

ORDINANCE NO. 5082

AN ORDINANCE APPROVING A TENTATIVE PLAN FOR A 17-LOT SUBDIVISION ON A 2.93 ACRE SITE.

RECITALS:

The Planning Department received application S 2-19 (Subdivision Tentative Plan) from Leonard Johnson, property owner, requesting approval of a 17-lot Subdivision Tentative Plan for the subject property; and

The subject site is located on NE Newby Street between NE Grandhaven Drive and NE 27th Street, and is more specifically described as Tax Lot 1100, Section 9DC, T. 4 S., R 4 W., W.M.; and

A public hearing before the McMinnville Planning Commission was held on July 18, 2019, after due notice had been provided in the local newspaper on July 9, 2019, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, the application materials and a staff report were presented, and applicant and public testimony was received.

The Planning Commission, being fully informed about said Subdivision Tentative Plan request, found that, with conditions, the application conformed to the applicable Comprehensive Plan goals and policies and review criteria based on the material submitted by the applicant and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

The Planning Commission, by a vote of 9-0, recommended approval with conditions of said Subdivision Tentative Plan to the Council; and

The City Council having received the Planning Commission recommendation and staff report, and having deliberated;

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. That the Council adopts the Decision, Findings of Fact, Conclusionary Findings, Decision, and Conditions of Approval as documented in Exhibit A for S 2-19; and
2. That this Ordinance shall take effect 30 days after its passage by the City Council.


Passed by the Council this 27th day of August 2019, by the following votes:

Ayes: Drabkin, Garvin, Geary, Menke, Peralta

Nays: _____



 MAYOR

Approved as to form:


 CITY ATTORNEY

Attest:


 CITY RECORDER



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

503-434-7311
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DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A TENTATIVE SUBDIVISION PLAN FOR A 17-LOT SUBDIVISION FOR A 2.93 ACRE PARCEL ON NE NEWBY STREET

- DOCKET:** S 2-19 (Tentative Subdivision Plan)
- REQUEST:** Application for a tentative subdivision plan for a 17-lot single-family residential subdivision, including 15 single-family detached homes and 2 single-family attached homes
- LOCATION:** NE Newby Street between NE Grandhaven and NE 27th Street (Tax Lot 1100, Section 9DC, T. 4 S., R. 4 W., W.M.)
- ZONING:** R-1 (Single-family Residential). The application was submitted concurrent with an application to rezone the property to R-3.
- APPLICANT:** Leonard Johnson (property owner)
Ron Pomeroy, Navigation land Use Consulting (applicant's representative)
- STAFF:** Tom Schauer, Senior Planner
- DATE DEEMED COMPLETE:** June 7, 2019
- HEARINGS BODY & ACTION:** Because this application was submitted concurrently with the rezone application, the McMinnville Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision, per MMC 17.72.070.
- HEARING DATE & LOCATION:** July 18, 2019, Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.
- PROCEDURE:** An application for a Tentative Subdivision Plan is processed in accordance with the procedures in Section 17.72.120 of the Zoning Ordinance. The application is reviewed by the Planning Commission in accordance with the quasi-judicial public hearing procedures specified in Section 17.72.130 of the Zoning Ordinance.
- CRITERIA:** The applicable criteria for a Tentative Subdivision Plan include the Land Division Standards of Chapter 17.53 and the Development Standards of the Applicable Zoning District (Chapter 17.18 for the R-3 Zone). In addition,

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

APPEAL:

This is a concurrent application with the rezone application. Per MMC 17.72.070, the applications shall be subject to the hearing procedure that affords the most opportunity for public hearing and notice. Therefore, the Planning Commission will make a recommendation on this application to the City Council, and the City Council will make the final decision.

As specified in MMC 17.72.130, a Planning Commission recommendation of approval of the application (or approval of the application in a different form) is transmitted to the City Council to make a final decision. However, a Planning Commission recommendation of denial is a final decision unless the decision is appealed to the City Council. Such an appeal must be filed within 15 calendar days of the date the written notice of decision is mailed.

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

COMMENTS:

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

DECISION

Based on the findings and conclusionary findings, the City Council finds the applicable criteria are satisfied with conditions and **APPROVES** the Tentative Subdivision Plan (S 2-19) **subject to the conditions of approval provided in Section II of this document.**

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DECISION: APPROVAL WITH CONDITIONS
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City Council: Scott Hill Date: 8/27/19
Scott Hill, Mayor of McMinnville

Planning Commission: Roger A. Hall Date: 8/29/19
Roger Hall, Chair of the McMinnville Planning Commission

Planning Department: Heather Richards Date: 8/28/19
Heather Richards, Planning Director

I. APPLICATION SUMMARY:

Subject Property & Request

The proposal is an application for a Subdivision Tentative Plan (S 2-19) for a 17-lot single family residential subdivision, with 15 single-family detached homes and 2 single-family attached homes. The application was submitted concurrently with an application to rezone the property from R-1 to R-3. The decision for this application is contingent on approval of the rezone application, and is reviewed based on the standards of the R-3 zone.

The subject property is a 2.93 acre parcel located on NE Newby Street between NE Grandhaven and NE 27th Street. Grandhaven Subdivision to the north was platted in 1999, with Buel Drive stubbed to the north property line of the subject property. **See Exhibit 1.**

The subject property and properties to the west, south, and northeast are zoned R-1. Property to the north is zoned R-2 PD, and property to the east and southeast is zoned R-3 PD. **See Exhibit 2.** Predominant surrounding uses are single-family homes and duplexes to the north, single-family homes to the east and west, Adventure Christian Church to the south, and Life Care Center south of the church. Grandhaven Elementary School is located across NW Grandhaven Street to the north. The subject property is vacant. It previously had substantial tree cover as shown in the aerial photo, which has since been cleared by the applicant, with an arbor vitae screen remaining. There is a natural drainageway generally running east-west on the property, and a portion of the drainageway is a designated wetland. Curb, gutter, and sidewalk are present along the property frontage on NE Newby Street.

The concurrent requests would rezone the property from R-1 to R-3 and approve a 17-lot single family residential subdivision, with 15 single-family detached homes and 2 single-family attached homes (Lots 4 and 5). **Exhibit 3** shows the proposed zoning. **Exhibit 4** is the proposed subdivision tentative plan, and **Exhibit 5** shows the proposed public improvements and utilities. Most lots would access a new local street that would extend in an "L" between Buel Drive and Hoffman Drive. Lots 1 and 2 would have access from NE Newby Street. Lot 13 would have access to the new local street via a private easement across Lot 14.

Summary of Criteria & Issues

The criteria and issues for the zone change application (ZC 3-19) are addressed in the separate decision document. This document addresses the Tentative Subdivision Plan (S 2-19).

The criteria for a subdivision are conformance of the proposed plan to the Land Division standards of Chapter 17.53, the development standards of the applicable zoning district (Chapter 17.18 for the R-3 Zone), and consistency with the Goals and Policies of the Comprehensive Plan, which are independent approval criteria for all land use decisions, as specified in Volume II of the Comprehensive Plan. Decisions must also ensure adequate coordination with other affected agencies to ensure the application is consistent with applicable local, state, and federal laws.

Land Division Standards

The land division standards address issues such as street layout, block lengths, street improvement standards, etc. The proposed street configuration meets the applicable requirements for connectivity given constraints presented by surrounding development. Due to the existing development pattern and uses to the west and south, further connectivity can't be achieved.

With one exception, the proposal includes street improvements in accordance with the applicable street standards. The proposed new local street includes curb, gutter, planter strip, and sidewalk. At the "L" in the street, the proposed centerline radius is 38', while the street standards specify a 100' minimum centerline radius, to an even 10 feet. The ordinance specifies that the Planning Commission may accept sharper curves "where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots." Staff will provide additional comments from the Engineering Department regarding this issue. Tighter radii have previously been approved in areas where slower speeds are desired in a residential setting, including corners at 90 degree turns which would otherwise comprise a block if street extension to adjoining properties could occur.

NE Newby is already improved with curb, gutter, and curbtight sidewalk without a planter strip, within the existing right-of-way.

The proposal includes piping of the existing open drainageway which runs west to east on the property, and rerouting the piped drainage conveyance from the point where the drainage enters the property, with the pipe to be routed in the new public street proposed within the development to the point where the drainage exits the property on the east side to existing conveyance to the east. Some of the sanitary sewer conveyance is proposed within public utility easements along side or rear lot lines rather than within the public right-of-way. Conditions are proposed to provide for final review of the utility and drainage plans by the Engineering Department. Before Engineering review occurs, the applicant will need to obtain authorization from DSL and the Army Corps of Engineers for alterations that would impact the delineated jurisdictional waters.

Lot Standards for Zoning District

The development standards of the zoning district address issues such as minimum lot size, lot dimensions, etc. Lots need to be configured to meet these standards and with the intent that there shouldn't be foreseeable difficulties in developing the resulting lots with the allowed uses considering building setbacks, etc., and the proposal meets these requirements.

Comprehensive Plan Policies

Drainage and Natural Features. The piping of the stormwater conveyance and the open drainageway would impact jurisdictional waters. The National Wetland Inventory identifies a riverine wetland on the property, but the wetland/jurisdictional waters delineation describes jurisdictional "waters" or a "waterway" described as "Drainage 1" which is part of the intermittent drainageway. The sampling locations in the wetland delineation report identified hydrophytic vegetation but not hydric soils. DSL's letter indicates 0 wetland acres and 0.07 acres of "water", which is about 3,099 square feet. The City doesn't have an adopted Local Wetland Inventory, designated "locally significant wetlands," or associated local regulation of such wetlands. Therefore, for this type of application, the City defers to the state and federal permitting requirements of the Department of State lands and US Army Corps of Engineers. There are policies, discussed below, that encourage retention of open drainageways. Given the locational context of the site, discussed below, staff finds the criteria can be satisfied if the drainage is conveyed in pipe, provided DSL and the US Army Corps of Engineers approves the off-site mitigation of the jurisdictional waters.

DSL has approved the delineation, which identifies approximately 3,099 square feet (0.07 acres) of jurisdictional waters. The applicant is proposing off-site mitigation of the wetlands/waters of the state. DSL has commented the state law establishes a preference for avoidance of wetland impacts. The applicant will need to address these requirements with DSL and the Corps of Engineers. Staff has proposed conditions which would require the applicant to obtain approval from DSL and the Corps of Engineers for the proposed off-site mitigation. Should they be unable to address those requirements to obtain approval of off-site mitigation, the condition would be

unmet, and should any result require the open drainageway conveyance to remain on site, that would require submittal of a new, revised tentative plan application. (If the open conveyance was retained at its current location, it would traverse several lots, posing potential development constraints on the proposed lots which would contain the open conveyance).

The Great Neighborhood Principles were not in effect at the time of submittal of this application, so those policies do not apply to this application. The Comprehensive Plan policies below are most relevant to the subdivision application, and considered in context of the site and its surroundings. This is the most upstream section of the drainageway which isn't piped. Upstream stormwater is all piped and discharged into the open drainageway on this property through a 30" pipe at the west property line. The drainage exits the property to the east via a culvert, and is piped for approximately an additional 200' before it daylights and remains an open drainageway to the east via tributaries to the North Yamhill River.

Chapter V. Housing and Residential Development

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

Chapter VII. Community Facilities and Services

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

These policies are considered in the context of the open drainageway on the property being the upper extent of the unpiPED drainageway. Upstream properties to the west are piped to the property, and the conveyance to the east is piped for about 200' before daylighting into the open drainageway for the remainder of the conveyance to the North Yamhill River. It is this context that staff weighed in finding the criteria satisfied should DSL and the Corps of Engineers approve off-site mitigation.

Exhibit 1. Vicinity Map & Aerial Photo

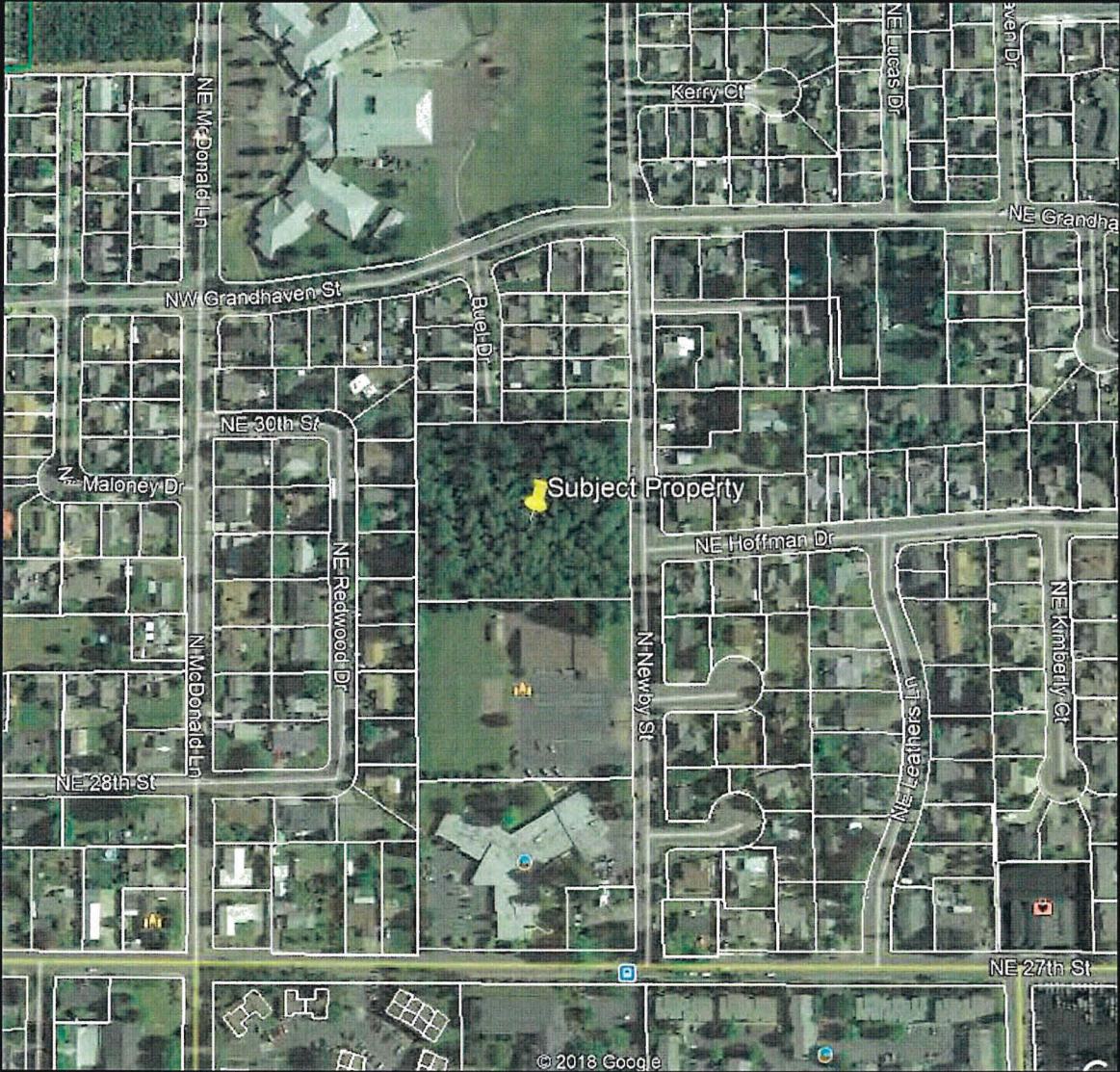


Exhibit 2. Current Zoning

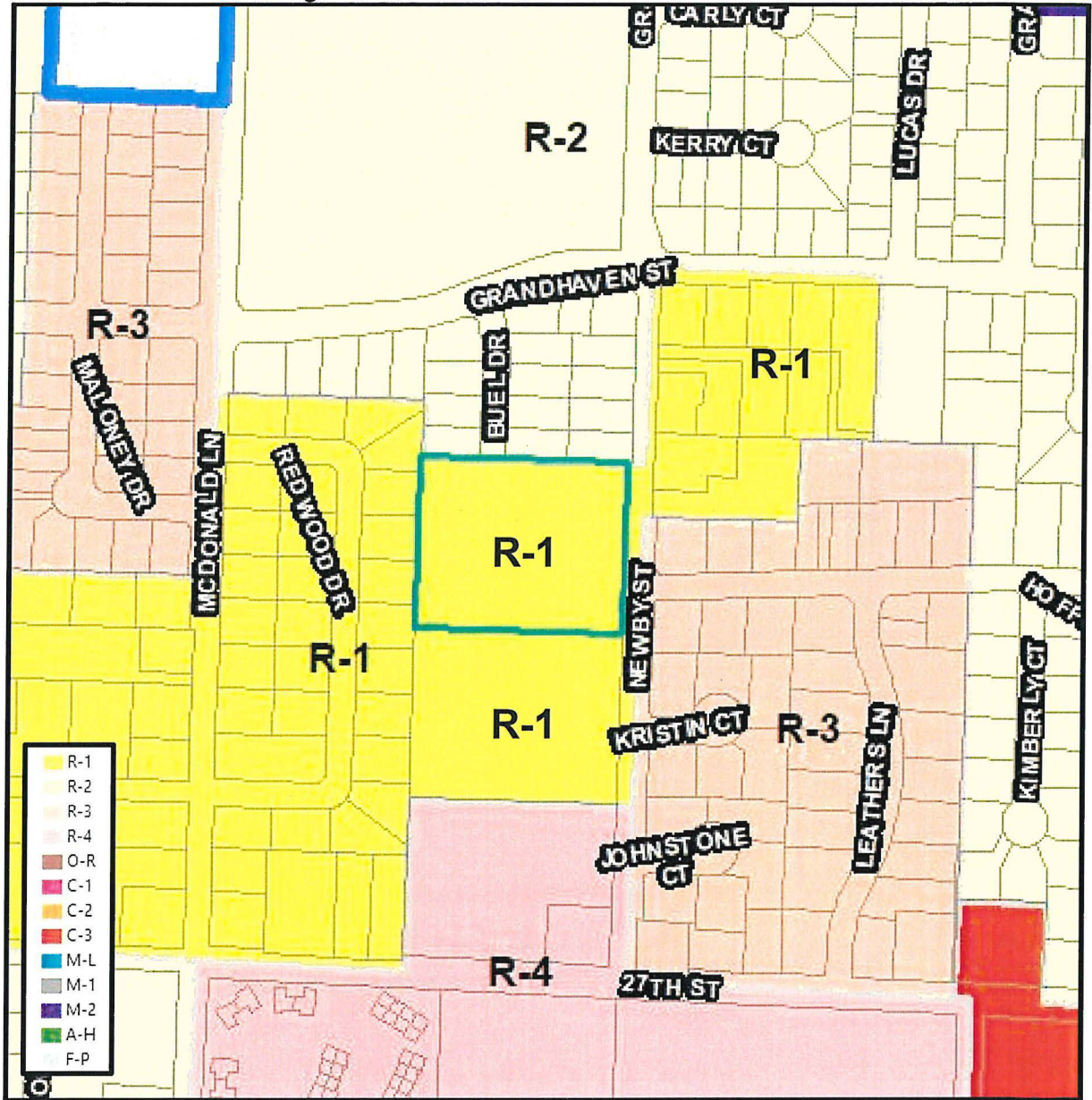


Exhibit 3. Proposed Zoning

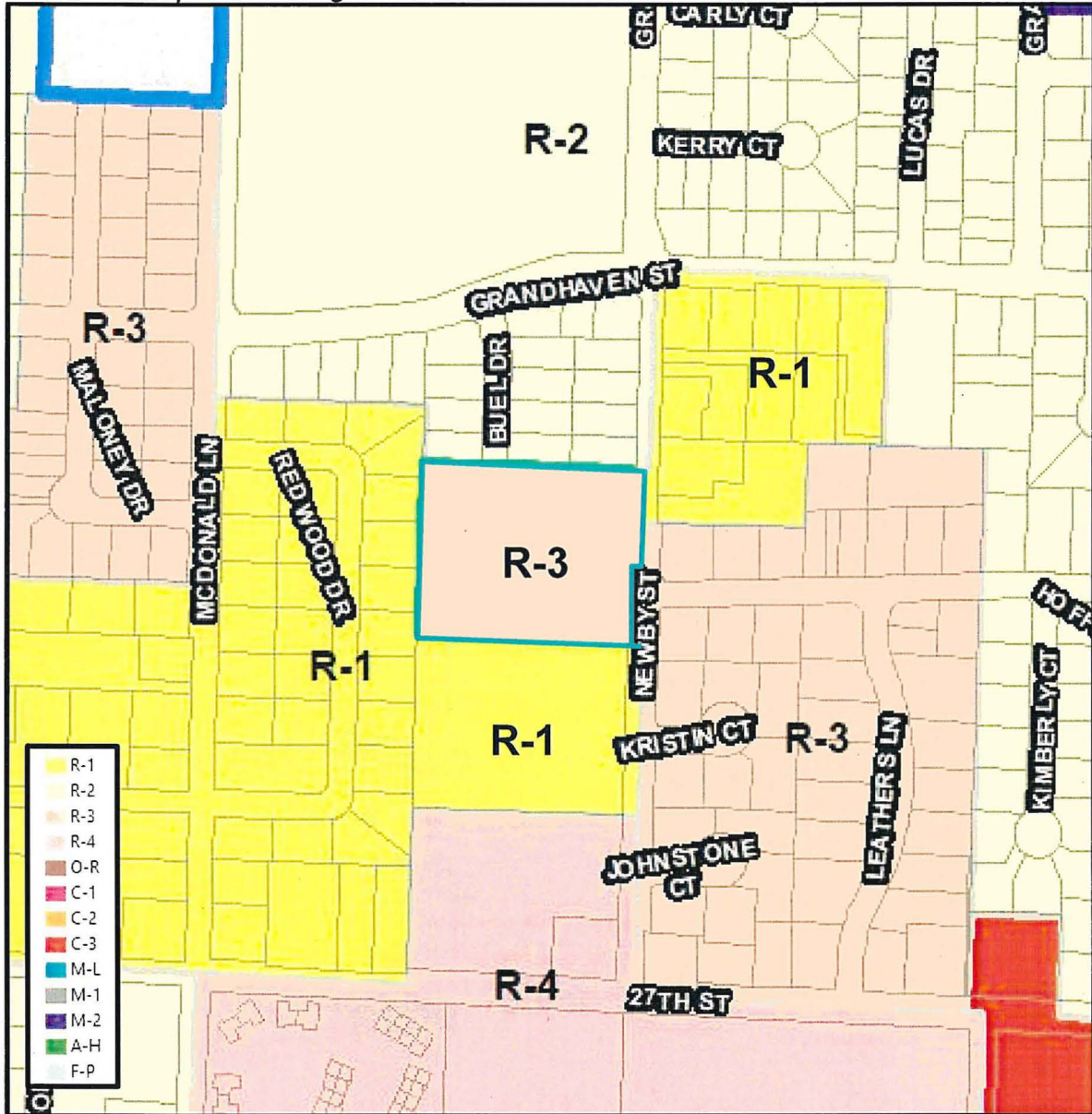


Exhibit 4. Proposed Subdivision Tentative Plan

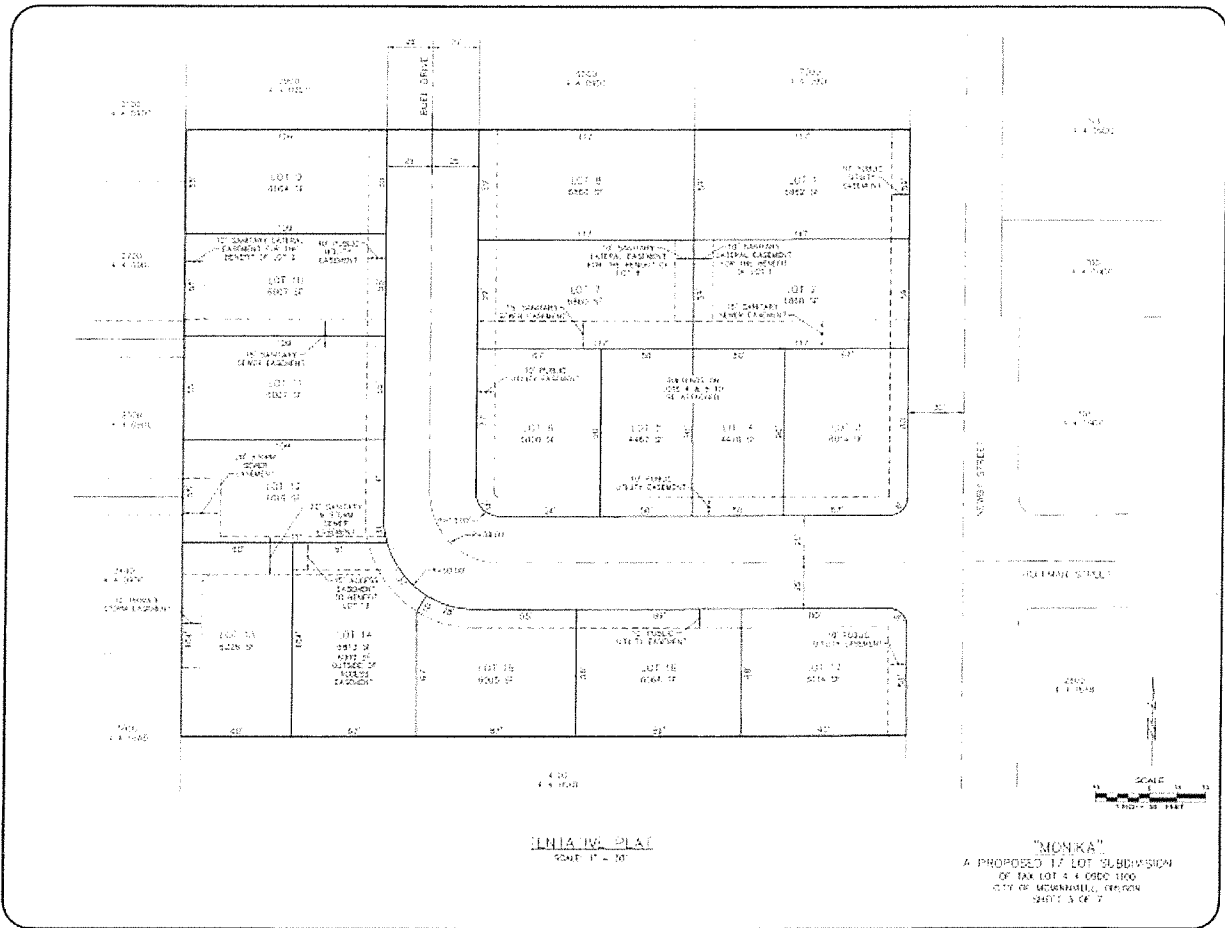
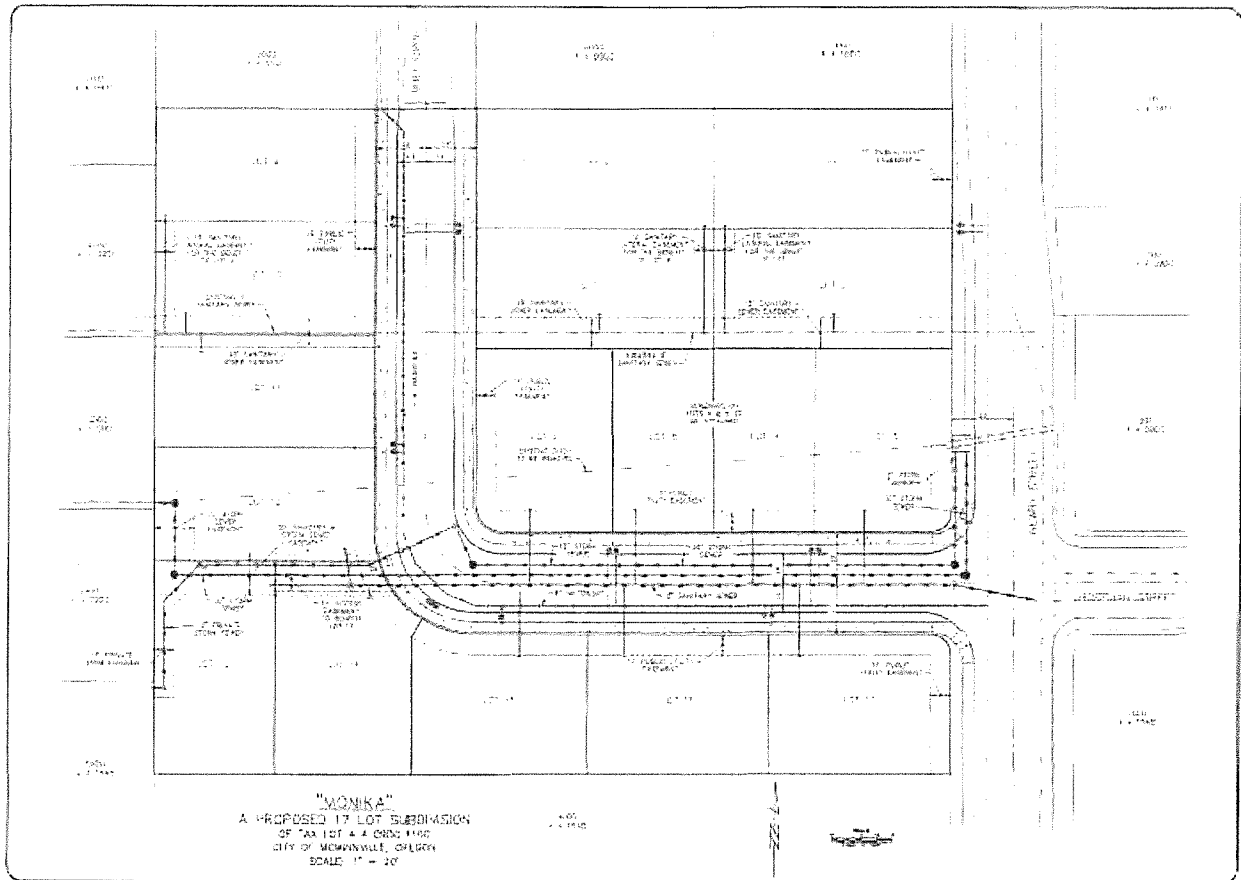


Exhibit 5. Proposed Public Improvements and Utility Plan



II. CONDITIONS:

This approval shall expire 12 months from the date the final decision document is signed. Prior to expiration of the approval, the applicant shall comply with the conditions, execute a Construction Permit Agreement, and commence construction, complete construction or provide required security, and submit the final plat. Upon written request, the Planning Director may approve a one-year extension of the decision. Additional extensions shall require the subdivider to resubmit the tentative plan to the Planning Commission and make any revisions considered necessary to meet changed conditions.

If the property owner wishes a one-year extension of the Commission approval of this tentative plan, a request for such extension must be filed in writing with the Planning Department a minimum of 30 days prior to the expiration date of this approval.

Rezone

1. This approval is contingent upon final approval of the zone change application ZC 3-19 from R-1 to R-3 for the subject property. The subdivision approval does not take effect until and unless the companion zone change request ZC 3-19 is approved by the City Council.

Permits

2. The applicant shall secure all required state and federal permits, including, if applicable, those related to wetland fill and impacts, the federal Endangered Species Act, Federal Emergency Management Act, and those required by the Oregon Division of State Lands and US Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
3. Prior to any further plan submittals, the applicant shall present evidence that DSL and the US Army Corps of Engineers have authorized off-site mitigation of any on-site jurisdictional waters and/or wetlands. The Director may authorize plan submittals prior to evidence of such authorization, with the applicant's recognition that any costs incurred by the applicant for reviews will be at the applicant's risk should authorization not be obtained from DSL and the Corps of Engineers.
4. Prior to any disturbance of jurisdictional waters or wetlands, the applicant shall present evidence that all permits and approvals have been obtained from by DSL and the US Army Corps of Engineers for any disturbance or work affecting jurisdictional waters or wetlands.

Engineering Plans and Permitting

5. Street grades and profiles shall be designed and constructed to meet the adopted Land Division Ordinance standards and the requirements contained in the Public Right-of-Way Accessibility Guidelines (PROWAG). Additionally, corner curb ramps shall be constructed to meet PROWAG requirements.
6. The applicant shall coordinate the location of clustered mailboxes with the Postmaster, and the location of any clustered mailboxes shall meet the accessibility requirements of PROWAG and the State of Oregon Structural Specialty Code.
7. On-street parking will be restricted at all street intersections, in conformance with the requirements of the City's Land Development Ordinance.

8. The applicant shall install fire hydrants to serve this development as may be required by the McMinnville Fire Department. Also, if fire hydrants are required, they shall be in working order prior to the issuance of building permits.
9. Extension agreements as necessary are required for water and electric services to the site which shall include development fees and engineered/approved drawings. The applicant shall contact McMinnville Water & Light for details. The applicant shall also fill out a subdivision design application and pay applicable design fees.
10. A detailed storm drainage plan, which incorporates the requirements of the City's Storm Drainage Master Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat. If the final storm drainage plan incorporates the use of backyard collection systems and easements, such must be private rather than public and private maintenance agreements must be approved by the City for them.
11. A detailed sanitary sewage collection plan which incorporates the requirements of the City's Collection System Facilities Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
12. The applicant shall secure from the Oregon Department of State Lands (DSL), Army Corps of Engineers, and the Oregon Department of Environmental Quality (DEQ) all applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.
13. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.

Revised Tentative Plan

14. Street names shall be submitted to the Planning Director for review and approval prior to submittal of the final plat.
15. If any revisions to the tentative plan are required as a result of the review of the engineering plans, the applicant shall submit a revised tentative plan reflecting any required revisions, including any revised easement locations that may be applicable.

Street Tree Plan

16. The applicant shall submit an application for a street tree plan to the Landscape Review Committee for review and approval prior to final plat submittal in accordance with Section 17.58. 100 of the Zoning Ordinance. The plan shall provide sufficient detail about location of utility services to the lots, locations of street lights, pedestals, and meter boxes, to evaluate the suitability of proposed street tree planting locations.

All street trees shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and be spaced as appropriate for the selected species and as may be required for the location of above ground utility vaults, transformers, light poles, and hydrants.

Other Documents

17. The applicant shall submit copies of any proposed restrictive covenants prepared for the development prior to the final plat approval.
18. Any documents creating a Homeowner's Association for the subdivision and assigning to it maintenance responsibilities of any common ownership features must be submitted to and approved by the Planning Director. The Covenants, Conditions, and Restrictions (CC&Rs) shall explicitly require the Homeowner's Association to provide notice to the City prior to amending the CC&Rs, and that all such amendments shall be subject to approval by the Planning Director. Additionally, the CC&Rs shall prohibit the Homeowner's Association from disbanding without the consent of the Planning Director. The CC&R's shall be reviewed and subject to City approval prior to final plat approval.

Construction

19. NE Newby Street shall be utilized as the main construction access for development of the proposed subdivision. However, NE Newby Street cannot be the only street providing construction access for the development since utility extensions and construction of the local residential street work at the end of the current NE Buel Drive terminus and, at times, some construction traffic on NE Buel Drive will be necessary.
20. Prior to the construction of any private storm facilities, the applicant shall obtain the necessary permits from the City's Building Division.
21. All work shall be in accordance with the approved plans and permits. Improvements shall be installed in accordance with Section 17.53.150 of the Zoning Ordinance.
22. The applicant shall submit evidence that all fill placed in the areas where building sites are expected is engineered. Evidence shall meet with the approval of the City Building Division and the City Engineering Department.
23. All new streets within the subdivision shall be improved with a 28-foot-wide paved section, curbside planting strips, and five-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way, as required by McMinnville Land Division standards. No change to the street cross-section is required to the existing frontage on NE Newby Street.
24. The City Public Works Department will install, at the applicant's expense, the necessary street signage (including stop signs, no parking signage, and street name signage), curb painting, and striping (including stop bars) associated with the development. The applicant shall reimburse the City for the signage and markings prior to the City's approval of the final plat.
25. The required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat.
26. The proposed easement access to Lot 13 across Lot 14 shall be not less than 15 feet in width and shall have a hard-surfaced drive of 10 feet width minimum.
27. Per Section 17.58.110, street trees shall be installed prior to submittal of the final plat. As an alternative the applicant may file a surety bond or other approved security to assure the planting of the required street trees as prescribed in Section 17.53.153.

Other Requirements

28. The applicant shall provide twenty-five percent (25%) of the single-family lots for sale to the general public. The applicant shall provide information detailing the number of lots that will be made available for individual sale to builders for review and approval by the Planning Director prior to recording of the final plat. Upon approval, the referenced lots will be made available for sale to the general public for a minimum of one hundred twenty (120) days.

Final Plat

29. The final plat shall be in conformance with the approved tentative plan and shall include all items required by Section 17.53.075.
30. The final plat shall include use, ownership, and maintenance rights and responsibilities for all easements.
31. The final plat shall include 10-foot wide public utility easements along both sides of all public rights-of-way for the placement and maintenance of required utilities.
32. The applicant shall submit a draft copy of the subdivision plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two copies of the final subdivision plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.

Building Permit Issuance

33. At the time of building permit application, applicable SDCs, including Parks SDCs shall be paid.

Other Completion

34. If security is provided prior to final plat for installation of street trees, the applicant shall complete installation of street trees, per the timing described in Subsection (B) below. The applicant shall plant street trees within curbside planting strips in accordance with the approved street tree plan. All street trees shall be of good quality and shall conform to American Standard for Nursery Stock (ANSI Z60.1). The Planning Director reserves the right to reject any plant material which does not meet this standard.
 - A. Trees shall be provided with root barrier protection in order to minimize infrastructure and tree root conflicts. The barrier shall be placed on the building side of the tree and the curb side of the tree. The root barrier protection shall be placed in 10-foot lengths, centered on the tree, and to a depth of eighteen (18) inches. In addition, all trees shall be provided with deep watering tubes to promote deep root growth.
 - B. Each year the applicant shall install street trees, from November 1 to March 1, adjacent to those properties on which a structure has been constructed and

received final occupancy. This planting schedule shall continue until all platted lots have been planted with street trees.

- C. It shall be the applicant's responsibility to relocate trees as may be necessary to accommodate individual building plans. The applicant shall also be responsible for the maintenance of the street trees, and for the replacement of any trees which may die due to neglect or vandalism, for one year from the date of planting

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

36. As-built plans shall be submitted as required by the Engineering Department within 30 days after acceptance of the improvements by the City Engineer, as required by Section 17.53.150 of the Zoning Ordinance and applicable provisions of the construction permit agreement and other required agreements.

III. ATTACHMENTS (on file with the Planning Department):

1. S 2-19 Application and Attachments
2. PowerPoint presentation from July 18, 2019 Planning Commission meeting
3. Minutes from July 18, 2019 Planning Commission meeting

IV. COMMENTS:

Agency Comments

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

- McMinnville Engineering Department
 1. That a detailed storm drainage plan, which incorporates the requirements of the City's Storm Drainage Master Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat. If the final storm drainage plan incorporates the use of backyard collection systems and easements, such must be private rather than public and private maintenance agreements must be approved by the City for them.
 2. That a detailed sanitary sewage collection plan which incorporates the requirements of the City's Collection System Facilities Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
 3. That the applicant secures from the Oregon Department of State Lands (DSL), Army Corps of Engineers, and the Oregon Department of Environmental Quality (DEQ) all applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.
 4. That the developer enter into a construction permit agreement with the City Engineering Department for all public improvements.

5. That all streets within the subdivision shall be improved with a 28-foot-wide paved section, curbside planting strips, and five-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way, as required by the McMinnville Land Division.
6. The City Public Works Department will install, at the applicant's expense, the necessary street signage (including stop signs, no parking signage, and street name signage), curb painting, and striping (including stop bars) associated with the development. The applicant shall reimburse the City for the signage and markings prior to the City's approval of the final plat.
7. The final plat shall include 10-foot wide public utility easements along both sides of all public rights-of-way for the placement and maintenance of required utilities.
8. That the applicant shall submit a draft copy of the subdivision plat to the City Engineer for review and comment which shall include any necessary cross easements for access to serve all the proposed parcels, and cross easements for utilities which are not contained within the lot they are serving, including those for water, sanitary sewer, storm sewer, electric, natural gas, cable, and telephone. A current title report for the subject property shall be submitted with the draft plat. Two copies of the final subdivision plat mylars shall be submitted to the City Engineer for the appropriate City signatures. The signed plat mylars will be released to the applicant for delivery to McMinnville Water and Light and the County for appropriate signatures and for recording.

- Department of State Lands

The City was copied on the letter to the applicant which was submitted with the application and is available as an attachment.

Public Comments

Notice of this request was mailed to property owners located within 300 feet of the subject site. Notice of the public hearing was also provided in the News Register on Tuesday, July 9, 2019. No public testimony was submitted to the Planning Department prior to the July 18, 2019 Planning Commission public hearing.

V. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. The applicant held a neighborhood meeting in accordance with Section 17.72.095 of the Zoning Ordinance on January 29, 2019.
2. The application was submitted on May 7, 2019
3. The application was deemed complete on June 7, 2019.
4. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas. Notice was also provided to the Oregon Department of State Lands.

Comments received from agencies are addressed in the Decision Document.

5. Notice of the application and the July 18, 2019 Planning Commission public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.72.120 of the Zoning Ordinance.
6. Notice of the application and the July 18, 2019 Planning Commission public hearing was published in the News Register on Tuesday, July 9, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.

No public testimony was submitted to the Planning Department prior to the Planning Commission public hearing.

7. On July 18, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

VI. FINDINGS OF FACT - GENERAL FINDINGS

1. **Location:** NE Newby Street between NE Grandhaven and NE 27th Street (Tax Lot 1100, Section 9DC, T. 4 S., R. 4 W., W.M.):
2. **Size:** 2.93 acres
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** Current: R-1, Requested per concurrent zone change application: R-3
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Vacant
7. **Inventoried Significant Resources:**
 - a. **Natural Resources:** Jurisdictional waters, described in the National Wetland Inventory as riverine wetlands (approximately 3,099 square feet / 0.07 acres). The wetland/jurisdictional waters delineation determined no wetlands were present, but the requirements for the jurisdictional waters are substantially the same.
 - b. **Other:** None Identified
8. **Other Features:** Generally level site slightly sloping toward the natural drainageway that runs east west, and slightly sloping from west to east.
9. **Utilities:**
 - a. **Water:** A 6" water main is present along the frontage in NE Newby and an 8" water main is present in Buel Drive.
 - b. **Sewer:** A 12' sewer main crosses the property from west to east. A 15" sewer main is present in NE Newby Street.
 - c. **Stormwater:** Presently, storm drainage within a larger basin generally westerly of the property is captured in storm drain pipe and routed to a 30" stormdrain pipe in an easement that then discharges to the open east-west drainageway on this property at the west side of the property. The drainageway crosses NE Newby Street in a culvert, and remains piped for approximately 200' before daylighting again, where it continues as a natural open drainageway to the North Yamhill River via open natural tributary drainageways. The east-west drainageway is the uppermost upstream stretch of this open drainageway that is unpiped. **See Exhibits 6 & 7.**

Exhibit 6. Piped and Open Drainage

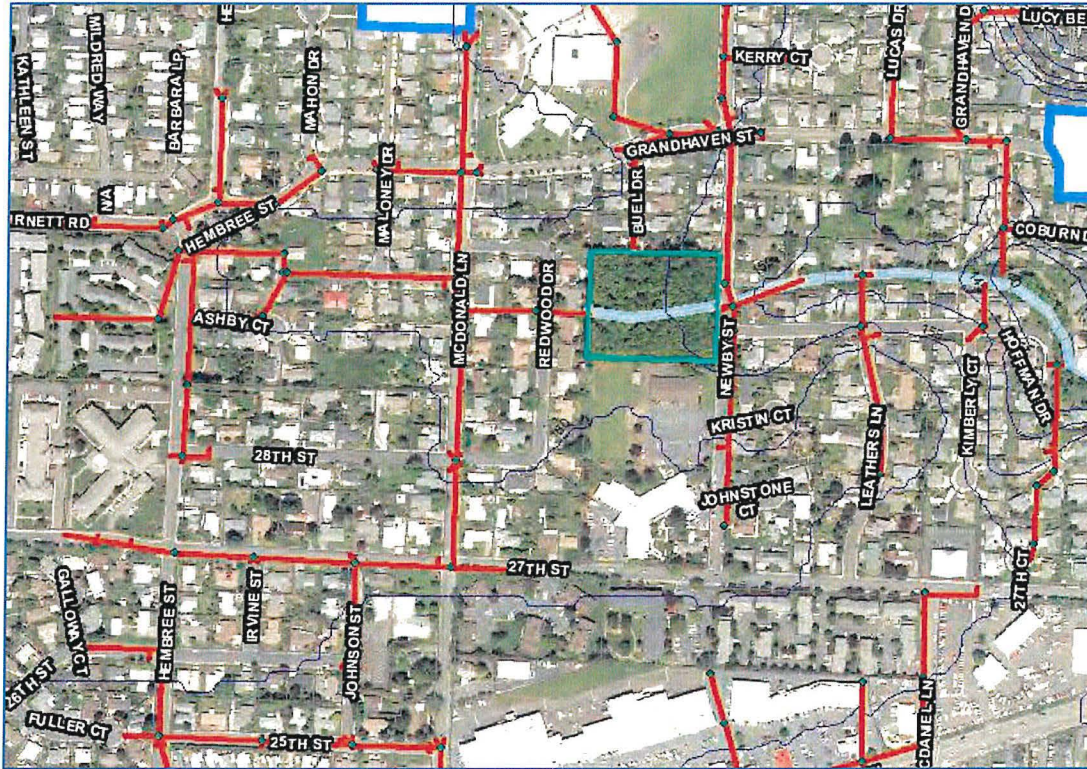


Exhibit 7. Open Drainageway

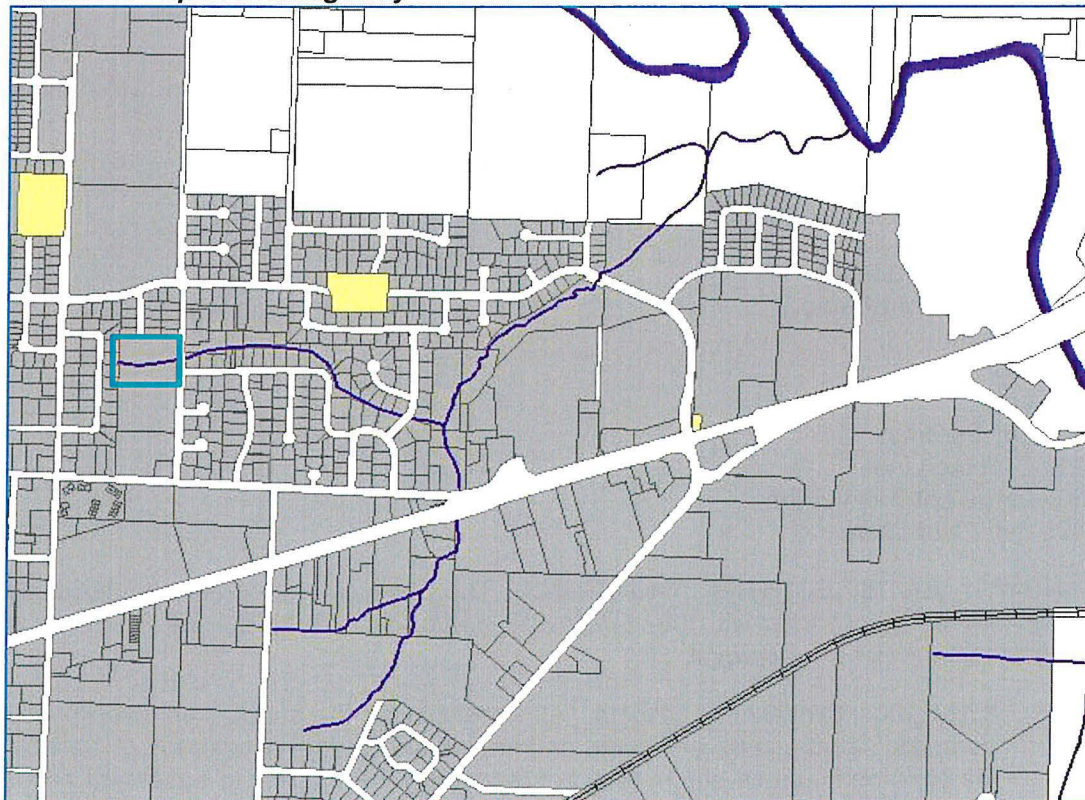
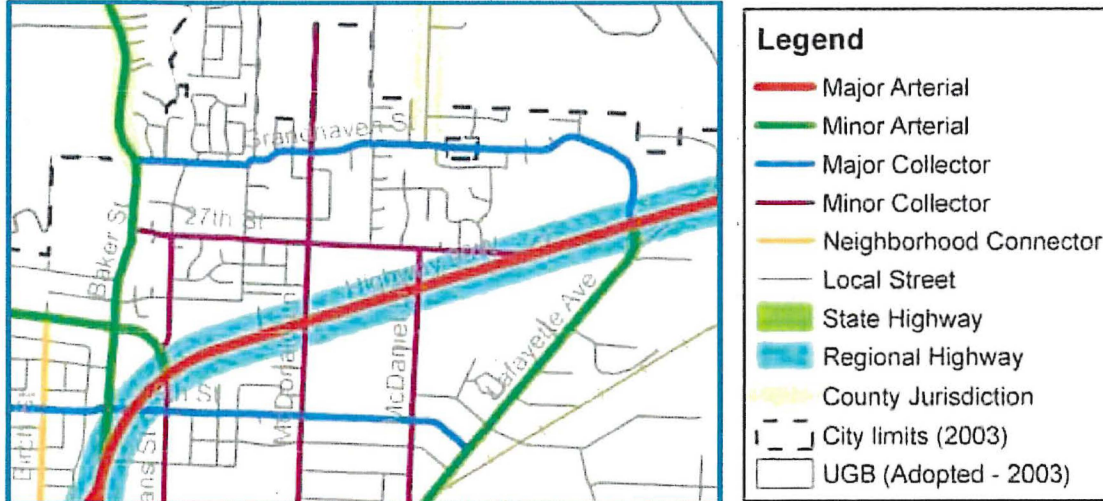


Exhibit 8. Street Functional Classification



VII. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a tentative subdivision plan are conformance of the proposed plan to the Land Division standards of Chapter 17.53, the development standards of the applicable zoning district (Chapter 17.18 for the R-3 Zone), and consistency with the Goals and Policies of the Comprehensive Plan, which are independent approval criteria for all land use decisions, as specified in Volume II of the Comprehensive Plan. Decisions must also ensure adequate coordination with other affected agencies to ensure the application is consistent with applicable local, state, and federal laws.

McMinnville Zoning Ordinance

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

Chapter 17.53. Land Division Standards

The applicable sections of Chapter 17.53 are listed below.

Approval of Streets and Ways

- 17.53.100. Creation of Streets.
- 17.53.101. Streets.
- 17.53.103. Blocks.
- 17.53.105. Lots.
- 17.53.110. Lot Grading.
- 17.53.120. Building Lines.
- 17.53.130. Large Lot Subdivision.
- 17.53.140. Left-Over Land.

FINDING: SATISFIED WITH CONDITIONS. The applicant's proposed tentative plan demonstrates compliance with the applicable standards of the sections listed above, subject to conditions of approval.

17.53.100. Creation of Streets. All streets within the subdivision are proposed as public streets, to be dedicated on the plat, except that access to Lot 13 will be via easement across Lot 14 in accordance with the applicable easement access standards of Section 17.53.100.

17.53.101. Streets. The proposal complies with the street standards of 17.53.101. The street layout provides for the continuation of the alignment of Buel Drive and NE Hoffman Drive with no offset intersections. The street layout in an "L" configuration is the most practical layout for connectivity given existing conditions. It utilizes east-west orientation to the extent practical for solar orientation and access for lots. The proposed new street is a local street with right-of-way width and street width in conformance with the widths specified in the City's Complete Street Design Standards for a local residential street. No reserve strips are proposed. The proposed new street is in alignment with existing streets. Surrounding properties are developed, so there isn't a need for street plugs for future street extensions. Street intersections are designed for 90 degree right angles. No additional right-of-way is required for abutting streets. No half streets are proposed. No cul-de-sacs are proposed. No eyebrows are proposed.

As a condition of approval, the proposed easement access to Lot 13 across Lot 14 shall be not less than 15 feet in width and shall have a hard-surfaced drive of 10 feet width minimum.

No excessive grades are required for the proposed street.

The applicant proposed a 38' centerline radius at the "L" of the proposed street. This is less than the 100' minimum radius, and is not to an even 10 feet as required by 17.53.101(L). The Planning Commission has discretion to accept sharper curves "where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots." Tighter radii have previously been approved in areas where slower speeds are desired in a residential setting, including corners at 90 degree turns which would comprise a block if street extension to adjoining properties could occur.

There are no proposed streets adjacent to railroads, no frontage roads, and no alleys.

As a condition of approval, the proposed private drive will need to be constructed to the same structural standards that would apply to a public street, and a storm drainage plan will be required.

There are no arterials, collectors or bikeway requirements associated with the proposed subdivision. There are no residential collector streets associated with the proposed development.

Sidewalks are consistent with 17.53.101(S) and (T) and the Complete Street Design Standards, except that existing sidewalks present on NE Newby Street are curbtight without a 5' planter strip, and are proposed to remain. A portion of sidewalk will need to be removed for the new street connection and driveway access for Lots 1 and 2.

No gates are proposed within the public right-of-way or for the private way serving Lot 13.

17.53.103. Blocks. Due to the existing development and street patterns, the block length and perimeter standards will somewhat exceed the 400 foot block length and 1,600 foot block perimeter. Measuring from the street centerline, the block containing Lots 1-8 together with the existing development to the north will have a

width of approximately 300 feet and a length of approximately 600 feet. The perimeter is approximately 1,700 feet. Due to the constraints created by the existing development and street configuration to the north, west, and south, the block containing Lots 9-17 together with the adjoining development will not come close to meeting the block length or perimeter standards. This is authorized when "topography or location of adjoining streets justifies an exception."

The applicant is proposing public utility easements along the right-of-way and is proposing easements located where necessary to proposed sanitary sewer and storm drainage facilities outside of the right-of-way.

17.53.105. Lots. The proposed lots are suitable shapes for development, generally rectangular with side lot lines perpendicular to the right-of-way, except for Lot 13 served by private easement. Lots are not excessively deep, and lot depth doesn't exceed two times the width on lots. Lots 15-17 are wider than deep. The smallest lots are Lots 4 and 5 (4470 sf and 4467 sf) which will have the attached single-family homes. Other lot sizes range from 6000 sf to 6862 sf. Except for Lots 13 and 14, at the corner of the "L" no lot has less than 50 feet of frontage. There is no access onto an arterial or collector, no through lots are proposed, and no flag lots are proposed.

17.53.110. Lot Grading. No excessive slopes are proposed. Grading and fill associated with the proposal, including piping of the open drainageway will be subject to review by the appropriate departments and permitting agencies as a condition of approval.

17.53.120. Building Lines. No special building setback lines are proposed, except as controlled by easements, and where noted for single-family attached homes on Lots 4 and 5, which will have a common wall with a zero lot line setback where adjoined at the common wall

17.53.130 Large Lot Subdivision is not applicable because this is not a large lot subdivision.

17.53.140 Left-Over Land is not applicable because the proposed subdivision doesn't result in left-over land.

Improvements

17.53.150. Improvement Procedures.

17.53.151. Specifications for Improvements.

17.53.153. Improvement Requirements.

FINDING: SATISFIED WITH CONDITIONS. The applicant's proposed tentative plan demonstrates compliance with the applicable standards of the sections listed above.

17.53.150. Improvement Procedures. The applicant will be required to comply with the improvement procedures as a condition of approval.

17.53.151. Specifications for Improvements. As a condition of approval, the applicant will be required to provide civil drawings that comply with all City specifications.

17.53.153. Improvement Requirements. The applicant's proposal includes improvements necessary to serve lots consistent with the requirements of this section. As a condition of approval, the applicant will be required to provide civil drawings that comply with all City specifications of this section.

As a condition of approval, the applicant will be required to submit a street tree plan for review and approval of the Landscape Review Committee.

Chapter 17.18. R-3 Two-Family Residential Zone

The applicable sections of Chapter 17.18 are listed below. The tentative plan was submitted concurrent with a zone change application from R-1 to R-3. The requirements of the R-3 zone are addressed below, and the proposed subdivision tentative plan is contingent on approval of the zone change.

- 17.18.010. Permitted Uses.
- 17.18.030. Lot Size.
- 17.18.040. Yard Requirements.
- 17.18.060. Density Requirements

FINDING: SATISFIED WITH CONDITIONS. The applicant's proposed tentative plan demonstrates compliance with the applicable standards of the sections listed above.

17.18.010. Permitted Uses. The proposed use of the lots is 15 detached single-family dwellings and 2 attached single-family dwellings. These are permitted uses in the R-3 zone. For the attached dwellings, they are subject to the provisions of 17.18.010(C)(1)-(8). These requirements will be addressed as a condition of approval. (C)(3) requires a combined area of 8,000 square feet for both lots. The combined area of Lots 4 and 5 is 8,937 square feet.

17.18.030. Lot Size. The minimum lot size for the R-3 zone is 6,000 square feet, except as otherwise provided for attached single-family dwellings. All lots for single-family detached dwellings are at least 6,000 square feet.

17.18.040. Yard Requirements. With the proposed lot sizes and shapes, there is no foreseeable difficulty in meeting setback requirements. The shallower interior lots (15 and 16) could accommodate a structure that is approximately 33' deep between the front and rear setbacks of 15 and 20 feet.

17.18.060. Density Requirements. Based on the proposed uses and lot sizes, the proposal complies with the applicable density requirements of this section.

Comprehensive Plan Volume II:

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

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

The following additional findings are made relating to specific Goals and Policies. Policies applicable to this subdivision application are addressed through implementation standards, except as provided below. The applicant has provided more detailed findings regarding Comprehensive Plan policies as part of the application submittal.

Chapter V. Housing and Residential Development

Residential Design Policies:

- 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, or shall be applied to the specific area through a planned development overlay. Densities greater than those allowed by the zoning classification may be allowed through the planned development process or where specifically provided in the zoning ordinance or by plan policy. (Ord. 4796, October 14, 2003)*
- 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: SATISFIED WITH CONDITIONS. The proposed development is consistent with the density authorized by the zoning, topography, and availability of services.

The applicant is seeking approval from DSL and the US Army Corps of Engineers to mitigate the jurisdictional waters offsite. If they are able to meet those requirements, given the locational context of the drainage swale within the drainage system as discussed in this document, the existing drainage swale could be rerouted to tie into the existing piped drainage system immediately upstream and downstream.

Lot Sales Policy:

- 99.10 *The City of McMinnville recognizes the value to the City of encouraging the sale of lots to persons who desire to build their own homes. Therefore, the City Planning staff shall develop a formula to be applied to medium and large size subdivisions, that will require a reasonable proportion of lots be set aside for owner-developer purchase for a reasonable amount of time which shall be made a part of the subdivision ordinance.*

FINDING: SATISFIED WITH CONDITIONS. This requirement is addressed with a condition of approval requiring the applicant to make lots available for sale.

Chapter VI. Transportation System.

Streets

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

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

121.00 *The City of McMinnville shall discourage the direct access of small-scale residential developments onto major or minor arterial streets and major collector streets.*

Connectivity and Circulation

132.26.05 *New street connections, complete with appropriately planned pedestrian and bicycle features, shall be incorporated in all new developments consistent with the Local Street Connectivity map. (Ord. 4922, February 23, 2010)*

Circulation

132.41.05 *Cul-de-sac streets in new development should only be allowed when connecting neighborhood streets are not feasible due to existing land uses, topography, or other natural and physical constraints. (Ord. 4922, February 23, 2010)*

132.41.30 *Promote Street Connectivity – The City shall require street systems in subdivisions and development that promote street connectivity between neighborhoods. (Ord. 4922, February 23, 2010)*

FINDING: Satisfied. The applicant's proposal provides for street connectivity consistent with the Local Street Connectivity Map in the Transportation System Plan.

TS:sjs