development code efficiency measures as they pertain to affordable housing. The discussion resulted in direction being provided to Planning Department staff to assemble an analysis evaluating comparable cities' development codes as they pertain to barriers and incentives to affordable housing with the goal of identifying potential efficiency measures that could be incorporated into the McMinnville Zoning Ordinance.

The multi-jurisdictional analysis included a review of development codes from the cities of Newberg, Ashland, Bend, Redmond, Corvallis, and Grants Pass.

At the February 22, 2017 MAHTF meeting an analysis of the first set of potential efficiency measures was provided and discussed. Those measures included:

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of G 6-17

- Accessory Dwelling Units
- Multi-Family Off-Street Parking Requirements
- Under Four Units Off-Street Parking Requirements
- Residential Street Standards
- Minimum Density Standards
- Limitations on Low Density Housing Types
- Amount of High Density Zoning Districts
- Duplexes in Low Density Zones, and
- Attached Units Allowed in Low Density Zones

That analysis showed that McMinnville's efficiency measures are generally better for affordable housing than similar sized cities. However, there are some opportunities for improvements. One of those opportunities would be to consider modifications to McMinnville's current ADU regulations. Staff was asked to bring proposed draft amendments to the Zoning Ordinance governing ADUs to the MAHTF for consideration potentially resulting in a MAHTF recommendation to the Planning Commission for review of those modifications.

On July 26, 2017, the recommended amendments were presented to the McMinnville Affordable Housing Task Force for review, comment, and direction. At that meeting, the Task Force reviewed and discussed the proposed amendments and directed staff to move this recommendation forward for Planning Commission review at the August 17, 2017 work session.

At the August 17, 2017 Planning Commission work session the recommended amendments were presented for review, comment and direction. During that discussion, the Commission was additionally interested in considering the possibility of allowing modular buildings to be used as ADUs as well as limiting the height of ADUs under certain circumstances. Following discussion, the Planning Commission directed staff to bring this proposed amendment forward as a hearing item for public review, comment, and consideration.

Discussion:

Planning Department staff conducted an analysis across six similarly sized Oregon cities regarding opportunities to accommodate Accessory Dwelling Units on otherwise developed residential lots. (See Decision Document Attachment 2). Notable observations resulting from that comparative analysis were that by allowing ADUs as a permitted use on otherwise already developed single-family lots in *all* of its residential zones, McMinnville is more lenient than some jurisdictions which require either conditional use approvals or employ other limitations such as establishing minimum lot sizes in certain zones before ADUs are allowed. Regarding dwelling type, McMinnville is fairly similar to other cities by allowing the ADU to be either attached to or part of the main home or to be designed as a detached dwelling as long as applicable zoning setbacks were met.

Where McMinnville is more restrictive than most other surveyed cities is that the current McMinnville regulations require that an ADU be a minimum of 300 square feet in size while most of the other cities have not established a minimum size requirement for such a dwelling. Additionally, McMinnville's regulations cap the maximum size of an ADU to either 800 square feet or 40% of the size of the main residence, whichever is smaller. While this size/percentage ratio relationship is not unique to McMinnville, those established by other cities commonly allow a maximum of 1,000 square foot or 50% of the main house as a maximum size limitation.

Another notable difference can be experienced as a disincentive, or even a barrier, to affordable housing as it directly impacts the economic viability of constructing the ADU. To point, McMinnville currently requires an ADU to be provided with independent services that include, but are not limited to, water,

Attachments:

Attachment A: Decision, Findings of Fact and Conclusionary Findings for Approval of G 6-17

sewer, and electricity. This means that, unlike a residential duplex that shares a common private sanitary sewer line that connects both dwellings to the public right-of-way, an ADU in McMinnville must install a separate sanitary sewer line directly to the public sewer line located in the right-of-way. This results in two sanitary sewer laterals being extended from one lot rather than one shared lateral in the case of a duplex dwelling.

The rationale behind this requirement is to proactively address the potential future partitioning of the residential lot into two lots enabling the sale of each dwelling unit separately. In this instance, the utilities would already be separate making the partitioning effort easier and less costly. However, this requirement does add costs to the project, and the costs are borne by the ADU applicant based upon a potential effort in the future and not in response to that effort. So the question to consider is if this requirement should be modified to allow an ADU to connect to the existing sanitary sewer lateral of the main residence and, in that manner, operate similarly to a duplex. The cost of extending a separate sewer lateral would then only be borne by those choosing to later move forward with a request to partition the units onto their own separate lots.

The City's Engineering Department has been consulted on this matter and is supportive of removing this requirement, noting that the costs for separation will need to be incurred at the time of a partition. While this is accurate, there are only a minor number of such properties that would, or could, actually partition the dwelling units on to their own lots while meeting all of the necessary remaining planning requirements relative to lot size, setbacks, etc. So, on balance, most ADU owners would experience a development savings over this life of the ADU as they are likely to remain on the same parcel. The Engineering Department concurs with this observation.

A third efficiency that could be provided would be to remove the current local zoning requirement that the property owner must reside on site within the primary dwelling unit. While this requirement was most likely adopted for reasons related to neighborhood social stability, the question of who lives in any given residential unit has no actual land use impact as they would yet remain two dwelling units regardless of who lives in each dwelling. There was some discussion of this by the MAHTF but no clear direction provided. That said, staff is supportive of this amendment and is comfortable bringing it forward as a proposed amendment for consideration.

Work Session Summary:

During the Planning Commission work session held on August 17th, the Commission discussed the possibility of allowing modular buildings to be used as ADUs as well as potentially limiting the height of ADUs under certain circumstances.

An email was submitted by Patty O'Leary on August 17, 2017 (See Decision Document Attachment 3), raising two questions: 1) could "prefab houses" (modular homes) be allowed as ADUs; and 2) could an existing smaller home be considered as the ADU if a larger home was constructed on the site and considered the main dwelling?

Modular Homes –

The Commission discussed the idea of allowing modular homes as ADUs and asked staff to bring back information relative to the differences between these two types of dwelling units. Staff inquired of the McMinnville Building Official as to the difference between a manufactured home (currently prohibited for use as an ADU) and a modular home. The Building Official's response is provided (See Decision Document Attachment 4) and, in sum, clarifies that manufactured and modular homes are both constructed at a State of Oregon licensed manufacturing plant and each receive a different insignia upon completion. The main construction difference between the types of units is that manufactured homes are supported on rails placed on pads and secured are with anchors while modular homes transfer building loads to the exterior walls and are placed on permanent foundations. Modular homes are seen by lenders

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as a single-family dwelling while manufactured homes are recognized by lenders as real property (like an automobile) even if placed on a permanent foundation because of the insignia required by the State of Oregon. All other design differences between these types of units are individual design and customer preference based.

ADU and main dwelling designations –

Currently the construction of an ADU is limited in size not to approximate the size of the existing main dwelling unit. In the case of a small existing residence, this regulation could hamper the desired size of an ADU. The Commission discussed this situation and the idea of allowing the designation of these units to flip. In that instance, the small existing residence would become the ADU upon completion of the construction of a larger, new main dwelling unit. The size relationship between the two dwelling units would need to comply with current ADU regulations in place at that time.

Other direction-

The Planning Commission also discussed the possibility of limiting the height of a detached ADU such that it would not exceed the height of the main residence. This idea is based on an interest in ensuring design compatibility between residential structures on adjacent lots and within the surrounding neighborhood. In discussion, it was recognized that the only instances where this would come into play would be: 1) construction of a stand-alone detached ADU; and, 2) construction of an ADU above a detached structure (garage, for example). In the instance where the main residence is single story in design, this requirement would eliminate the possibility of constructing an ADU above a detached garage. If the main residence was two-story in design, the peak of the ADU would be required to be no higher than that of the two-story residence.

In researching detached ADU height regulations in the six Oregon cities previously reviewed for this project, staff finds that only the City of Bend places a limitation on detached ADU building height as shown in the table below. This analysis is provided only as a comparison of how other communities similar to McMinnville address this concern discussed by the Commission.

COMPARATIVE DETACHED ADU BUILDING HEIGHTS							
Detached ADU Height in Low and Medium Density Residential Zones	McMinnville	Newberg	Bend	Ashland	Redmond	Corvallis	Grants Pass
	35 Feet	30 Feet	25 Feet if Primary Dwelling is 25 Feet or taller	35 Feet	35 Feet	30 Feet	35 Feet
			Height of Primary Dwelling if Primary Dwelling is less than 25 Feet				

Additional Agency Comment:

Additional comment was received from the Oregon Department of Land Conservation and Development (DLCD) on September 8, 2017 (See Decision Document Attachment 5). In sum, DLCD makes two recommendations: 1) Remove the on-site parking requirement for ADUs; and, 2) State that legally non-conforming structures are eligible to be converted to ADUs.

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While DLCD has recently encouraged and recommended the reduction or removal of parking requirements for various land uses, the Planning Department would discourage this amendment as it would apply to ADUs. In recent years, much citizen testimony has been received at public hearings concerning the sufficiency of currently required on-site residential parking. As the Commission may recall, this was one of the more prominent concerns raised by citizens regarding the Baker Creek Development zone change and subdivision proposal reviewed last winter. Allowing the creation of an additional dwelling unit without requiring the provision of at least one parking stall to serve the new resident(s) needs would further place additional pressure for that parking need to be met on the public right-of-way.

Regarding a declaration that legal non-conforming structures be eligible to be converted to ADUs, this ability is already allowed and generally addressed in Chapter 17.63 (Nonconforming Uses) of the McMinnville zoning ordinance. Specifically, 17.63.030 (Structures – Alteration or extension) states:

“Structures conforming as to use but nonconforming as to height, yard requirements, setback, lot size, or density may be altered or extended, provided the alteration or extension does not result in a violation of this title, except as provided below:

- A. Dwellings may be altered or extended subject to the provision of Section 17.54.050 [Yards]
- B. Dwellings located in residential zones may be altered or extended so long as the alteration or extension does not result in a violation of this title or so long as the alteration or extension is confined within the existing building lines.

Since ADUs are currently allowed on all legally platted residential parcels and lots in McMinnville, the Planning Department would rely on Section 17.63.030, above, to allow the conversion of a legally non-conforming structure to an ADU. However, to make this explicitly clear, staff would suggest that the following be considered as an addition to the ADU standards:

- 9. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).

This suggested standard is included in the recommendations below for your consideration.

Recommended Amendments:

The amendments being proposed are as follows. As the requirements for ADU's are found in the R-1 (Single-Family Residential) chapter of the zoning ordinance (Chapter 17.12) and referenced by the other residential zones, the proposed amendments are specific to Chapter 17.12. Text to be deleted is identified with a ~~**bold-strikeout**~~ font and text to be added is identified with a **bold underlined** font.

McMinnville Zoning Ordinance (Ordinance 3380)

“Chapter 17.12.010 (Permitted Uses) – (D) Accessory dwelling unit (ADU) subject to the following standards.”

- 1. The accessory dwelling unit may be established by:
 - a. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - b. Adding floor area to the primary dwelling, including a second story; ~~or~~
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling-; ~~or~~
 - d. **Construction of a new primary dwelling with the existing dwelling being designated the ADU and found in compliance with all requirements of this Section.**

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2. The square footage of the accessory dwelling shall not exceed **4050** percent of the primary dwelling exclusive of the garage, or **8001,000** square feet, whichever is less. **The minimum area shall be as determined by the State of Oregon Building Codes Division.** ~~The minimum area shall not be less than 300 square feet.~~
3. **The building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling.**
4. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction. **The maximum height allowed for a detached ADU is the lesser of 25 feet or the height of the primary dwelling.**
5. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, **including roof pitch, eaves, window fenestration patterns, etc.**
6. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
- ~~6. **The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.**~~
- ~~7. **The property owner shall reside on site within the primary dwelling unit.**~~
- 7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.**
8. The accessory dwelling unit shall contain a kitchen, bathroom, living, and sleeping area that are completely independent from the primary dwelling.
9. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures, **not to include modular structures,** shall not be used as an accessory dwelling unit.
- 10. ADUs are exempt from the residential density standards of this code.**
- 11. Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.**
- 12. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).**

Fiscal Impact:

None to Municipality
Reduced private utility construction cost

Commission Options:

- 1) Close the public hearing and forward a recommendation for **APPROVAL** of the proposed Zoning Ordinance text amendments to the McMinnville City Council, 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 in the motion to deny.

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Suggested Recommendation:

The Planning Department recommends that the Planning Commission make the following motion recommending approval of G 6-17 to the City Council:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE G 6-17.

RP:sjs



CITY OF MCMINNVILLE
PLANNING DEPARTMENT
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 CHAPTER 17.12.010(D) (ACCESSORY DWELLING UNITS)**

DOCKET: G 6-17

REQUEST: The City of McMinnville is proposing to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Ron Pomeroy, Principal Planner

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: September 21, 2017. Meeting held at 6:30 p.m. at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

**DECISION MAKING
BODY:** McMinnville City Council

DATE & TIME: October 10, 2017. Meeting held at 7:00 p.m. at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

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

Attachments:

Attachment 1: Affordable Housing Measures

Attachment 2: Accessory Dwelling Units Comparable Matrix

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Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 6-17) to the McMinnville City Council.

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

DECISION: APPROVAL

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

Date: _____

Date: _____

Date: _____

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Application Summary:

The City of McMinnville is proposing to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.

The McMinnville Affordable Housing Task Force (MAHTF) reviewed the proposed amendments to Chapter 17.12 at a meeting on January 25, 2017, provided feedback and forwarded a recommendation for adoption to the Planning Commission. At the August 17, 2017 Planning Commission work session, the Commission reviewed the recommended amendments and indicated additional interest in the possibility of additionally allowing modular buildings to be used as ADUs as well as limiting the height of ADUs under certain circumstances. Following discussion, the Planning Commission directed staff to bring the proposed amendments, and information and recommendations relative to the new items, forward as a hearing item for public review, comment and consideration.

Proposed Amendments:

The amendments being proposed are as follows. As the requirements for ADU's are found in the R-1 (Single-Family Residential) chapter of the zoning ordinance (Chapter 17.12) and referenced by the other residential zones, the proposed amendments are specific to Chapter 17.12. Text to be deleted is identified with a ~~bold-strikeout~~ font and text to be added is identified with a **bold underlined** font.

McMinnville Zoning Ordinance (Ordinance 3380)

"Chapter 17.12.010 (Permitted Uses) – (D) Accessory dwelling unit (ADU) subject to the following standards."

1. The accessory dwelling unit may be established by:
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 - b. Adding floor area to the primary dwelling, including a second story; ~~or~~
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling; or
 - d. **Construction of a new primary dwelling with the existing dwelling being designated the ADU and found in compliance with all requirements of this Section.**
2. The square footage of the accessory dwelling shall not exceed ~~4050~~ percent of the primary dwelling exclusive of the garage, or ~~8001,000~~ square feet, whichever is less. **The minimum area shall be as determined by the State of Oregon Building Codes Division. The minimum area shall not be less than 300 square feet.**
3. **The building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling.**
4. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction. **The maximum height allowed for a detached ADU is the lesser of 25 feet or the height of the primary dwelling.**
5. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, **including roof pitch, eaves, window fenestration patterns, etc.**

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6. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
- ~~6. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.~~
- ~~7. The property owner shall reside on site within the primary dwelling unit.~~
7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.
8. The accessory dwelling unit shall contain a kitchen, bathroom, living, and sleeping area that are completely independent from the primary dwelling.
9. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures, not to include modular structures, shall not be used as an accessory dwelling unit.
10. ADUs are exempt from the residential density standards of this code.
11. Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.
12. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).

CONDITIONS OF APPROVAL

None.

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COMMENTS

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. Their comments are provided in this exhibit. No comments in opposition have been provided.

FINDINGS OF FACT

1. The City of McMinnville is proposing to amend Chapter 17.12 (Single-Family Residential Zone) of the McMinnville Zoning Ordinance to update provisions relative to Accessory Dwelling Units to reduce some identified barriers to affordable housing opportunities in McMinnville.
2. The McMinnville Affordable Housing Task Force (MAHTF) reviewed the proposed amendments to Chapter 17.12 at a meeting on January 25, 2017, provided feedback and

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forwarded a recommendation for adoption to the Planning Commission. At the August 17, 2017 Planning Commission work session, the Commission reviewed the recommended amendments and indicated additional interest in the possibility of additionally allowing modular buildings to be used as ADUs as well as limiting the height of ADUs under certain circumstances. Following discussion, the Planning Commission directed staff to bring the proposed amendments, and information and recommendations relative to the new items, forward as a hearing item for public review, comment and consideration.

3. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. Their comments are provided in this exhibit. No comments in opposition have been provided.
4. Public notification of the public hearing held by the Planning Commission was published in the September 12, 2017 edition of the News Register. No comments in opposition were provided by the public prior to the public hearing.

CONCLUSIONARY FINDINGS

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

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

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

Finding: Goal V 1 and Policy 58.00 are met by this proposal in that approval of the proposed legislative amendments to ADU standards will promote additional flexibility in the provision and design of accessory dwelling units and reduce the cost of connecting ADUs to the public sanitary sewer system

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

Policy 70.00 The City of McMinnville shall continue to update zoning and subdivision ordinances to include innovative land development techniques and incentives that provide for a variety of housing types, densities, and price ranges that will adequately meet the present and future needs of the community.

Finding: Goal V 2 and Policy 70.00 are met by this proposal in that the proposed legislative

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amendments to ADU standards will help to encourage innovative approaches to residential development and encourage a more land intensive residential development pattern. In addition, updating the zoning ordinance to allow an increasing variety of housing types at various densities is encouraged by the McMinnville Comprehensive Plan.

Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:

- 1. Sanitary sewer collection and disposal lines. Adequate municipal waste treatment plant capacities must be available.*
- 2. Storm sewer and drainage facilities (as required).*
- 3. Streets within the development and providing access to the development, improved to city standards (as required).*
- 4. Municipal water distribution facilities and adequate water supplies (as determined by City Water and Light). (as amended by Ord. 4796, October 14, 2003)*
- 5. Deleted as per Ord. 4796, October 14, 2003.*

Finding: Policy 99.00 is satisfied by this proposal as adequate levels of sanitary sewer collection, storm sewer and drainage facilities, and municipal water distribution systems and supply will be required in order to adequately serve each ADU. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of ADUs within the McMinnville city limits. Required street improvements shall be required at the time of development as may be necessary.

GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.

Policy 126.00 The City of McMinnville shall continue to require adequate off-street parking and loading facilities for future developments and land use changes.

Policy 127.00 The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and right-of-ways as transportation routes.

Finding: Goal VI 1 and Policies 126.00 and 127.00 are satisfied by this proposal in that the addition of off-street parking sufficient to support an ADU is currently required by Section 17.12.010(D(5) of the McMinnville Zoning Ordinance.

GOAL VII 1: TO PROVIDE NECESSARY PUBLIC AND PRIVATE FACILITIES AND UTILITIES AT LEVELS COMMENSURATE WITH URBAN DEVELOPMENT, EXTENDED IN A PHASED MANNER, AND PLANNED AND PROVIDED IN ADVANCE OF OR CONCURRENT WITH DEVELOPMENT, IN ORDER TO PROMOTE THE ORDERLY CONVERSION OF URBANIZABLE AND FUTURE URBANIZABLE LANDS TO URBAN LANDS WITHIN THE McMINNVILLE URBAN GROWTH BOUNDARY.

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Policy 136.00 The City of McMinnville shall insure that urban developments are connected to the municipal sewage system pursuant to applicable city, state, and federal regulations.

Policy 139.00 The City of McMinnville shall extend or allow extension of sanitary sewage collection lines with the framework outlined below:

- 1. Sufficient municipal treatment capacities exist to handle maximum flows of effluents.*
- 2. Sufficient trunk and main line capacities remain to serve undeveloped land within the projected service areas of those lines.*
- 3. Public water service is extended or planned for extension to service the area at the proposed development densities by such time that sanitary sewer services are to be utilized*
- 4. Extensions will implement applicable goals and policies of the comprehensive plan.*

Policy 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

Policy 143.00 The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage.

Policy 144.00 The City of McMinnville, through McMinnville Water and Light, shall provide water services for development at urban densities within the McMinnville Urban Growth Boundary.

Policy 145.00 The City of McMinnville, recognizing McMinnville Water and Light as the agency responsible for water system services, shall extend water services within the framework outlined below:

- 1. Facilities are placed in locations and in such manner as to insure compatibility with surrounding land uses.*
- 2. Extensions promote the development patterns and phasing envisioned in the McMinnville Comprehensive Plan.*
- 3. For urban level developments within McMinnville, sanitary sewers are extended or planned for extension at the proposed development densities by such time as the water services are to be utilized;*
- 4. Applicable policies for extending water services, as developed by the City Water and Light Commission, are adhered to.*

Policy 147.00 The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas. The City shall also continue to coordinate with McMinnville Water and Light in making land use decisions.

Finding: Goal VII 1 and Policies 136.00, 139.00, 142.00, 143.00, 144.00, 145.00, 147.00 and

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151.00 are satisfied by the request as ADUs can only be established where single-family residences currently exist demonstrating adequate provision of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and energy distribution facilities. Adequate service levels will continue to be assessed by the appropriate service providers at the time an ADU is proposed. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of ADUs within the city. Administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville shall continue to support coordination between city departments, other public and private agencies and utilities, and McMinnville Water and Light to insure the coordinated provision of utilities to developing areas and in making land-use decisions.

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

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

Finding: Policies 153.00 and 155.00 are satisfied in that emergency services departments have reviewed this legislative amendment request and no concerns were raised.

GOAL VIII 1: TO PROVIDE ADEQUATE ENERGY SUPPLIES, AND THE SYSTEMS NECESSARY TO DISTRIBUTE THAT ENERGY, TO SERVICE THE COMMUNITY AS IT EXPANDS.

Policy 173.00 The City of McMinnville shall coordinate with McMinnville Water and Light and the various private suppliers of energy in this area in making future land use decisions.

Policy 177.00 The City of McMinnville shall coordinate with natural gas utilities for the extension of transmission lines and the supplying of this energy resource.

Finding: Goal VIII 1 and Policies 173.00 and 177.00 are satisfied in that McMinnville Water and Light and Northwest Natural Gas were provided opportunity to review and comment regarding this proposal to modify language relative to ADUs and no concerns were raised.

Policy 178.00 The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.

Finding: Policy 178.00 is satisfied in that the proposed legislative amendments to the zoning ordinance would allow a greater opportunity for establishment of an additional dwelling unit on some already developed single-family residential lots thereby conserving energy and development cost while encouraging a more compact form of residential development.

GOAL X1: 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

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review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

Finding: Goal X1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the holding of advertized public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

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

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

General Provisions:

17.03.020 Purpose. The purpose of this ordinance 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, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.

Finding: Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.

RP:sjs

Attachments:

Attachment 1: Affordable Housing Measures

Attachment 2: Accessory Dwelling Units Comparable Matrix

Attachment 3: Email received from Patty O'Leary on August 17, 2017

Attachment 4: Email received from the McMinnville Building Official on August 24, 2017

Attachment 5: Email received from DLCD Regional Representative Angela Carnahan on September 8, 2017

Measures to Encourage Affordable and Needed Housing (within existing UGB) - HB 4079 Pilot Program

Affordable Housing Measures (23 total points) OAR 660-039-0060(3)(a)

Density Bonus (max 3 points)

- 3 points – Density bonus of at least 20%, no additional design review
- 1 point – Density bonus with additional design review

Systems Development Charges (max 3 points)

- 3 points – At least 75% reduction on SDCs
- 1 point – Defer SDCs to date of occupancy

Property Tax Exemptions

- 3 points – Property tax exemption for low income housing
- 3 points – Property tax exemption for non-profit corp. low income housing
- 3 points – Property tax exemption for multi-unit housing

Other Property Tax Exemptions/Freeze

- 1 point – Property tax exemption for housing in distressed areas
- 1 point – Property tax freezes for rehabilitated housing

Inclusionary Zoning

- 3 points – Imposes inclusionary zoning

Construction Excise Tax

- 3 points – Adopted construction excise tax

Cities must have adopted measures totaling at least 3 points of affordable housing measures

- and -

at least 12 points overall

cities may apply for up to 6 points of credit for alternative measures

Needed Housing Measures (30 total points) OAR 660-039-0060(3)(b)

Accessory Dwelling Units (max 3 points)

- 3 points – ADUs allowed in any zone without many constraints
- 1 point – ADUs with more constraints

Minimum Density Standard (max 3 points)

- 3 points – Minimum density standard at least 70% of maximum
- 1 point – Minimum density standard at least 50% of maximum

Limitations on Low Density Housing Types

- 3 points – No more than 25% of residences in medium density to be detached
- 1 point – No detached residences in high density zones
- 1 point – Maximum lots for detached homes medium/high zones $\leq 5,000$ sq ft

Multifamily Off-street Parking Requirements (max 3 points)

- 3 points – ≤ 1 parking space/unit for multi-unit dwelling and ≤ 0.75 spaces/unit for units within one-quarter mile of high frequency transit
- 1 point – ≤ 1 parking space/unit in multi-unit dwellings

Under Four Unit Off-street Parking Requirements

- 1 point – ≤ 1 space/unit required for detached, attached, duplex, triplexes

Amount of High Density Zoning Districts (max 3 points)

- 3 points – At least 15% of all residential land is zoned for high density
- 1 point – At least 8% of all residential land is zoned for high density

Duplexes in Low Density Zones (max 3 points)

- 3 points – Duplexes are allowed in low density zones
- 1 point – Duplexes are allowed on corner lots in low density zones

Attached Units Allowed in Low Density Zones

- 1 point – Attached residential units allowed in low density zones

Residential Street Standards

- 3 points – Allowed minimum local residential street width 28 feet or less

Mixed-Use Housing

- 3 points – At least 50% of commercial zoned land allows residential

Low Density Residential Flexible Lot Sizes

- 1 point – Minimum lot size in low density zones is 25%+ less than the minimum lot size corresponding to maximum density

Cottage housing

- 1 point – Allows cottage housing

Vertical housing

- 1 point – Allows vertical housing

Topic	McMinnville	Newberg ¹	Bend ²	Ashland ³	Redmond ⁴	Corvallis ⁵	Grants Pass ⁶
ADU							
Type Allowed	- Conversion of attic, basement, or garage - Adding floor area to primary dwelling - Detached ADU	- Attached or detached - Addition to primary dwelling	- Attached or detached - Conversion of portion of primary dwelling	- Attached or detached	- Attached or detached	- Attached or detached - Conversion of garage	- Attached or detached - Conversion of attached or detached (garage or shed) space - Addition to primary dwelling
Zoning Districts Allowed	- All Residential districts as permitted use - Only allowed on lots w/ a detached single family dwelling	- R-1 as conditional use - R-2 & R-3 as permitted use	- All Residential districts as permitted use - Only allowed on lots w/ single family detached or attached dwelling unit	- Permitted w/ special use standards in all residential districts - Allowed on lots w/ single family residential dwelling as primary use	- Allowed in all residential zones - Permitted in R-4 & R-5 - Conditional use in R-1, R-2, R-3 & R-3A	- Allowed in all residential zones, but must meet minimum lot sizes: - RS-1: 8,000 sf - RS-3.5/RS-5: 6,000 sf - RS-6/RS-9/RS-12/RS-20: 3,500 sf for detached 2,500 sf for attached	- Only allowed on lots w/ single family detached dwelling unit
Size Limitations	- Max ADU Size: 40% of the primary dwelling square footage or 800 square feet, whichever is less - Min. ADU Size: 300 square feet	- Max ADU size: 50% of the primary dwelling, up to 1,000 square feet	- Lot 6,000 sf or less: max. ADU size of 600 sf - Lot greater than 6,000 sf: max ADU size of 800 sf	- R-1 Zone: Max ADU size of 50% of the primary dwelling, up to 1,000 sf - R-2/R-3 Zone: Max ADU size of 50% or the primary dwelling, up to 500 sf	- Max detached ADU size: 50% of the primary dwelling, up to 800 sf - Above garage ADU: may not exceed garage footprint	- Max ADU size: 40% of the primary dwelling up to 900 sf	- Max ADU size: 1,000 sf - Height max of 18 feet - ADU footprint shall not be larger than footprint of primary dwelling
Setback/Development Standards	- Follows underlying zoning district standards	- Follows underlying zoning district standards	- Exempt from max FAR if certain size	- Follows underlying zoning district standards - Exempt from density and min. lot area requirements	- Follows underlying zoning district standards	- Follows underlying zoning district standards - Entry & walkway must be 5’ from side yard lot line	- Exempt from density requirements
Material Requirements/Design Standards	- Siding, roofing, materials, and color shall coincide w/ primary dwelling - Definition of ADU states that ADU will “generally” have its own outside entrance, but not specifically required	- Entry may not be located on front façade of primary dwelling - 2 nd story windows 10’ or less from property line must be privacy glass	- Max height of 25’ or height of primary dwelling - 2 nd story doorways, outdoor living areas, and staircases setback of 10’	- Independent entry - Certain design standards apply in neighborhoods w/ adopted small area plans: visual buffers, second floor detailing or step-back design	- Independent entry - If entry is accessed by stairs, a covered porch is required	- Architecturally integrated (roof, exterior materials, windows, color) w/ primary dwelling unit - 2 nd story windows opaque - Balconies only allowed to face nearest side yard	- Entry located in side/rear - Compatible w/ primary dwelling (roof, exterior materials, windows, eaves) - New detached ADUs must be located at least 6 feet behind the primary dwelling

¹ Newberg Development Code 15.440.030

² Bend Development Code Table 2.1.200, 2.1.400, 2.1.600 (B)(2), 3.3.300, 3.6.200 (B)

³ Ashland Development Code Table 18.2.3.040, 18.4.3.040, 18.6.1

⁴ Redmond Development Regulations 8.0135, 8.0325, 8.0500

⁵ Corvallis Land Development Code 4.1.30, 4.9.40. Corvallis allows ministerial and general development options for ADUs, which have different requirements. Ministerial is a staff level review w/ no public hearing or notification. Ministerial requirements listed above. General development option requires property owner notification, but allows for no minimum lot size in low density residential zones, no setbacks for entrance doors/walkways, less restriction on architectural integration w/ primary dwelling.

⁶ Grants Pass Development Code 22.720, 25.042

Light Green – Less Restrictive, Medium Green – Same or Very Similar, Dark Green – More Restrictive

Parking Requirement	- 1 space for the ADU	- 1 space for the ADU	- 1 space for the ADU	- Studio or 1 BR < 500 sf: 1 space/unit - 1 BR > 500 sf: 1.5 spaces/unit - 2 BR: 1.75 spaces/unit - 3 BR+: 2 spaces/unit	- 1 space for the ADU	- If parking requirement for primary dwelling is met, no additional off-street parking required - If ADU parking provided, cannot be in front/side yard	- 1 space for the ADU
Utilities	- Must have independent water, sewer, and electricity services	- Utilities can be shared with primary dwelling	- Utilities can be shared with primary dwelling	- No specific requirement that utilities be separate from primary dwelling	- Utilities can be shared with primary dwelling	- No specific requirement that utilities be separate from primary dwelling	- Utilities can be shared with primary dwelling
Number/Density	- 1 ADU allowed per lot	N/A	- 1 ADU allowed per lot	- 1 ADU allowed per lot	N/A	- 1 ADU allowed per lot	- 1 ADU allowed per lot
Facilities	- ADU must include kitchen, bathroom, living, and sleeping area that are completely independent from primary dwelling	- ADU must have one or more rooms, bathroom, and kitchen	N/A	- ADU must have independent, permanent provisions for living, sleeping, eating, cooking, and sanitation	- Kitchen w/ oven, stove w/ 2 burners, sink, refrigerator w/ 6 cubic feet capacity, & freezer - Bathroom w/ sink, toilet, & shower	N/A	N/A
Ownership	- Property owner must reside in primary dwelling	N/A	N/A	N/A	- Property owner must reside in either primary dwelling or ADU	- Property owner must reside in either primary dwelling or ADU - Deed restriction required	- Ownership of ADU shall not be subdivided or separated from ownership of primary residence
RV/Trailer/Manufactured Home	- Not allowed as an ADU	N/A	N/A	N/A	N/A	N/A	N/A

Ron Pomeroy

From: P O'Leary [poleary847@aol.com]
Sent: August 17, 2017 4:05 PM
To: Ron Pomeroy; Heather Richards
Subject: G 6-17 ADU working meeting

I know it's just at the working stage but I hope these two items might be considered at the working meeting tonight.

1. Elimination of all manufactured housing as ADUs doesn't make sense to me. I understand that trailers and traditional moveable manufactured homes are to be avoided, but the description (towable or [off-site] manufactured structures) eliminates prefab houses as well. Prefabs can be an excellent cost-effective and time-sensitive way to build and they have won numerous international design awards. A quick glance through Dwell website or magazine can give you a feel of the high quality of this kind of construction.

2. The 50% or 1,000sf, whichever is less, requirement knocks out several potential infill lots that have existing small homes on them. If those houses had the option to become the ADU rather than remaining the primary dwelling, more options would be available. There are a couple of smaller houses on Second between Newby School and Cypress St. that are representative.

Patty O'Leary

Ron Pomeroy

From: Robert Poskin
Sent: August 24, 2017 8:58 AM
To: Ron Pomeroy
Subject: FW: Differences between a Mfg Home and Modular Home

From: Robert Poskin
Sent: Wednesday, August 23, 2017 03:15 PM
To: 'Robert'
Subject: Differences between a Mfg Home and Modular Home

A manufactured home is constructed at a State of Oregon Licensed manufacturing plant, and upon approval the unit meets State Guide Lines for a Mfg. Home, a Mfg Home Insignia is applied. A Mfg Home is then installed on a lot or park using the Mfg Home regulations and is supported on rails under placed pads and anchors. Depending on the size (double wide) (triple wide etc) the marriage lines are then bolted together. Lenders do not recognize these units a single family dwellings even if a permanent foundation is used, because of the insignia.

A modular Home undertakes construction as above, however loads on the unit are based exterior walls and a permanent foundation, and the insignia indicates the unit is modular. Lenders do recognize these units as a single family dwelling.

Poskin

Ron Pomeroy

From: Heather Richards
Sent: September 08, 2017 5:24 PM
To: Ron Pomeroy
Subject: Fwd: McMinnville ADU Recommendations - Local File No G 6-17

Heather Richards
Sent from my Iphone

Begin forwarded message:

From: "Carnahan, Angela" <angela.carnahan@state.or.us>
Date: September 8, 2017 at 5:02:42 PM PDT
To: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>
Cc: "Howard, Gordon" <gordon.howard@state.or.us>
Subject: McMinnville ADU Recommendations - Local File No G 6-17

Hi Heather,

We have some recommendations for you to consider as the city reviews draft amendments to the McMinnville Zoning Ordinance (Ordinance 3380) specific to Accessory Dwelling Units (ADUs). Please enter this email in the record for proceedings on this matter.

Our understanding is that this review was to identify additional measures as they pertain to affordable housing, in that spirit we have found a few items that speak directly to making ADU's affordable and offer the following:

- Remove the requirement for off-street parking, this is a barrier to affordable housing and is, in some cases, physically impossible to provide, especially for properties in older neighborhoods. If the City is not ready to remove this requirement, they could allow it to be met by on-street parking if it's available adjacent to the property, or is available within a certain distance of the property.
- Explicitly state that legal non-conforming structures (e.g., those that don't meet current setback or height requirements) are eligible to be converted to ADUs. This is to be clear that any structure that is already built has the potential to be converted to an ADU.

Please let me know if you have any questions.

Best,

Angela Carnahan | Mid-Willamette Valley Regional Representative
Community Services Division
Oregon Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540